

Hurrell-Harring Settlement Implementation

The [Settlement](#), approved in March 2015, requires New York State and the five defendant counties to improve the delivery of public defense services in four key areas:

1. Counsel at Arraignment;
2. Caseload Relief;
3. Initiatives to Improve the Quality of Indigent Defense; and
4. Eligibility Standards for Representation.

Under the terms of the [Settlement](#), the State is obligated to fund these initiatives.

The [Settlement](#) vested the responsibility of implementing these reforms in ILS. With this directive, ILS immediately began putting together the Hurrell-Harring implementation team. Working closely with the five counties, the HH team ensures compliance with the terms of settlement and encourages their continued improvement to the settlement's four key areas of public defense.

Counsel at First Appearance

In *Hurrell-Harring v. State of NY*, 15 N.Y.3d 8, 20 (2010), the New York State Court of Appeals held that arraignment is a “critical stage” of a criminal prosecution which requires the presence of defense counsel as a matter of constitutional law. The Court found, “nothing in the statute [CPL§ 180.10(3) which provides for counsel at arraignment] may be read to justify the conclusion that the presence of defense counsel at arraignment is ever dispensable, except at a defendant’s informed option, when matters affecting the defendant’s pretrial liberty or ability subsequently to defend against the charges are to be decided.” *Hurrell-Harring*, 15 N.Y.3d at 21. Moreover, there are other important issues at stake at arraignment that arise from the possibility of pre-trial incarceration. Those facing pre-trial detention often experience loss of employment and/or housing, the inability to financially support or care for family members, and loss of the day to day support of

family and community. Studies have shown that clients who are incarcerated during their criminal matters are more likely to be sentenced to jail or prison and receive longer sentences. See, [Pretrial Criminal Justice Research](#), Laura and John Arnold Foundation (2013).

As detailed in ILS's 2015 Final Plan for Implementing the Counsel at Arraignment Requirements of the Hurrell-Harring Settlement and the five subsequent Update Reports (2016-2020), all of which are posted below, developing and sustaining successful counsel at arraignment programs requires both sufficient state funding and resolute commitment from all stakeholders. Constraints such as high case volume courts or geographically disparate courts can be overcome with thoughtful planning. The experience of the five Hurrell-Harring counties demonstrates that it is possible to provide counsel at arraignment for every defendant in all New York State's diverse counties.

[Counsel At Arraignment Plan, Updated November 2021](#) [pdf]

[Counsel At Arraignment Plan, Updated November 2020](#) [pdf]

[Counsel At Arraignment Plan, Updated November 2019](#) [pdf]

[Counsel At Arraignment Plan, Updated October 2018](#) [pdf]

[Counsel At Arraignment Plan, Updated October 2017](#) [pdf]

[Counsel At Arraignment Plan, Updated November 2016](#) [pdf]

[Final Counsel At Arraignment Plan, November 2015](#) [pdf]

Caseload Relief and Quality Improvement

Caseload relief and quality improvement are intrinsically connected. When attorney caseloads are reduced to a manageable number, attorneys can spend more time on cases, attend more trainings to hone their craft, and can have more frequent and fulfilling conversations with clients. When attorneys have access to resources necessary for effective representation such as investigators, social workers, mitigation specialists, experts, and interpreters, they can thoroughly advocate on behalf of each client. Finally, when attorneys have appropriate supervision, mentoring, and other supports, they can rely on these supports to ensure quality representation.

Paragraph IV (B)(1) of the [Settlement](#) required ILS, "in consultation with the Executive, OCA, the Five Counties, and any other persons or entities ILS deems appropriate," to determine the appropriate numerical caseload/workload standards

for each provider of mandated representation in each County, for representation in both trial and appellate-level cases. To do so, ILS contracted with the RAND Corporation to conduct a caseload study in the five counties and consulted with counties, public defense providers, and other stakeholders. In December 2016, ILS established caseload standards for seven categories of cases as detailed in [this chart](#). These standards make sure public defense attorneys have the time and resources needed to represent each of their clients competently and in compliance with established ethical and professional principles.

Paragraph V(A) of the [Settlement](#) addresses the five key areas of quality improvement, including effective supervision and training, having access to and appropriately utilizing investigators, interpreters, and expert witnesses, effective communication with clients (including in-person meetings and confidential meeting space), having the necessary qualifications and experience to handle criminal cases, and in the case of assigned counsel attorneys, assigning cases consistent with their level of experience and caseload/workload. Hurrell-Harring providers continue to develop their quality initiatives and much progress has been made in this area, as seen in the update quality improvement reports below.

Caseload Relief

[Evaluating the Effectiveness of Caseload Standards in the Hurrell-Harring Settlement Counties, October 2021](#)

[Implementing Caseload Relief and Quality Initiatives in Assigned Counsel Programs, February 10, 2020](#)

[Implementing Caseload Relief in the Hurrell-Harring Counties - Final, January 2020](#)
[Final Caseload Standards Report, December 2016 \[pdf\]](#)

Quality Improvement

[Quality Improvement Plan, Updated October 2017 \[pdf\]](#)

[Quality Improvement Plan, Updated November 2016 \[pdf\]](#)

[Final Quality Improvement Plan, November 2015 \[pdf\]](#)

Eligibility

[Background Study - Determining Eligibility for Assignment of Counsel in New York: A Study of Current Criteria and Procedures and Recommendations for Improvement - Final Report, February 2016 \[pdf\]](#)

[The Impact of Eligibility Standards in Five Upstate New York Counties, January 2017](#) [pdf]

[The Impact of Eligibility Standards - Suffolk County Addendum, March 2017](#) [pdf]

[Implementation of Eligibility Criteria and Procedures in the Hurrell-Harring Counties, April 2023](#) [pdf]

[Implementation of Eligibility Criteria and Procedures in the Hurrell-Harring Counties, April 2022](#) [pdf]

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