

# Statewide Plan for Implementing Quality Improvement and Caseload Relief:

Year Six Report

October 30, 2024



New York State Office of  
Indigent Legal Services

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## Introduction

The New York State Office of Indigent Legal Services (ILS) submits this status update report addressing the ongoing implementation of ILS' December 1, 2017 Statewide Plan for Quality Improvement (Quality Plan) and the Plan for Implementation of Caseload Standards in New York State (Caseload Plan) pursuant to Executive Law § 832(4).<sup>1</sup> We report jointly on both plans since the primary goal of caseload relief is to improve the quality of representation provided to public defense clients and because quality improvement reforms are necessary for programs to meaningfully actualize the benefits of reduced caseloads.

In this report, we detail continued progress towards meeting the goals of Executive Law § 832(4) and implementation of the *Hurrell-Harring v. State of New York* Settlement (*Hurrell-Harring* Settlement) statewide (statewide implementation). We include an analysis of the quantitative data received from public defense providers, including information on calendar year 2023 caseloads, expenditures, and staffing (Section A), as well as qualitative information learned through ILS' regular communications with public defense leaders and county officials (Section B).

Throughout the past year, ILS has seen consistent efforts to use state funding to enhance public defense programs to support quality client representation and strengthen their communities. Public defense providers are implementing quality oversight structures, increasing access to quality training, engaging in multi-disciplinary defense team representation, and strengthening recruitment and retention efforts. Moreover, public defense leaders and organizations across the state are working together to improve the quality of mandated defense in New York.

The 2023 data supports our observations: although overall trial level caseloads increased in 2023 resulting in an increase in average weighted cases per attorney, criminal attorney and specialized professional staffing also increased to the highest levels reported to date and the average spending per weighted case for Assigned Counsel Programs (ACPs) increased significantly.<sup>2</sup> When viewed in the context of ongoing quality improvement initiatives, the data indicates that the infusion of state funding for public criminal defense is meaningfully impacting counties and their public defense programs.

Still, there continue to be challenges to full implementation in New York's county-based public defense system.<sup>3</sup> As we reported last year, public defense providers struggle with attorney recruitment and retention, especially in more rural areas of the state. ILS and other defense organizations are working with public defense providers to develop strategies to attract and retain staff, including supporting internship programs to engage students in public defense work earlier.

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<sup>1</sup> Both 2017 Plans (and subsequent annual status reports) are available at: <https://www.ils.ny.gov/node/221/statewide-implementation-plans-and-reports>.

<sup>2</sup> As explained in Sections A and B, this increase is in part due to the ACP hourly rate increase that went into effect April 1, 2023. Still, ACPs continue to expand their structures and programs using state funding.

<sup>3</sup> See *Statewide Plan for Implementing Quality Improvement and Caseload Relief: Year Five Report* (October 31, 2023) available at: <https://www.ils.ny.gov/files/Caseload%20Quality%20Report%20103023.pdf> and William J. Leahy, "The Right to Counsel in the State of New York: How Reform Was Achieved After Decades of Failure," *Indiana Law Review*, Vol. 51, No. 1 (2018), available at: View of The Right to Counsel in the State of New York (iupui.edu).

Additionally, the lack of comparable state funding for Family Court representation continues to threaten statewide implementation efforts, as providers struggle to provide quality representation to parents without adequate staffing or resources. Finally, there are practical barriers including administrative hurdles at the state and county levels that slow the pace of implementation.

Where possible ILS takes steps to ease these barriers, including building stronger staff support through the Criminal Defense Representation Team’s regional assignments and opening the Western New York Regional Support Center in July 2023, reorganizing the Research Team to add layers of supervision, augmenting public defense support with the Statewide Appellate Support Center, and enhancing our Grants Unit staffing and updating our claims processes to ensure timely reimbursement to counties. We are also employing new approaches to ensure more timely and accurate data collection as described in Section A below.

Ultimately, even with challenges, the information gathered for this report makes clear that the counties and providers are making formidable efforts to meet the requirements of Executive Law § 832(4).

#### **A. Caseload Standards Compliance: Data on Caseloads, Staffing, and Expenditures**

With the significant expansion of public defense providers’ data collection and reporting requirements since ILS’ inception in 2010, this year ILS’ Research Team developed a multi-faceted approach with public defense providers to get more and better data earlier. The Research Team launched the *Push the Button Campaign* which was designed to engage with providers in advance of and throughout the reporting period to encourage them to interact with the Annual ILS-195 Report earlier relative to the Report’s April 1 due date. By April 2, 2024, the day after the Report was due, ILS received 124 submissions (80%) and, with additional follow up, by April 20, 2024, 16 more reports were submitted bringing the total number to 138 (89%).

Additionally, to better understand ACP challenges in data collection and help ensure better quality data reporting, the Research Team took a proactive approach with ACPs that have historically experienced difficulties in submitting their ILS-195 Report. They identified key factors that often prevent ACPs from timely and accurate data submission and implemented strategies to address obstacles to reporting including visiting the ACP provider’s office to view, or receive securely, all attorney vouchers that were submitted for payment during the 2023 calendar year and “code” them for ILS-195 information.<sup>4</sup> The Research Team used this strategy effectively to obtain data for five counties.

Finally, the Research Team implemented a new collaborative data review system with Criminal Defense Representation Team attorneys and created new Tableau dashboards as the data was received and analyzed to automate the review process, making it more efficient and reducing the possibility of data coding errors. All these efforts have resulted in more timely and accurate data presented in this section.

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<sup>4</sup> We are grateful to the providers who were generous enough to give the coding team a quiet workspace that allowed for the team to work for days at a time.

Below, we examine the data provided to understand general trends in caseloads, staffing, and expenditures. As in prior years, where appropriate and useful, this report analyzes changes over time and distinguishes institutional providers, i.e., a Public Defender's Office, Legal Aid Society, or Conflict Defender's Office, ACPs, non-*Hurrell-Harring* Settlement counties outside New York City, and New York City data.<sup>5</sup>

### *Caseload Information*

ILS requested ILS-195 data for 2023 from the 155 public defense providers across the state and received submissions from 150 providers.<sup>6</sup> For four providers that did not submit ILS-195 data, ILS used data submitted with claims for reimbursement of the State's portion of the 2023 statutory assigned counsel rate increase to extrapolate an estimate of their caseloads and expenditures, bringing the available dataset to 154 providers.<sup>7</sup> With the exceptions identified below, we omit from this report data relating to the 11 providers in the five *Hurrell-Harring* Settlement counties and the nine providers engaged solely in Family Court representation. Thus, our final dataset is comprised of 134 providers of mandated representation.

To examine caseload trends over time, we review trial level and post-conviction caseloads from 2020 through 2023, as 2020 was the first year ILS collected information from all providers in accordance with the seven case types enumerated in the ILS criminal caseload standards.

We present data for providers outside New York City (excluding the *Hurrell-Harring* Settlement counties) and New York City providers separately.<sup>8</sup> Finally, the data below is provided in the aggregate to gauge trends in overall statewide provider caseloads. For a breakdown of the number of cases per case category where representation was provided by each public defense provider in 2023, please see Appendix B (for institutional providers) and Appendix C (for ACPs).

### *Providers Outside New York City (excluding Hurrell-Harring Settlement counties)<sup>9</sup>*

#### *2020-2023 Caseload Data Presented by ILS Case Type<sup>10</sup>*

Prior to 2020, ILS collected data from providers by more general case types (homicides and felonies, misdemeanors and violations, Family Court trial level cases, and appeals). As indicated

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<sup>5</sup> Since the ILS Research Team refined their methods of data collection and analysis, in some cases this resulted in slight updates of aggregate numbers from previous years. The updates were minor and did not change any overall conclusions stated in previous reports.

<sup>6</sup> See Appendix A for a historical overview of public defense providers in New York.

<sup>7</sup> The four providers are: Greene ACP, Oneida ACP, Rensselaer ACP, and Tompkins ACP. The remaining provider, Lewis County Conflict Defender did not complete and submit an ILS-195 and there is no alternative data to rely on.

<sup>8</sup> We do so because the total number of cases handled by the New York City providers is nearly as high as the total number of cases handled by the providers in the rest of the state.

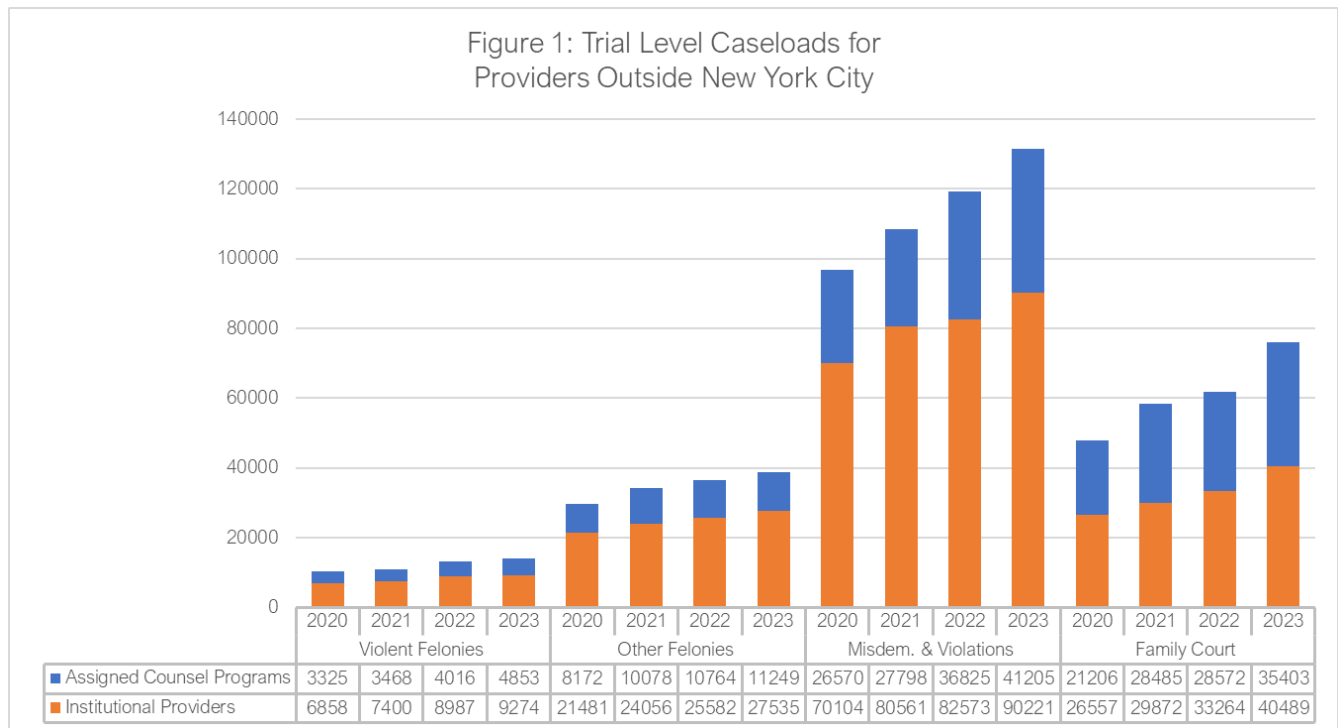
<sup>9</sup> Please note that the statewide implementation of the *Hurrell-Harring* Settlement reforms only concerns mandated criminal representation. Therefore, providers engaging solely in Family Court representation are not included in this report.

<sup>10</sup> The provider that did not provide annual data (i.e., Lewis Conflict Defender) is not included in this analysis.

above, in 2020 ILS began collecting criminal caseload data in accordance with the more discriminating ILS caseload standards case types (violent felonies, other felonies, misdemeanors and violations, post-disposition cases, parole revocations, appeals of a guilty plea, and appeals of a verdict). This section evaluates the caseload data for 2020-2023 for all mandated providers outside of New York City (excluding the *Hurrell-Harring* Settlement counties) by the ILS criminal caseload standards case types and includes reported Family Court caseloads.

Trial Level Cases

Figure 1 presents trial level caseloads distinguishing between institutional providers and ACPs.



- The number of trial level cases in 2023 increased from previous years for all case types.
- In 2023, as in previous years, trial level cases consisted mostly of misdemeanor and violation cases (50.5% of all trial level cases where representation was provided by public defense providers outside New York City).
- Family Court trial level cases made up 29.2% of all trial level cases for the public defense providers outside New York City.

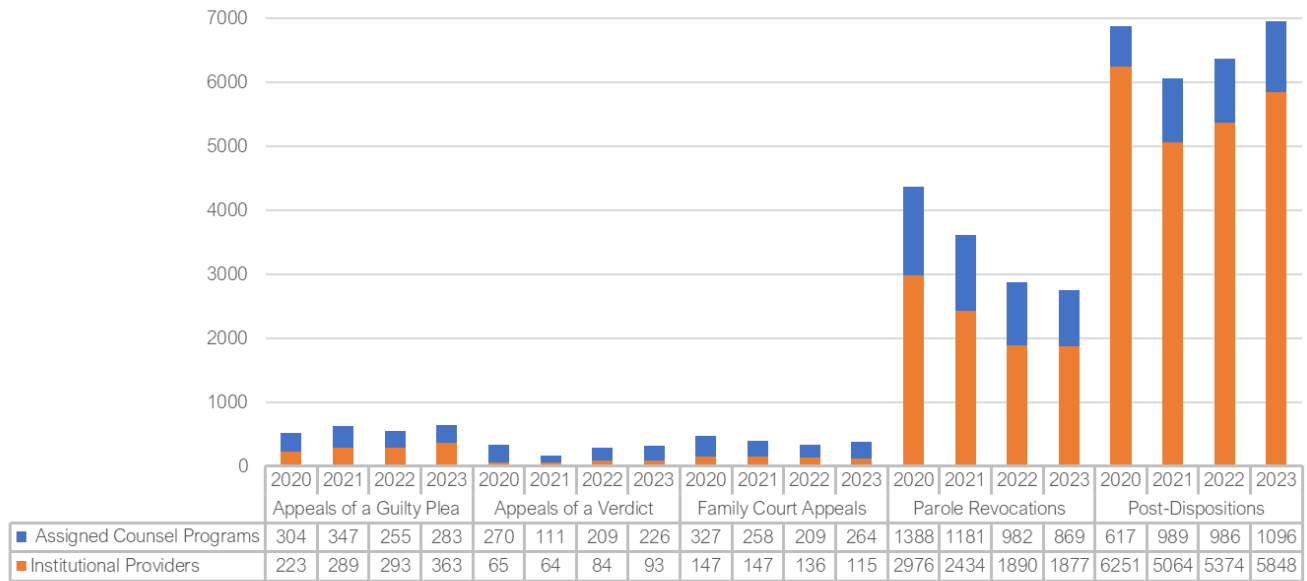
Post-Conviction Cases

Figure 2 presents post-conviction caseloads, including appellate, parole revocation, and post-disposition cases, in the five ILS caseload standards post-conviction case types for all providers



outside New York City (excluding *Hurrell-Harring* Settlement counties). Caseloads are presented by case type and distinguish between institutional providers and ACPs.

Figure 2: Appellate, Parole, and Post-Disposition Matters for Providers Outside New York City



- The total number of appeals increased between 2022 and 2023 in all three appellate case types (appeals of a guilty plea, appeals of a verdict, and Family Court appeals).
- As in previous years, appeals of guilty pleas continued to make up the majority of appellate cases (48.1% of all cases at the appellate level).
- In 2023, the number of parole revocation cases continued to decrease. This could be due to a variety of factors, including fewer individuals being sentenced to prison during the Covid-19 pandemic and the “Less is More” parole reform that was enacted in March 2022.
- As in previous years, post-disposition cases made up the majority of parole revocation and post-disposition caseloads (71.7%).

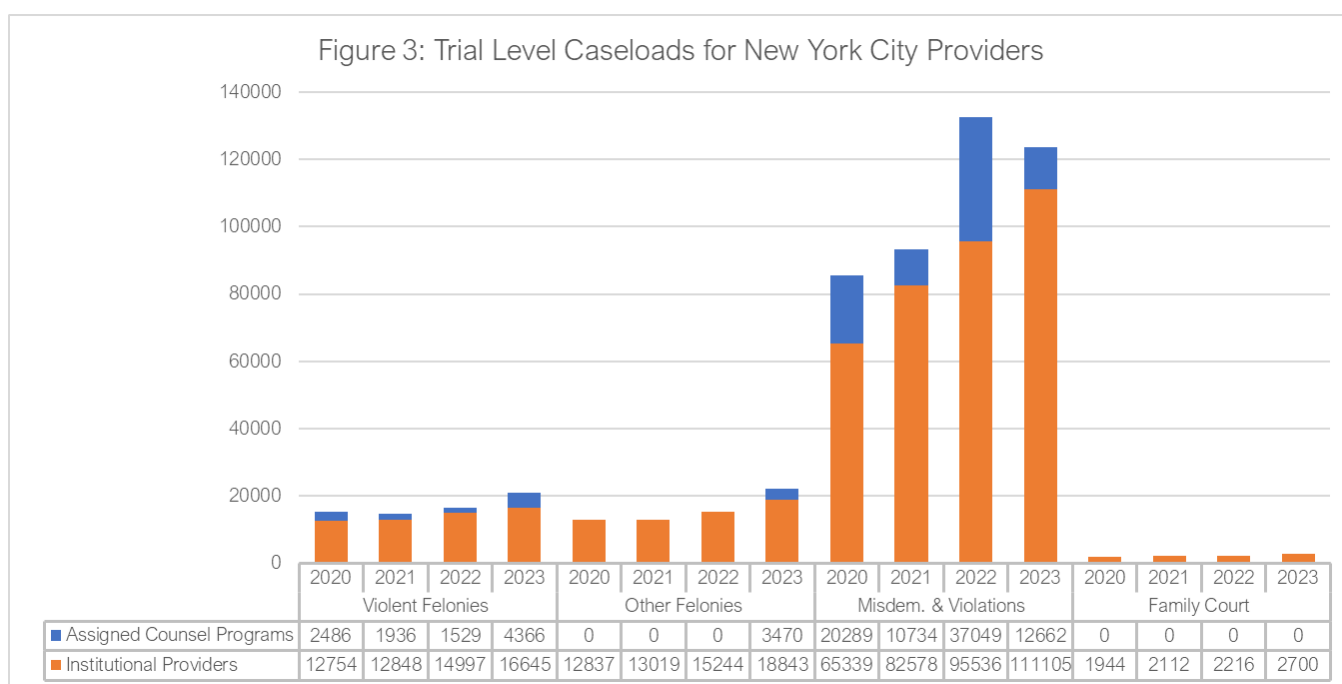
## New York City Providers

### 2020-2023 Caseload Data Presented by ILS Case Type<sup>11</sup>

In 2020, as with providers outside of New York City, ILS began collecting criminal caseload data by the more discriminating ILS caseload standards case types. This section evaluates this data for New York City providers.

#### Trial Level Cases<sup>12</sup>

Figure 3 presents trial level caseloads for New York City Providers distinguishing between institutional providers and ACPs.



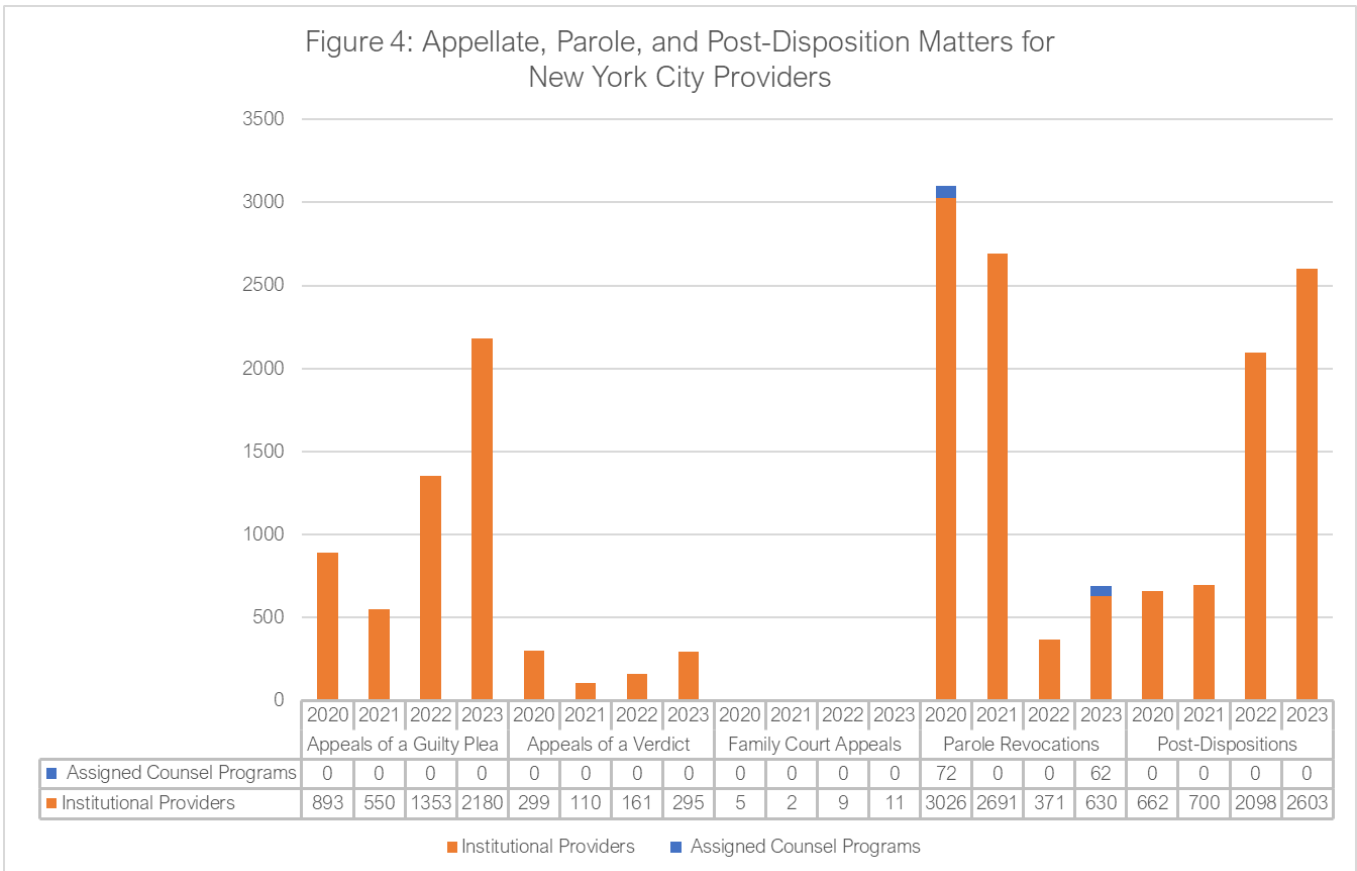
- The number of trial level cases in 2023 increased from previous years in all case types.
- In 2023, as in previous years, trial level cases consisted mostly of misdemeanor and violation cases (72.9% of all trial level cases where representation was provided by public defense providers in New York City).

<sup>11</sup> Please note that New York City has one institutional provider which focuses exclusively on Family Court representation as well as the Appellate Divisions which assign mandated Family Court cases to assigned counsel attorneys pursuant to County Law § 722. These providers and their caseloads are not included here as this report only includes providers of mandated criminal representation.



## Post-Conviction Cases

Figure 4 presents post-conviction caseloads for all New York City providers. Caseloads are presented by case type.



- The ACPs in New York City reported providing representation in post-conviction cases (i.e., parole revocation) again after a two-year hiatus.
- Between 2021 and 2022, there was a significant decrease in parole revocation cases (an 86.2% decrease). Again, this could be due to a variety of factors, including fewer individuals being sentenced to prison during the Covid-19 pandemic and the “Less is More” parole reform that was enacted in March 2022. But in 2023, the number of parole revocation cases reported by New York City providers increased (by 86.5%).
- In 2022, the number of post-disposition cases exceeded the number of parole revocation cases for the first time since ILS started tracking this data. This trend continued in 2023.

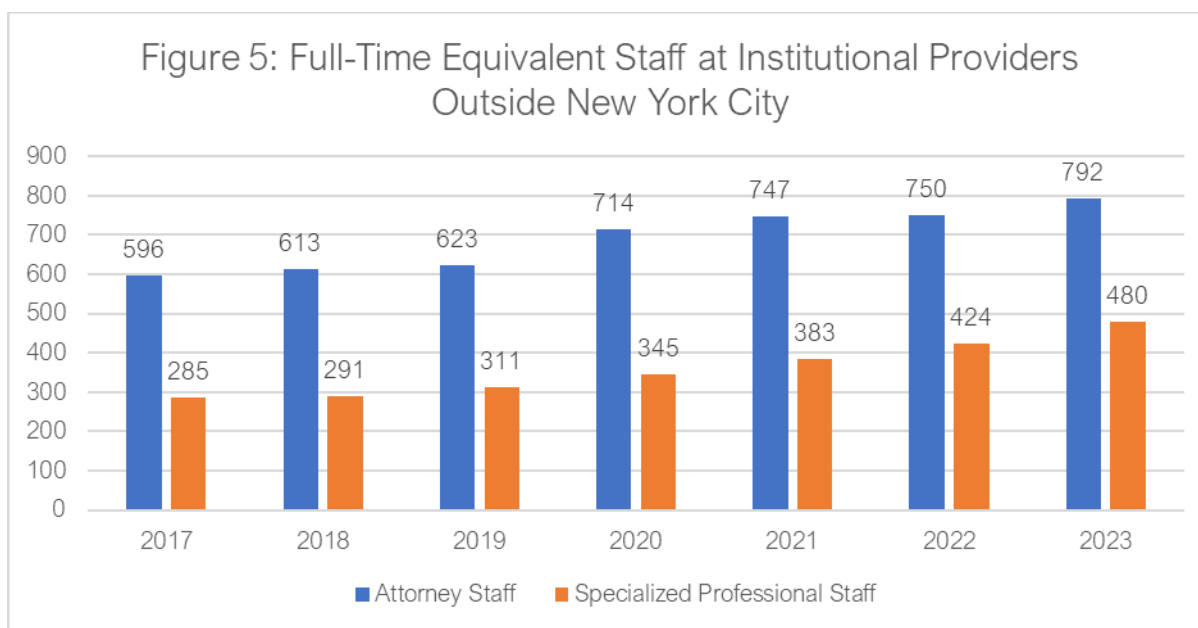
## Staffing

In addition to collecting information on caseloads, ILS collects information about attorneys and specialized professionals on staff.<sup>13</sup> To achieve caseload standards compliance and provide quality representation, institutional providers must have enough attorneys on staff and sufficient access to specialized professionals (such as investigators, social workers, case managers, interpreters, etc.) and administrative staff.

The data on staffing below reflects the total institutional provider staffing, i.e., all positions regardless of funding stream for both criminal and Family Court representation. It shows historical trends in institutional provider staffing across the state. The data distinguishes between providers outside New York City and New York City providers.<sup>14</sup>

### *Institutional Providers Outside New York City (excluding Hurrell-Harring Settlement counties)*

Figure 5 shows the number of full-time equivalent (FTE) attorneys and specialized professionals on staff at institutional providers outside New York City from 2017-2023.



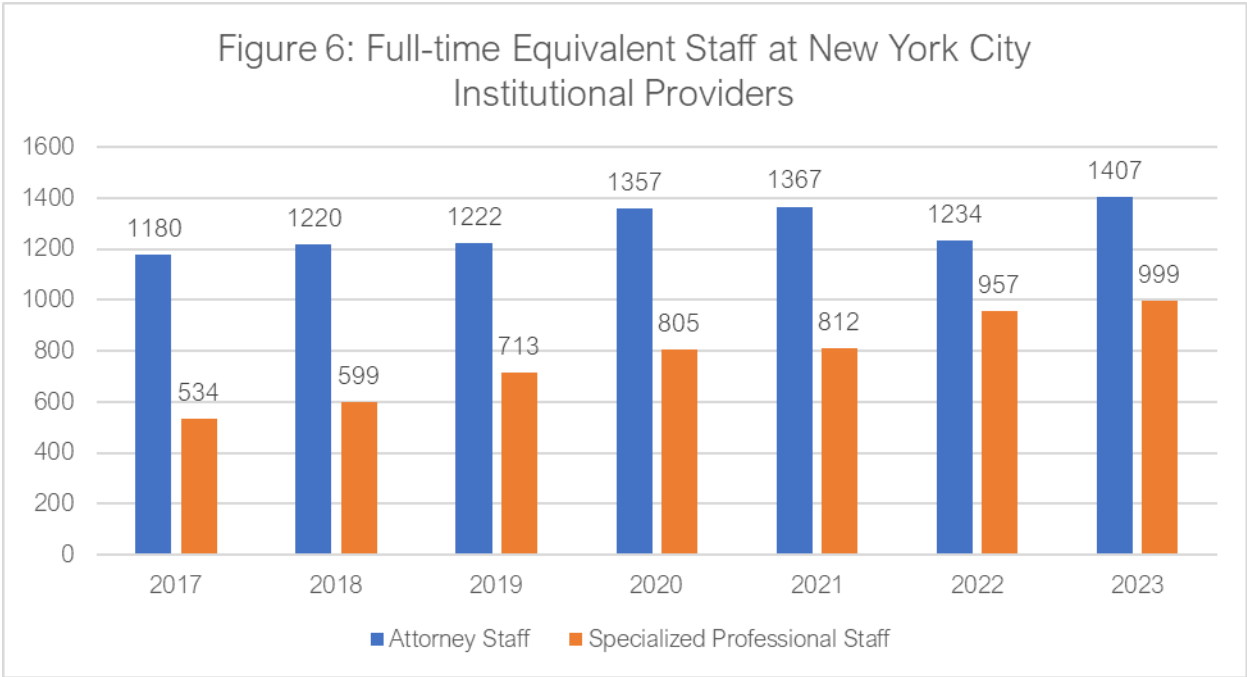
<sup>13</sup> Note: in previous reports we referred to specialized professional staff as “non-attorney staff.” In this and future reports, we will use “specialized professional staff” which better captures this group.

<sup>14</sup> Please note that Appendix B also includes attorney and specialized professional staffing numbers for 2023, but that these are different from the staffing numbers reported in Figure 5. Figure 5 reports the 2023 attorney and specialized professional staffing numbers (in FTE) for those representing or working on criminal *and* Family Court cases all added up together, whereas Appendix B solely focuses on the attorney and specialized professional staffing numbers (in FTE) *dedicated to criminal cases only*. This information excludes *Hurrell-Harring Settlement counties*.

- The number of attorneys on staff at institutional providers outside New York City has increased substantially since the beginning of statewide implementation. In 2017, there were 596 FTE attorneys on staff. In 2023, that number has increased by 32.9% to 792 FTEs.
- The number of specialized professionals on staff has also substantially increased since the beginning of statewide implementation. In 2017, there were 285 FTE specialized professionals on staff. In 2023, that number increased by 68.4% to 480 FTEs. The number of specialized professionals increased the most over the past three years: since 2020, institutional providers added 135 FTE specialized professionals to their staff.
- In 2023, the number of attorney and specialized professional FTEs on staff increased markedly compared to the year before, by 42 and 56 respectively.

*New York City Institutional Providers*

Figure 6 shows the number of full-time equivalent (FTE) attorneys and specialized professionals on staff at New York City institutional providers from 2017-2023.



- New York City providers’ staffing trends are similar to the providers outside of New York City. For both, the number of specialized professional staff has steadily increased, with the biggest increases in the most recent years. Attorney staffing was also steadily increasing until 2022, when providers outside NYC realized just a nominal increase in attorney staff, and NYC providers experienced a decrease. For NYC providers, the data from 2023 shows growth in both attorney and specialized professional staffing, with both categories at the highest levels of staff historically reported. In 2023, the number of attorney FTEs increased

from 1,234 in 2022 to 1,407 (an increase of 14.0%); the number of specialized professional FTEs increased from 957 in 2022 to 999 (an increase of 4.4%). In 2023, the NYC providers appear to have made up for the attorney staff losses they experienced in 2022.

The institutional provider staffing data across the state shows that in 2023, the number of attorney and specialized professional staff was at the highest in New York's history.

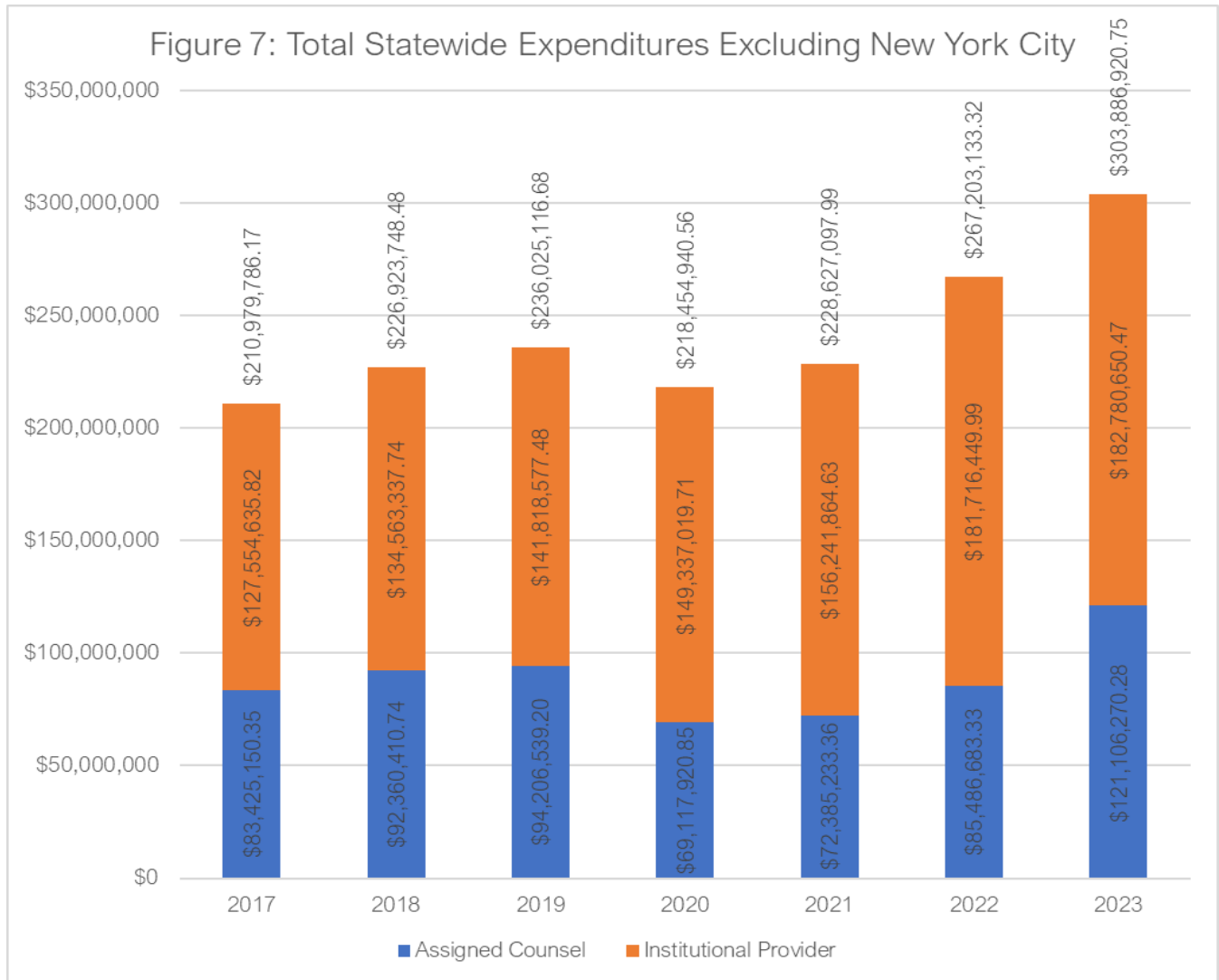
### *Expenditures*

ILS also collects annual information related to public defense provider expenditures. An increase in spending over time is one indicator of implementation progress and improved quality of representation. We examine expenditures by providers outside of New York City (including *Hurrell-Harring* Settlement providers) and New York City provider expenditures to understand the impact of statewide implementation funding.

All the expenditures presented in the following figures include those on: 1) personnel (i.e., salaries, wages, and fringe benefits for attorneys, investigators, social workers, and other staff members employed by the provider); and 2) all expenditures other than personnel, which include both contract services (i.e., expenditures for attorneys and specialized professionals *not* employed by but *on contract with* the provider), and any other expenditures attendant to mandated representation (rent, equipment, supplies, etc.). These figures include all expenditures, regardless of revenue source, and thus reflect a combination of state and local funding.

### Total Statewide Expenditures Outside of New York City

Figure 7 presents total spending on mandated representation in all counties except New York City. This information includes data from the *Hurrell-Harring* Settlement providers and providers of Family Court representation.

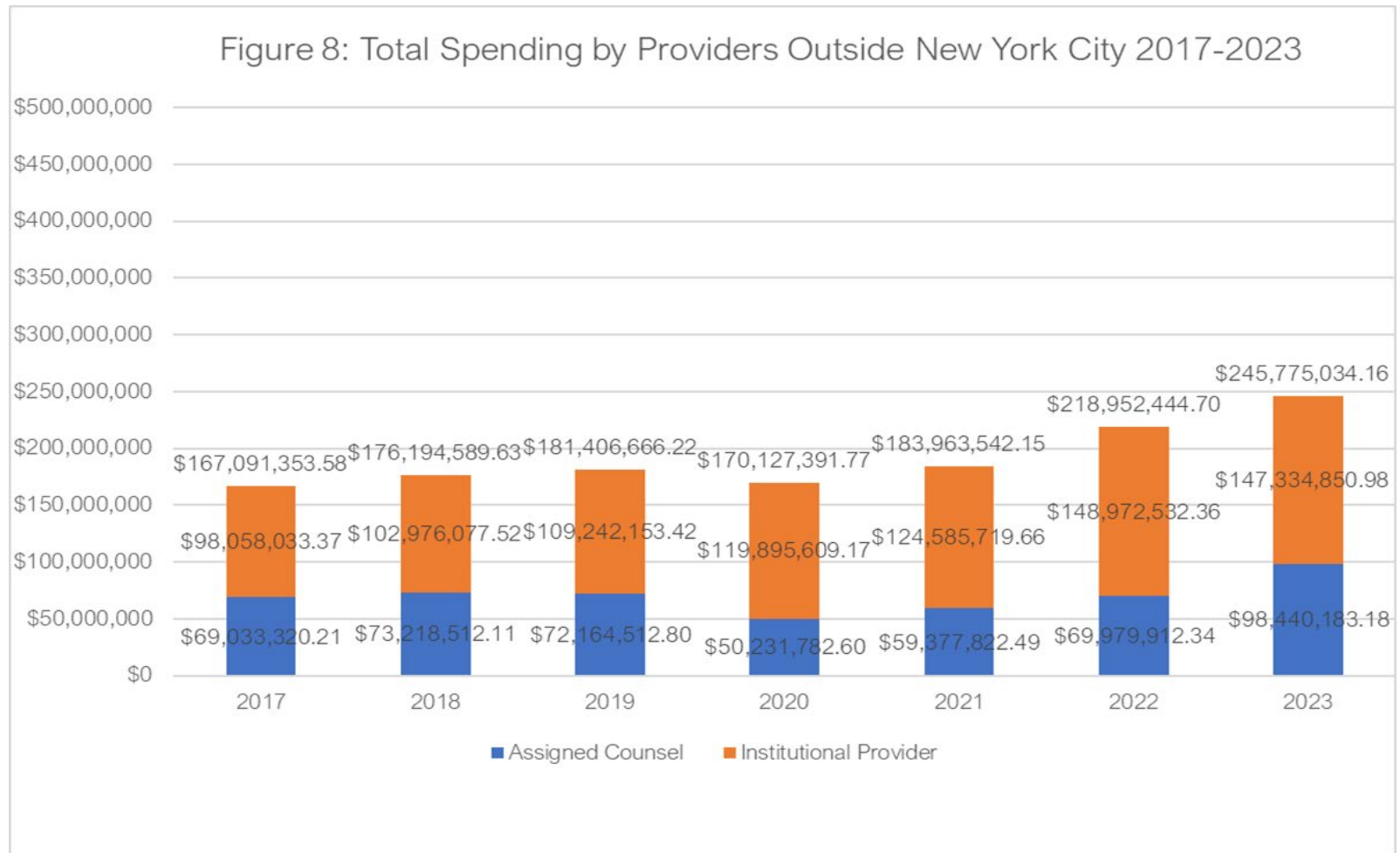


- Over the past seven years, total expenditures increased each year, until 2020, when the Covid-19 pandemic was at its height. In 2021, expenditures began to increase again. The expenditures in 2023 are at its highest level since 2017.
- Institutional provider spending significantly increased from about \$127.6 million in 2017 to about \$182.8 million in 2023, an increase of 43.3%.

- ACP spending increased from 2017 to 2019, significantly decreased in 2020, and then started to increase again. From 2022 to 2023, total spending by ACPs increased to \$121.1 million (an increase of 41.6%), its highest level.

*Expenditures by Providers Outside New York City (excluding Hurrell-Harring Settlement counties)*

Figure 8 presents the total spending by the providers outside New York City, excluding the *Hurrell-Harring* Settlement counties, from 2017 to 2023.



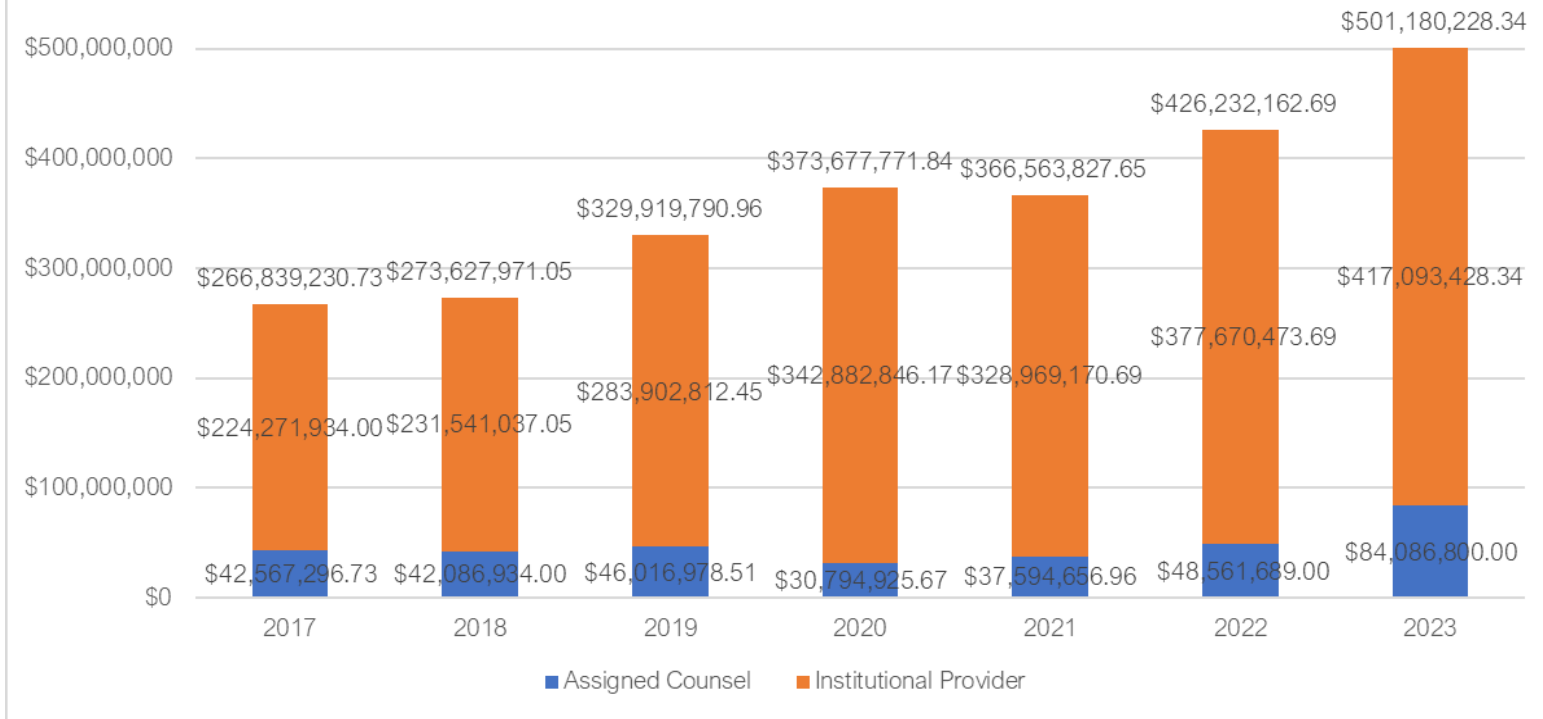
- Total spending increased each year from 2017 to 2023, except for a slight decrease in 2020.
- Institutional provider spending significantly increased, from about \$98 million in 2017, to about \$147 million in 2023, an increase of 50.0%. However, compared to 2022, institutional provider spending decreased slightly. ,
- ACP spending significantly decreased in 2020, from about \$72.2 million in 2019 to about \$50.2 million in 2020. From 2020 to 2022, total spending by ACPs increased by 39.4% to almost \$70.0 million. However, this was still about \$2.1 million less than the pre-pandemic year of 2019.
- In 2023, ACP spending increased significantly to about \$98.5 million, an increase of 40.7% compared to the year before. Based on the data we received from counties for State reimbursement for 50% of their increased expenditures from the hourly assigned counsel rate increase that went into effect on April 1, 2023, we know that about \$18 million of the expenditure increase is a result of the increased rates. The rest is likely attributable to a combination of factors, including an increase in the ACP caseloads, enhanced ACP infrastructure and supports, increased access to specialized professionals, and more trainings.

### *Expenditures by New York City Providers*

Figure 9 presents the total spending by the New York City providers from 2017 to 2023.



Figure 9: Total Spending by New York City Providers 2017-2023



- Total spending increased each year from 2017 to 2023, except for a slight decrease in 2021. Since the beginning of statewide implementation, total spending in New York City increased substantially from about \$266.8 million for all providers in 2017 to almost \$501.2 million in 2023.
- Institutional provider expenditures have significantly increased in New York City, from about \$224.3 million in 2017 to \$417.1 million in 2023, an increase of 86.0%. While institutional provider spending declined in 2021, in 2022 and 2023 it again exceeded previous years.
- Total ACP spending increased from \$42.6 million in 2017 to almost \$84.1 million in 2023, an increase of 97.4%. ACP expenditures hit a low point in 2020, during the onset of the Covid-19 pandemic and it was not until 2022 that it was back to pre-pandemic levels. Pursuant to litigation, the hourly rate for ACP attorneys increased in 2022 and, in 2023, the statutory rate increased. Additionally, anecdotal information suggests that since at least 2021 and prior to the rate increase, many New York courts were ordering payment of a higher rate as a necessary measure to convince attorneys to accept new case assignments. The data that we collect to reimburse NYC for 50% of their increased assigned counsel rate expenditures reveals that the increased rates account for \$15.7 million of the significantly increased NYC ACP expenditures in 2023. The rest of the increase is likely a result of an uptick in caseloads, stronger ACP infrastructure and supports, increased use of specialized professionals, and increased training opportunities.
- The increase in ACP spending from 2022 to 2023 is the most substantial increase since 2017 – an increase of \$35.5 million or 73.0%.

### *Institutional Providers: Weighted Cases Per Attorney<sup>15</sup>*

As in prior reports, we review progress towards caseload standards compliance for institutional providers by assessing the average number of weighted cases per full-time equivalent attorney. The term “weighted cases” refers to an adjustment that is applied to individual provider’s caseload numbers to account for the type of case, with more serious cases being given greater weight.<sup>16</sup>

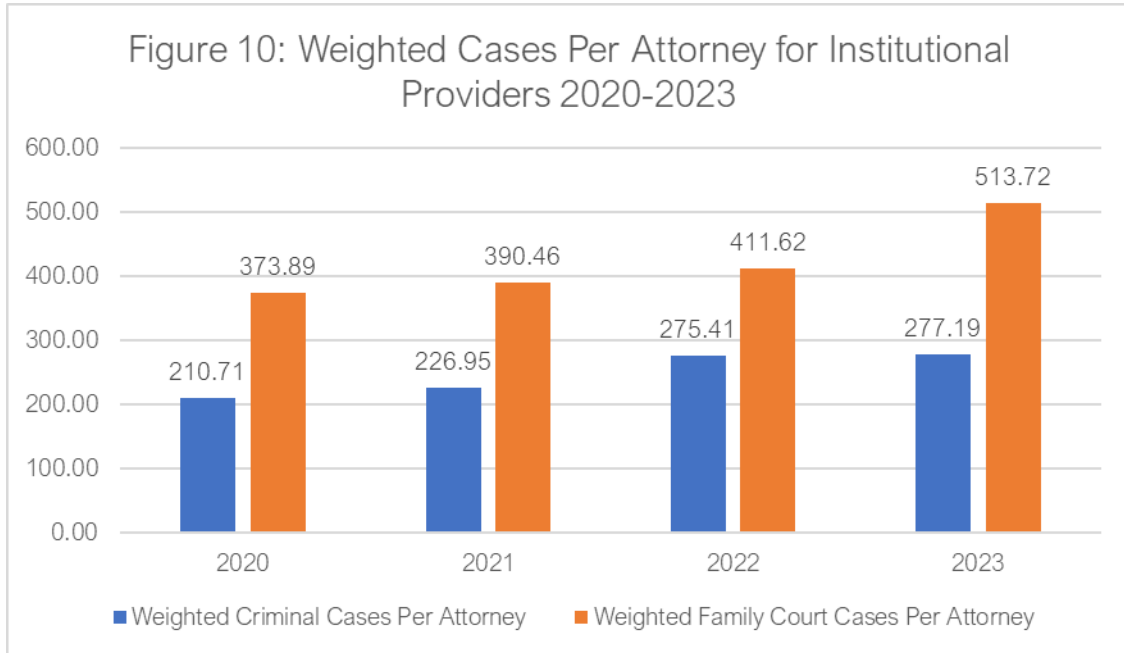
Under the ILS caseload standards, misdemeanors and violations are weighted at “1,” violent felonies are weighted at “6,” other felonies at “3,” post-disposition and parole revocation cases are both weighted at “1.5,” appeals of a guilty plea are weighted at “8.57,” and appeals of a verdict at “25.” We also began collecting data separately on Family Court cases using the same NAC standards and weights as previously used—i.e., Family Court cases are weighted at 2.67 and appeals at 16.

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<sup>15</sup> For a breakdown of the 2023 average number of weighted criminal cases per attorney at the institutional provider level, please see Appendix B.

<sup>16</sup> See *A Determination of Caseload Standards pursuant to § IV of the Hurrell-Harring v. The State of New York Settlement* (December 8, 2016).

The weighted cases per attorney using this more refined and complete data set is depicted in Figure 10 below. These numbers include providers of mandated criminal defense representation in and outside of New York City and exclude the six institutional providers in the *Hurrell-Harring* Settlement Counties.



- With these new caseload categories and weights, we see a slight increase in weighted caseloads from 2020 to 2023 for criminal cases.<sup>17</sup> During these years, the overall number of weighted criminal cases increased each year but there have been fluctuations in criminal attorney staffing. In 2020 and 2021 the number of criminal attorney FTEs was about the same (i.e., 1,870 and 1,867 FTEs, respectively). In 2022, the criminal attorney FTEs decreased substantially to 1,740, followed by a marked increase to 1,962 in 2023. Therefore, the more pronounced increase in weighted criminal cases per attorney between the year 2021 and 2022 is due to the increase in the total weighted criminal cases in 2022 *combined with* that year’s unique decrease in criminal attorney FTEs. Average weighted cases per criminal attorney only slightly increased in 2023, which is consistent with the increase in overall weighted cases and the simultaneous marked increase in FTEs.
- As demonstrated by Figure 10, the weighted caseloads for Family Court cases increased more substantially from 2020 to 2023.
- Notably, this information displays a stark difference between weighted Family Court cases per attorney and weighted criminal cases per attorney, with Family Court defense attorneys having to contend with much higher caseloads from 2020 to 2023. The data shows 373.89

<sup>17</sup> This number is calculated by dividing the sum of the total weighted criminal cases (i.e., column 15 in Appendix B) for each of the institutional providers in the 52 upstate counties and New York City by the sum of attorney staff taking criminal cases (in FTE; see column 13 in Appendix B) for these providers.

weighted Family Court cases per attorney in 2020 (163.18 weighted cases more, or 77.4% higher than criminal), 390.46 weighted Family Court cases in 2021 (163.51 weighted cases more, or 72.0% higher than criminal), 411.62 weighted Family Court cases in 2022 (136.21 weighted cases more, or 49.5% higher than criminal), and 513.72 weighted Family Court cases in 2023 (236.53 weighted cases more, or 85.3% higher than criminal). Mandated Family Court representation has not had the same state fiscal commitment to quality representation, and as a result, continues to experience increases in weighted caseloads per attorney at a much higher rate than mandated criminal defense.

### *Assigned Counsel Programs: Average Spending Per Weighted Case*<sup>18</sup>

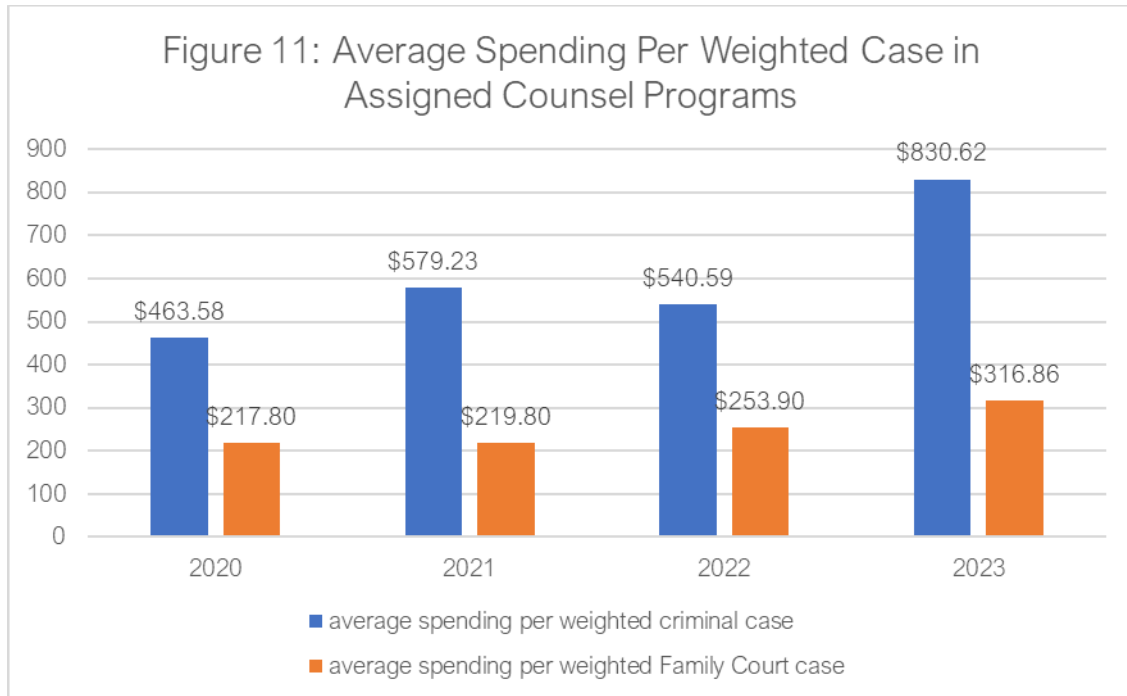
While we use the metrics of average weighted case per attorney for institutional providers, to gauge ACP caseload implementation we use a different approach—one that reflects how ACPs are organizationally distinct from institutional providers. For ACPs we present the average spending per weighted case using the case weights in accord with the ILS caseload standards: misdemeanor and violation cases weighted “1,” violent felonies “6,” other felonies “3,” post-disposition and parole revocation “1.5,” appeals of a guilty plea “8.57,” and appeals of a verdict “25.” Family Court cases were weighted at 2.67 and Family Court appeals at 16.”<sup>19</sup> This assessment reveals the following:<sup>20</sup>

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<sup>18</sup> For a breakdown of the 2023 average spending per weighted criminal case per ILS caseload standard weights and per weighted Family Court case, at the ACP level, please see Appendix C. Please note that in Appendix C, the more specific measure of *OTPS expenditures* is used for both criminal and Family Court cases.

<sup>19</sup> As the purpose is to set a baseline for future reports, it would be inappropriate to not consider and weigh Family Court appeals at all. Instead, Family Court cases are weighted at 2.67 and Family Court appeals at 16, which are the weights used for Family Court cases and appeals in previous caseload reports. Although ILS has published more refined caseload standards and corresponding weights in its June 4, 2021 report titled *Caseload Standards for Parents’ Attorneys in New York State Family Court Mandated Representation Cases*, these require the collection of data in thirteen Family Court case types at the trial level, which for the purposes of the current report has not been done. In addition, the more refined ILS caseload standards for Family Court cases do not include weights for Family Court appeals.

<sup>20</sup> Providers with missing information on caseloads, criminal court OTPS, and / or Family Court OTPS (n=4) were excluded from the 2023 analyses to produce a more precise estimate of average spending per weighted case.



- The 2021 average spending per weighted criminal case was \$579.23 while the average spending per weighted Family Court case was \$219.80. Compared to 2020, the average spending per weighted criminal case increased significantly while the average spending per weighted Family Court case increased only slightly (see Figure 19). In 2022, average spending in criminal cases decreased slightly, while average spending in Family Court cases increased.
- In 2023, the average spending per weighted criminal and Family Court case increased markedly, with the most pronounced increase for criminal court cases (i.e., from \$540.59 to \$830.62 per weighted case). As described earlier, this increase is likely due to several factors, including the assigned counsel rate increase that took effect as of April 1, 2023, the stronger ACP infrastructure in criminal cases, and the enhanced access to support for attorneys in criminal cases including specialized professionals, second chair programs, mentoring, and training.

## B. Strengthening the Public Defense Community Through Statewide Implementation

The increases in criminal attorney and specialized professional staffing and increases in program expenditures described in the previous section are a critical component to ensuring quality representation – without adequate funding, staff, and resources, programs cannot take steps to enhance the quality of client representation. Indeed, prior to statewide implementation, increased caseloads without commensurate increases in staffing necessarily resulted in significant increases in average weighted caseload per attorney far beyond what is allowed under ILS caseload standards, which is an indicator that attorneys were overburdened and carrying too many cases. However, the 2023 increased criminal caseloads resulted in only a slight increase in overall

average weighted cases per attorney (275.41 in 2022; 277.34 in 2023) and, notably, the overall average weighted cases per attorney in 2023 is still in line with ILS caseload standards (average of 300 weighted cases per attorney).<sup>21</sup> This is largely attributable to statewide funding for criminal representation and public defense leaders, counties, and defense organizations' commitment to building a strong client-centered public defense community in New York's county-based system. This section describes the defense community's efforts to implement initiatives that support and provide quality client representation.

### *Building Quality Oversight and Support in Public Defense Programs*

Adequate oversight and attorney support is imperative to quality representation<sup>22</sup> and ILS works with county officials, institutional providers, and ACPs to strengthen these components. Good supervision and support ensure that: 1) attorneys have somewhere to turn when they encounter new or difficult legal or fact issues; 2) representation provided by less experienced attorneys conforms to best practices and professional standards; and 3) mentors are available to help develop the next generation of attorneys into effective advocates.

Both institutional providers and ACPs use state funding to bolster support and oversight in their programs. According to the June 2024 Performance Measures Progress Report (PMPR), providers reported that 111 of the 750 attorneys hired using statewide contract funding since 2018 serve in supervisory, training, or mentoring roles across New York.<sup>23</sup> Having enhanced supervision and oversight is particularly important given the increase in both trial level cases and staffing at institutional provider offices shown in the data above. To expand the pool of candidates available to fill positions or who can accept criminal case assignments (in the case of assigned ACP panel attorneys) and meet increased caseload and workload needs, leaders can now work with attorneys who have little to no prior public defense experience so long as the structures are in place to mentor and train new attorneys and ensure clients are receiving quality representation. Implementing this type of quality oversight and support differs for institutional providers and ACPs as described below.

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<sup>21</sup> Note this number represents the statewide average. There are some providers that, because of continued recruitment and retention struggles (discussed in Section C), have not increased staffing at the same pace and continue to see increased in average weighted case per attorney. Appendix C details individual provider caseloads and staffing.

<sup>22</sup> See Executive Law § 832(4)(c) and the American Bar Association's *Ten Principles of a Public Defense Delivery System*, Principle 7: Experience, Training and Supervision, available at [https://www.americanbar.org/content/dam/aba/administrative/legal\\_aid\\_indigent\\_defendants/ls-sclaid-ten-princ-pd-web.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls-sclaid-ten-princ-pd-web.pdf).

<sup>23</sup> ILS Performance Measures Annual Report, June 6, 2024, available at: <https://www.ils.ny.gov/files/2024%20Performance%20Measures%20Progress%20Report.pdf>

Note: The PMPR data differs from the data in this report in two relevant ways: 1) it covers a more recent time period (April 1, 2023 – March 31, 2024); 2) it focuses exclusively on hiring and utilization of resources funded by the Statewide contract, while this report analyzed data regarding providers' overall staffing, caseloads, and expenditures from all funding sources for both mandated criminal and Family court representation. Still, the number of attorneys in these supervisory roles as a result of Statewide funding is important to consider.

## *Institutional Providers*

Building quality supervision structures at institutional provider offices includes hiring more attorneys and creating new supervisory positions that have time to offer meaningful guidance. As Figures 1 and 3 above show, the number of trial level cases continues to steadily increase.<sup>24</sup> At the same time, Figures 5 and 6 above show that overall staffing levels at institutional providers also continues to increase. These increases, coupled with the significant changes to discovery, bail, and post-conviction laws in recent years, highlight the need for solid supervision structures with leaders who monitor caseloads and ensure staff are properly trained.

Some providers are using state funding to create new supervisor positions and promote seasoned attorneys to fill these positions which increases supervision and creates pathways for professional development. For example, the Legal Aid Society of Nassau County (NLAS) used statewide funding to create a Senior Litigation Supervisor position and promote an attorney who has over 20 years of experience practicing criminal defense. The Senior Litigation Supervisor is available to newer attorneys to strategize legal issues, review discovery, discuss motion topics, and help prepare for trial. NLAS also used statewide funding to create a District Court Supervisor who directly supervises new lawyers and assists with brainstorming, strategizing, and collaborating on cases.

With increased staff and caseload relief, many providers reorganized internal structures to reduce their more experienced attorneys' caseloads, so they have more time to supervise and manage the office. For example, the Wayne County Public Defender's Office significantly increased attorney staffing using statewide funding which allowed the First Assistant Public Defender and Second Assistant Public Defender to assume leadership roles and responsibilities. The First Assistant oversees the Social Worker and Mitigation Programs, as well as the appellate practice. The Second Assistant is primarily responsible for recruitment and attends various college and law school recruitment events. This redistribution of workload and focus on recruiting new law graduates and interns has led to an office that is typically fully staffed and offers a multidisciplinary approach to client representation.

Similarly, because of statewide funding, the Sullivan County Legal Aid Panel (SCLAP) now contracts with 14 additional attorneys (five full-time attorneys and nine part-time attorneys) which allows the Executive Director to focus solely on supervising and managing the office. SCLAP also promoted two seasoned attorneys to supervisory roles with reduced caseloads so they can train and supervise less experienced attorneys. SCLAP now has a supervising attorney appear in over 25 town courts to assist attorneys. With this reorganization and staffing, SCLAP does not have to rely on hiring only experienced attorneys (who are harder to recruit to these positions) because they finally have the capacity to train and supervise less experienced attorneys. This is crucial to recruitment, as discussed in Section C below.

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<sup>24</sup> The number of misdemeanor and violations in New York City did decrease from 2022 to 2023; however, all other case categories increased.



The Oswego County Public Defender's Office opened in 2023 as part of statewide implementation and prioritized developing a strong supervision structure that includes a team approach to representation.<sup>25</sup> The office includes a Chief Public Defender, First Assistant Public Defender, and the three Senior Assistant Public Defenders. Each Senior Assistant oversees a team of Assistant Public Defenders and ensures that attorneys are using investigators, case managers, and experts, and communicating with clients. The First Assistant is available to mentor less experienced lawyers and work with attorneys representing clients in serious felony cases. This office structure demonstrates that the infusion of state funding can transform supervision structures and lead to strong, interdisciplinary team representation for clients.

### *Assigned Counsel Programs*

Building a strong ACP involves developing mentor, resource attorney, and second chair programs as well as policies and protocols for implementing and accessing these supports.<sup>26</sup> As a result of state funding, nearly every ACP now has funding available to establish criminal defense mentor and second chair programs. As explained in ILS' *Standards for Establishing and Administering Assigned Counsel Programs* (ACP Standards):

Mentoring involves more experienced and highly qualified attorneys working closely with less experienced attorneys to foster their professional growth and development. It is a well-recognized means of helping new attorneys develop criminal defense or family law representation skills, acquire legal knowledge, build confidence and competence, and enhance professionals.<sup>27</sup>

Similarly, second chair programs are an effective way for panel attorneys to gain hands-on experience. A second chair attorney can be assigned to: 1) a complex and/or high-level felony case where co-counsel is necessary and prudent to handle the tasks of developing a defense, securing the best possible plea and sentence, or crafting a well-developed trial strategy; 2) a case where the assigned attorney needs assistance with a particular aspect of a case and another attorney has an expertise or high level of skill that can assist the primary attorney (e.g., co-counsel who is particularly adept with DNA evidence can be assigned); or 3) a case where there is a learning opportunity for less experienced attorney to work with an experienced attorney to learn how to handle more complex cases. These opportunities help panel attorneys develop the requisite knowledge and skills to represent clients on more serious cases.

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<sup>25</sup> The Oswego County Public Defender's Office is primarily funded by the Statewide Expansion of *Hurrell-Harring* contracts.

<sup>26</sup> See Executive Law § 832(4)(c), the *Hurrell-Harring* Settlement, and ILS' *Standards for Establishing and Administering Assigned Counsel Programs* (ACP Standards) which all require ACPs to build robust programs that include training and support for panel attorneys.

<sup>27</sup> See *ILS Standards for Establishing and Administering Assigned Counsel Programs: Black Letter Standards with Commentary* (July 1, 2019), available at <https://www.ils.ny.gov/files/ACP%20Standards%20with%20Commentary%20070119.pdf>.

The Erie County Bar Association's Aid to Indigent Prisoners Society, Inc.'s (Erie County ACP) mentorship program takes a multifaceted approach to ensuring panel attorney support. The program has several mentor categories: homicide mentor; parole mentor; Domestic Violence Survivors Justice Act (DVSJA) mentor; DWI mentor; major case mentor; and a general mentor at large. To become a mentor, an attorney must meet specific criteria and have extensive experience in the specific field of guidance. The Erie County ACP's Deputy for Quality Assistance oversees the mentorship program and state funding has been used to increase the amount of one-on-one mentoring time panel attorneys receive in their first two years. Mentors are now required to work with mentees for at least their first five cases, including being present at all hearings and trials. Additionally, the ACP expanded the program to include attorneys on the panel for more than two years but have displayed a need or desire to participate in the mentorship program. This comprehensive mentorship program has led to an expansion of their second chair program; after establishing a good working relationship as mentor and mentee, the attorneys participating in the mentorship program will often elect to work together as co-counselors, i.e. second chair attorneys. The Erie County ACP reports numerous cases where second chair attorneys and mentors were involved that resulted in full acquittals for clients.

The Westchester ACP offers a unique approach to mentoring and training less experienced panel attorneys. Using state funding, the Westchester ACP hired a Training Director who developed a formal "Trainor/Trainee Program." The program ran from February 2024 through April 2024. The ACP identified more experienced panel attorneys who counseled and trained less experienced panel attorneys over the three-month period. Sixteen attorneys participated in the program, resulting in eight pairings. The attorneys met at least three times per month, including two one-on-one sessions and one group training session. The participants praised the program and the training and the ACP plans to host another Trainor/Trainee Program starting in February 2025. One pairing continues to work together, with the more experienced attorney agreeing to second chair a felony trial with the newer attorney.

### *Effectuating Culture Change through Quality Trainings*

Public defense attorneys must have the requisite knowledge and experience for the types of cases to which they are assigned.<sup>28</sup> This requires attorneys to attend trainings to learn basic skills, advanced litigation techniques, and to stay up to date on changing laws. However, prior to statewide implementation, public defense offices often struggled to provide quality training programs. Offices did not have adequate funding or staffing to send attorneys to trainings, with many providers too overburdened to spare a staff member – even for just a few hours – to attend a training. The Spangenberg Group's 2006 final report, Status of Indigent Defense in New York: A Study for Chief Judge Kaye's Commission on the Future of Indigent Defense Services ("the Spangenberg Report") found:

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<sup>28</sup> See Executive Law § 832(4)(c)(D); *American Bar Association Standards for the Defense Function* (2017) available at [https://www.americanbar.org/groups/criminal\\_justice/standards/DefenseFunctionFourthEdition](https://www.americanbar.org/groups/criminal_justice/standards/DefenseFunctionFourthEdition), *ILS Standards for Establishing and Administering Assigned Counsel Programs: Black Letter Standards with Commentary* (July 1, 2019), at 27, available at <https://www.ils.ny.gov/files/ACP%20Standards%20with%20Commentary%20070119.pdf>.

Public defender and legal aid attorneys across the state are frequently practicing without sufficient training or oversight. Although a few programs provide formal training, others offer little to no training and have few funds to send attorneys to outside trainings. Across the state, many staff attorneys are sorely in need of supervision and often describe their training as “trial by fire.”<sup>29</sup>

Now, with available funding, enhanced oversight, and increased staff, public defense providers can also ensure attorneys take advantage of training opportunities. In the June 2024 PMPR, providers reported that between April 1, 2023 and March 31, 2024, 341 training events were hosted, sponsored, or co-sponsored using Statewide contract funding. This training availability is also due to various public defense organizations working together to create quality training programs that attorneys around the state attend. For example, this year the New York State Defenders Association’s Annual Meeting and Conference, which has long been a source of quality training and networking for public defense attorneys, drew a record number of attorney participants for their two-day, in-person trainings.

Providers have also focused on building their own training curriculums. The Erie County ACP has long offered training to panel attorneys but in recent years they expanded their program with statewide funding. The ACP hosts a “New/Misdemeanor Panel Attorney Training Program” which is an in-person four-day training designed for both new and experienced panel attorneys who primarily represent clients in criminal cases. This training program involves interactive workshops, client-centered training, and tactical advice. After the April 2024 New/Misdemeanor Panel Attorney Training, the ACP added nine panel attorneys to the program. In February 2024, the ACP held its first “Felony Panel Attorney Training,” another four-day training which was attended by over 25 panel attorneys. The training was designed to enhance the current felony panel attorney practice and train attorneys seeking admission to the felony panel. The Felony Panel Attorney Training covered topics such as felony level hearing practice, jury selection, forensics, and suppression issues. The ACP’s comprehensive training program is a valuable recruitment tool and ensures panel attorneys have the necessary qualifications for quality client representation.

Provider offices have also been proactive in seeking support from ILS’ Criminal Defense Representation (CDR) team and Statewide Appellate Support Center (SASC) to identify specific training needs for their offices. For example, the Dutchess County Public Defender’s Office expressed an interest in hosting a training on the Domestic Violence Survivors Justice Act (DVSJA) and how to effectively engage in mitigation work. ILS’ CDR and SASC collaborated to develop a training session where the SASC presented to Public Defender’s Office supervisors, social workers, and line attorneys and engaged in meaningful discussion on representing clients in DVSJA cases.

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<sup>29</sup> The Spangenberg Group, Status of Indigent Defense in New York: A Study for Chief Judge Kaye’s Commission on the Future of Indigent Defense Services, Final Report (June 16, 2006) (“The Spangenberg Report”); Commission on the Future of Indigent Defense Services, Final Report to the Chief Judge of the State of New York (2006) (“Kaye Commission”).

Since 2020, ILS has partnered with the nationally recognized public defense organization Gideon's Promise<sup>30</sup> to pilot a New York-tailored leadership program. This year, the Legal Aid Society of Westchester County (WLAS) partnered with the Orange County ACP, ILS, and Gideon's Promise to host the 2024 Gideon's Promise New York State Leadership Workshop in May 2024. The workshop was held in-person at the WLAS' new training center which was built with ILS funding. Thirty-six leaders from across the state came together to identify their program's core values, create mission and vision statements, and brainstorm leadership strategies. This year, the Steuben County Public Defender's Office and Albany County Public Defender's Office took steps to become Gideon's Promise partner offices.<sup>31</sup> The Albany Public Defender's Office credits the budding partnership for elevating their national presence in the public defense community and bringing more diverse applicants to their office. The Steuben Public Defender Office is sending an Assistant Public Defender to the Gideon's Promise CORE 101 training, which is a three-year training program where the attorney will attend biannual in-person training sessions.

We have previously described ILS' annual New York State Assigned Counsel Program Summit (ACP Summit) which brings together ACP leaders for a day of brainstorming, networking, and learning about strategies to support quality panel attorney representation.<sup>32</sup> At the 2023 ACP Summit, Jonathan Rapping, Founder and Chief Executive Office of Gideon's Promise, gave an inspiring keynote address to 40 ACP leaders from across the state, acknowledging the work they have done and continue to do to implement quality improvement initiatives. The 2024 ACP Summit, which was again hosted at the New York State Bar Association, was attended by 47 leaders and focused on the benefits of multi-disciplinary team representation and community relations, and how to support these goals in the unique ACP setting. The sessions included a presentation by ILS' SASC and a keynote address by Emily Galvin Almanza, Founder and Co-Executive Director of Partners for Justice, an organization that provides collaborative support services to people facing criminal charges by creating teams by working with and supporting public defense offices.

Both the Gideon's Promise Leadership Workshop and the ACP Summits inspired the Nassau County Assigned Counsel Defender Plan's (NCACDP) Deputy Administrator to collaborate with the Nassau County Bar Association and ILS to design a CLE training series, titled "Dean's Hour," which will cover topics such as how and when to use mitigation experts, DNA evidence, working with jury consultants, crime scene analysis, cell phone records, and mental health defenses. The

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<sup>30</sup> Gideon's Promise is a "nonprofit public defender organization whose mission is to transform the criminal justice system by building a movement of public defenders who provide equal justice for marginalized communities." <https://www.gideonspromise.org/what-we-do/>

<sup>31</sup> "Gideon's Promise partner public defense offices are those that have committed public defenders, managers and directors participate in the organization's entire [training] curriculum. A partner office is determined based on the following criteria: (1) having sent one or more lawyers through the CORE 101 program, (2) having sent one or more seasoned lawyers to the Trainer Development Program Track 1, (3) had its Chief or approved substitute attend Leadership Summit, and has had someone actively involved in one or more programs within the last 24 months." <https://www.gideonspromise.org/public-defender-offices/>

<sup>32</sup> See *Statewide Plan for Implementing Quality Improvement and Caseload Relief: Year Five Report* (October 31, 2023) at 37, available at: <https://www.ils.ny.gov/files/Caseload%20Quality%20Report%20103023.pdf>.

CLEs will be one and a half hours, held over lunchtime, and feature an expert in the field and an experienced criminal defense attorney as trainers and moderators. The Deputy Administrator credits the Gideon’s Promise Leadership Workshop and ACP Summits for not only inspiring the training series, but for giving her the opportunity to “build a relationship with my fellow ACP administrators [who] are such incredible resources.”

### *Engaging in Multi-Disciplinary Team Representation*

The *Hurrell-Harring* Settlement, Executive Law § 832(4), and the American Bar Association’s *Ten Principles of a Public Defense Delivery System* all recognize that public defense clients benefit from a multi-disciplinary team of defense professionals. Historically, attorneys struggled to engage with specialized professionals due to high caseloads and lack of available funding. Thus, supporting multi-disciplinary team representation is critical to successful statewide implementation. Thanks to the infusion of state funding, public defense providers now use funding for investigators, social workers, mitigation specialists, case managers, interpreters, and other experts and, with enhanced oversight and training, attorneys are educated on how and when to engage specialized professionals in client representation.

For example, the Oswego County Public Defender’s Office instituted multi-disciplinary team representation from its inception. The Public Defender’s Office prioritized hiring an investigator and social worker/case manager, both of whom are actively involved in many cases. Attorneys are expected to include the specialized professionals in most cases. In the June 2024 Performance Measures Progress Report (PMPR), the Oswego County Public Defender’s Office reported that between April 1, 2023 and March 31, 2024, investigative services were used in 943 cases.<sup>33</sup> The Oswego County Public Defender’s Office reports success with this approach: cases are being dismissed, clients are being linked with services when appropriate, and attorneys secure more fair and favorable plea bargains.

Similarly, the Cattaraugus County Public Defender’s Office employs an interdisciplinary approach to client representation by including defense team investigators and social workers from the beginning of the case. Social workers and investigators often attend court with attorneys to meet clients and brainstorm mitigation and possible investigation avenues. The Cattaraugus County Public Defender’s Office reports that this interdisciplinary practice routinely results in more favorable plea deals during plea negotiations and/or lesser sentences for clients.

In the past year, the Essex County Public Defender’s Office hired a mitigation specialist who assists clients in accessing community-based services. Linking clients with services at the beginning of the case can address underlying issues as well allow the attorney to negotiate better plea bargains. The Essex County Public Defender’s Office reports that the mitigation reports help the judge see a client’s true circumstances and supporting their clients’ needs has resulted in more favorable outcomes.

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<sup>33</sup> See *ILS Performance Measures Annual Report*, (June 6, 2024), available at: <https://www.ils.ny.gov/files/2024%20Performance%20Measures%20Progress%20Report.pdf>.

ACPs have also increased the collaboration between panel attorneys and specialized professionals. The Erie County ACP has an extensive Social Work Unit, the Liberating and Empowering All Defendants (LEAD) Program. From April 1, 2023 through March 31, April 2024, the LEAD Program received 603 referrals and the social workers provided 15,986 services.<sup>34</sup> The impact of this work cannot be overstated: social workers are critical in helping clients get into treatment, secure housing, obtain medical records and other records, provide transportation to court, and gather information for case mitigation. Panel attorneys report clients are receiving more favorable outcomes and improved life circumstances because of these services; one panel attorney expressed their gratitude for the services:

Thank you for going above and beyond, this was a challenging case with [my] client being discharged and homeless. I am glad your team was able to secure bed to bed transfer to focus on her mental health and wellbeing.

The Cortland County ACP employs a case manager who meets with clients at their initial appearances and assesses whether any treatment or services are needed. The case manager also helps coordinate these services. The Cortland County ACP reports that panel attorneys are grateful for this assistance and consistently include the case manager in client representation.

Prior to statewide implementation, Broome County had an unmanaged ACP. Statewide funding was used to build the Broome County ACP infrastructure, including hiring an Administrator, Deputy Administrator, Investigator, and Paralegal. This core staff prioritized reaching out to panel attorneys as cases were assigned to brainstorm how and when panel attorneys could engage investigators social workers, mitigation specialists, experts. The Broome County ACP now automatically assigns an investigator on all higher-level felony cases and encourages the use of investigators in all case types. The June 2024 PMPR indicates that statewide funding was used to engage investigators in 142 cases.

## C. Public Defense Strategies to Address Recruitment and Retention

### *Strengthening Recruitment and Retention*

As made clear by the increased staffing reported in Section A, recruiting and retaining qualified attorneys continues to be a top priority for public defense providers. ILS works with counties to identify where statewide funding can effectively be used to support recruiting and retaining public defense attorneys at institutional provider offices and to join ACPs. However, the public defense attorney shortage is a multi-pronged, complex issue with deep historical roots. For decades, low salaries, high student loan debt, and overwhelming caseloads made attracting lawyers to public defense work very challenging. Prior to statewide implementation, underfunded public defense offices did not have the structure to support hiring recent law graduate or to create internship programs. Until April 2023, the statutory rate of pay for ACP panel attorneys remained the same

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<sup>34</sup> For the Erie County ACP, a “service” includes all referrals to outside services where the client can seek support or treatment.



for nearly 20 years. Still, both institutional providers and ACPs continue to develop strategies to recruit and retain public defense attorneys.

*Institutional Providers: Hiring Recent Law Graduates, Creating Internship Opportunities, and Increasing Salaries*

Since 2020, institutional public defense providers have consistently reported seeing fewer applications for vacant positions and those who do apply often do not have the requisite qualifications or experience needed. Prior to statewide implementation, most public defense offices outside of New York City did not hire recent law school graduates or have internship opportunities. High caseloads and lack of supervision structures meant these providers were unable to devote the time necessary for new attorney or intern training. Instead, they typically hired experienced attorneys expecting them to “hit the ground running.” As public defense attorneys leave criminal defense for other jobs or retire, the pool of available experienced attorneys has dwindled around the state. The lack of viable internship opportunities compounded this problem – few recent law graduates were becoming public defenders outside New York City. In rural areas, the sheer lack of attorneys living in the region makes filling vacant positions extremely challenging.<sup>35</sup>

However, as the data Section A shows, attorney and specialized professional staffing at institutional providers increased in 2023 and is now the highest it has ever been. The data indicates that institutional providers are prioritizing recruiting and retaining staff. ILS’ on-going conversations with providers regarding recruitment and retention issues confirmed this. With state funding, public defense providers have enhanced their recruitment efforts by devoting funding for internship and law graduate programs. The additional staffing, layers of supervision, and training opportunities described above allow public defense offices to provide adequate oversight and support to recent law graduates and interns. Supervisors have lower caseloads, giving them the time necessary to devote to overseeing and training new attorneys, including recent law graduates, and interns in best practices. Institutional providers can expand their pool of applicants to new law graduates because they have the capacity to train up new lawyers before they start taking cases – i.e., with more manageable caseloads, new hires do not have to “hit the ground running.” Interns are given the chance to get firsthand public defense experience, and many seek to work in the offices where they interned after graduation.

Twenty-three institutional providers fund internship programs in their Second Statewide Expansion of *Hurrell-Harring* contracts, which began April 1, 2024. The Albany County Public Defender’s Office is a prime example of how offering competitive internships and training programs can lead to increased staffing and transform an office. In the 2023-2024 school year, the Albany County Public Defender’s Office hosted seven interns in the fall, eight interns and two pro-bono scholars<sup>36</sup>

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<sup>35</sup> See *New York State Bar Association Task Force on Rural Justice Report* (April 2020), at 8-11, available at: <https://nysba.org/app/uploads/2020/04/Report-Task-Force-on-Rural-Justice-April-2020-.pdf>

<sup>36</sup> “The Pro Bono Scholars Program allows students in their final year of law school to devote their last semester to of study to performing pro bono service for the poor through an approved externship program, law school clinic, legal services provider, law firm or corporation.” <https://ww2.nycourts.gov/attorneys/probonoscholars/index.shtml>



in the spring, and seven interns in the summer. Interns are involved in all stages and areas of client representation, including client communication, discovery review, legal research and writing, engaging in plea negotiations, and conducting arraignments, hearings, and trials. Interns enjoy the experience, and several have returned for multiple internships. Four interns were hired as new assistant public defenders as part of the Albany County Public Defender's Office's 2024 training class. The Albany County Public Defender's Office has also created internship opportunities for specialized professionals, including a social work intern program. Albany County Public Defender's Office leadership attends nationwide job fairs and advertises the training, supervision, and professional development opportunities.

Similarly, the Monroe County Public Defender's Office created a robust internship program as a part of the recruitment efforts led by their DEI Director and First Assistant Public Defender. Because they were able to increase their staffing with statewide funding, they now have representation "teams" that include supervisors, support staff, and law school interns. The Monroe County Public Defender's Office is also able to attract high school and college level interns. These efforts have resulted in better office diversity and a class of ten law graduates in 2024.

Some providers are partnering with colleges and universities to attract interns. For instance, the Cattaraugus Public Defender's office partners with St. Bonaventure University for undergraduate interns who want to gain experience with the criminal legal system and public defense work. The Clinton County Public Defender's Office has successfully partnered with Vermont Law School to create an internship program and hired one attorney as a result of this partnership. Last year, we highlighted the Cornell Defender Program, which was designed in coordination with ILS and continues to partner with provider offices to create summer internships for both undergraduate and law students.<sup>37</sup> The Cornell Defender Program is now in its fifth year and has led to many successful connections between students and public defense providers that often result in students accepting positions with their placement office after graduation. Since establishing the program in 2020, 31 law students and 53 undergraduate students have completed the program. In 2023, the program placed 15 student interns in provider offices in five counties; in 2024, 15 student interns were placed in six counties (Tompkins, Chemung, Broome, Ontario, Steuben, and Schuyler).

While many offices now have the infrastructure to support new law graduates and interns, institutional providers continue to struggle to hire and retain staff because of historically low salaries. Where possible, providers are using statewide funding to supplement or increase staff salaries. Several institutional providers have worked with ILS and county officials to secure salary increases, such as the Broome, Seneca, Wayne, and Chemung County Public Defender's Offices, the Chemung Public Advocate Office, the Legal Aid Society of Westchester County, and the Legal Aid Society of Nassau County. Many offices, including the Legal Aid Bureau of Buffalo, provided

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<sup>37</sup> See *Statewide Plan for Implementing Quality Improvement and Caseload Relief: Year Five Report* (October 31, 2023) at 36 for more information on the Cornell Defender Program, available at: <https://www.ils.ny.gov/files/Caseload%20Quality%20Report%20103023.pdf>.

staff with retention stipends. However, as discussed below, implementing salary increases in a county-based system is not easy, even when the salary increases are fully funded by the state.

Recruiting new attorneys to work at institutional public defense providers is a top priority for public defense leadership; there is a need to create a pipeline from undergraduate programs and law schools to public defense providers. Institutional providers are in the best position to sustain this pipeline. They can create and implement robust internship programs and have the supervision structures in place to train new lawyers and specialized professionals on best practices and quality representation. Although many ACPs have implemented oversight measures and new supports for panel attorneys, since panel attorneys are independent contractors, it is nearly impossible for an ACP, especially ACPs in rural areas with small panel numbers, to require a brand-new law graduate to engage in a multi-week training and to be supervised at all court appearances or on every case like an institutional provider can. Having an institutional provider attract new recruits who engage in rigorous training and supervision benefits the defense community as whole. There is a natural attrition of lawyers who leave institutional providers to join the ACP as panel attorneys. These attorneys frequently continue working in the county they are familiar with and where they have been trained to provide quality representation to clients. Counties that do not have an institutional provider and rely solely on an ACP to deliver public defense services are at a disadvantage; they cannot attract and train new law graduates as easily. Creating internship and training programs at institutional providers helps elevate the culture of defense representation in the county, resulting in better representation for all public defense clients.

### *Assigned Counsel Programs: Building Quality Infrastructure and the ACP Hourly Rate Increase*

For ACPs, recruiting qualified attorneys is inherently different. Panel attorneys are independent contractors who agree to represent clients eligible for public defense representation at an hourly rate fixed by statute. ACPs that have supports in place to make representing public defense clients seamless are more likely to attract attorneys than those without supports. Thus, developing this infrastructure is a recruitment tool for ACPs. This includes having access to specialized professionals, such as investigators, social workers, case managers and experts; quality training opportunities; mentoring services; second chair attorneys; legal reference materials; easy vouchering and payment processes; and ACP leadership that supports panel attorneys.

Even with these developments, low assigned counsel hourly rates, which are set by statute via County Law § 722-b, were a major impediment to recruiting and retaining competent, qualified attorneys. As of April 1, 2023, these rates were increased for the first time in 20 years, from \$60 per hour for violations and misdemeanors and \$75 per hour for all other types of mandated cases (i.e. felonies and Family Court matters) to \$158 per hour for all assigned case types.<sup>38</sup> The years of inadequate assigned counsel payment rates negatively affected caseloads and quality improvement initiatives in two ways: 1) the low rates encouraged panel attorneys to accept more cases than they should; and 2) the low rates caused attorneys to leave the panel and deterred

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<sup>38</sup> See County Law § 722-b.

new lawyers from joining the panel. Prior to the hourly rate increase, ACP leaders reported diminishing attorney numbers and it was becoming increasingly difficult to keep attorneys on the panel and nearly impossible to entice attorneys to join the panel. Some leaders struggled to find attorneys willing to represent clients in misdemeanors, as the attorneys thought the low rate was not worth their time. Other leaders struggled to find attorneys willing to represent clients in violent felony cases; attorneys felt the low rate did not adequately compensate for the rigors of complex representation.

With the hourly rate increase in effect for over a year, many ACP leaders have expressed that more attorneys are interested in accepting criminal cases. For instance, we have heard from many ACP leaders that attorneys who previously left the panel due to the low rates have rejoined and started accepting case assignments again. Leaders also report that attorneys are also willing to travel longer distances to accept assignments because they know they will be more adequately compensated for their time. This is particularly important in rural counties where there are not enough attorneys living in the county for the number of cases.

### *Ongoing Recruitment and Retention Challenges*

The *Hurrell-Harring* Settlement and its extension statewide did not change New York's county-based public defense system. As discussed in last year's update report, leaders must continue to navigate local bureaucracy and politics, and that impacts their ability to recruit and retain staff.<sup>39</sup> Each provider must implement recruitment and retention strategies that address the specific needs of their office and county within their county's existing structures and rules.

For example, institutional providers are often bound by the county's pay scale which may not be competitive as compared to private sector salaries. Counties are reluctant to increase public defense salaries when similar salary increases cannot be offered to other county departments, even when state funding is available to do so. This impacts providers' ability to competitively recruit qualified candidates. Additionally, public defense providers that represent clients in both criminal and Family Court are unable to use statewide contract funding to increase salaries for attorneys who represent clients in Family Court cases. There is insufficient state funding available to provide salary increases for all attorneys who represent clients in Family Court.

While the assigned counsel rate increase was critical in alleviating the immediate pressure, ACP leaders are clear that the rate increase did not eradicate the attorney shortage crisis. Many rural counties still struggle to find attorneys willing to join the panel. This is in large part due to the lack of attorneys living and practicing in these rural areas. And while leaders report that some attorneys who previously left the panel are rejoining, they are still struggling to recruit new attorneys to their panels. Counties who do not have an institutional provider and instead rely solely on an ACP to provide public defense representation are at a disadvantage; as described above, it is more challenging to draw new attorneys to an area without a strong institutional provider. Public defense leaders must continue work together to strengthen the pipeline of new law graduates to

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<sup>39</sup> See *Statewide Plan for Implementing Quality Improvement and Caseload Relief: Year Five Report* (October 31, 2023) at 32-34, available at: <https://www.ils.ny.gov/files/Caseload%20Quality%20Report%20103023.pdf>.

public defense work to ensure that there are enough attorneys to meet the needs of both institutional providers and ACPs.

Additionally, as public defense moves towards more interdisciplinary representation, the lack of available specialized professionals, such as investigators, social workers, and case workers, becomes more apparent. Prior to statewide implementation, public defense providers did not have the resources to hire these positions on staff or to contract for their services. Now funding is available but there are not enough professionals to meet the need. It will take time to cultivate experts in the various cross-sections of interdisciplinary work.

ILS continues to collaborate with county officials, public defense providers, and statewide public defense organizations on strategies to cultivate individuals into these fields. Currently, ILS is collaborating with public defense investigators and attorneys across the state via a working group to create Standards for the Investigative Function on the Interdisciplinary Defense Team. In recognizing that investigation is an essential component of effective representation, the working group consists of value-driven leaders to propose standards that will help remind, guide, and instruct defense counsel and investigators to ensure that a thorough investigation is conducted throughout the case. The working group is creating connections throughout the state – working group members have connected outside the meetings to discuss or brainstorm specific investigation needs on pending cases. This working group and the creation of these standards is the first step in building a strong community of defense-oriented investigators.

#### **D. The Continued Crisis in Mandated Family Court Representation**

As outlined in the 2023 report, mandated representation for parents in Family Court matters pursuant to County Law Article 18-B, has been at a crisis point for several years. Though there has been some increase in the amount of state funding available for Family Court parent representation in recent years, it is not enough to meet the projected need.<sup>40</sup> Because the State has not made the same financial commitment to improving quality representation of parents in Family Court matters, statewide implementation continues to address only part of mandated representation. Figure 1 shows that Family Court cases make up over a quarter (29.2%) of all trial level cases for public defense providers outside New York City. Family Court weighted caseloads substantially increased from 2020 to 2023, as shown in Figure 10. Figure 10 also depicts the disparity of resources for attorneys who represent clients in criminal cases versus Family Court cases. In 2023, the average weighted Family Court caseload per attorney was 513.72 – a startling 85.2% higher than the average weighted criminal court caseload per attorney.

Although public defense leaders are making great strides in enhancing the public defense community and resources, the ongoing disparity in resources between criminal and Family Court representation continues to place public defense offices in an untenable position. Using statewide funding, public defense offices have made substantial investments in their criminal defense practices by building up oversight structures, hiring new attorneys, hosting and attending quality

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<sup>40</sup> The state FY 2024-25 budget included \$19.5 million in state funding for improvements in mandated Family Court representation.

training programs, and engaging with multi-disciplinary professionals. Public defense offices have not been able to make comparable investments to their Family Court practices because there is not similar funding available. The goal of improving quality mandated representation for all clients will not be achieved until the state provides adequate funding for Family Court representation.

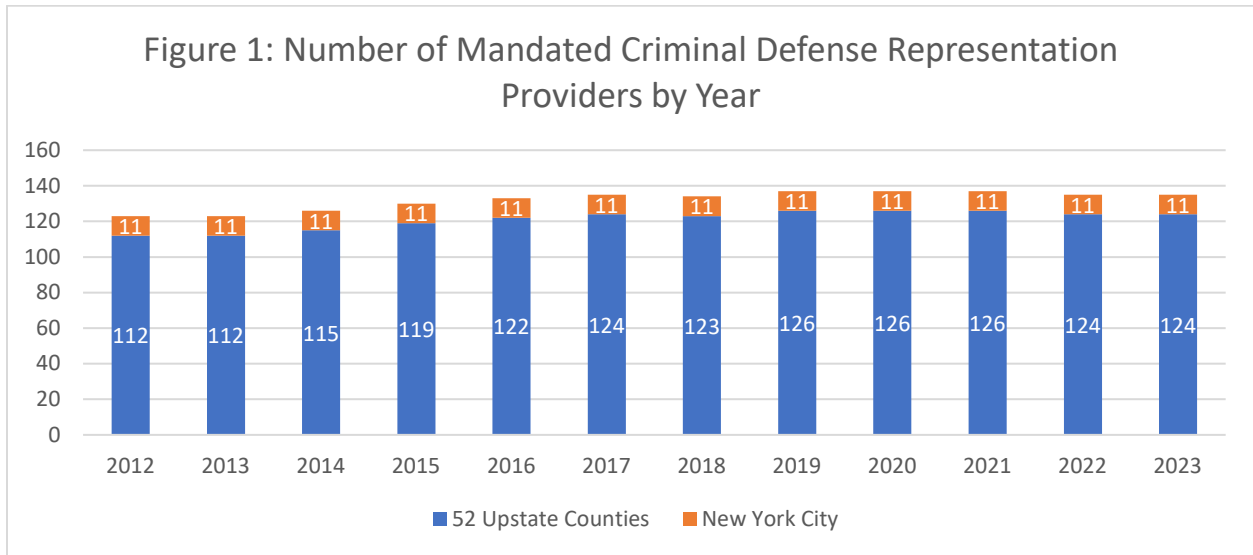
## Conclusion

Although implementing reform in a county-based system is fraught with challenges, public defense providers continue to make substantial progress in strengthening the public defense community by building quality oversight structures, hosting and attending quality training programs, engaging in multi-disciplinary team representation, and addressing recruitment and retention issues. The qualitative and quantitative data information in this report shows that progress continues to be made in extending the *Hurrell-Harring* Settlement initiatives to the entire state.

# Appendix A

## Appendix A. Provider changes by year

As reflected in Figure 1 below, the number of providers has fluctuated throughout the years. In 2023, there were 135 providers of mandated criminal representation in the 52 non-Settlement counties and New York City.



Year	Provider changes
2014	<ul style="list-style-type: none"> <li>Appellate representation programs in Cattaraugus, Genesee, and Orleans Counties added.</li> </ul>
2015	<ul style="list-style-type: none"> <li>Appellate representation programs in Otsego, Saint Lawrence, and Warren Counties added.</li> <li>Yates County Conflict Defender added.</li> </ul>
2016	<ul style="list-style-type: none"> <li>Franklin County Alternate Conflict Defender added.</li> <li>Steuben County Conflict Defender added.</li> <li>Appellate representation program in Fulton County added.</li> </ul>
2017	<ul style="list-style-type: none"> <li>Third Alternate Conflict Defender in Columbia County added (program existed since 2015 but took criminal cases for the first time).</li> <li>Appellate representation program in Cortland County added.</li> </ul>
2018	<ul style="list-style-type: none"> <li>Appellate representation program in Livingston County added.</li> <li>Franklin County Alternate Conflict Defender Office abolished.</li> <li>Third Alternate Conflict Defender in Columbia County added for Family Court cases.</li> </ul>
2019	<ul style="list-style-type: none"> <li>Public Defender in Clinton County added.</li> </ul>



- Public Defender in Delaware County added.
- Appellate representation program in Saratoga County added.

2020

- Public Defender in Hamilton County added.
- Attica Legal Aid Bureau in Wyoming County takes Parole Violation cases; Public Defender takes all other case types (these two programs existed before, but data was reported under only one institutional provider in previous reports)
- Allegany-Cattaraugus Legal Aid added for Family Court cases.
- Fulton Rural Law Center added for Family Court Appeals.
- Yates County Conflict Defender abolished per March 31, 2020 (still included as a provider in this report since the office was open for the first three months of 2020)

2021

- Conflict Defender in Essex County added.
- Fulton Rural Law Center added for criminal appeals again.
- Yates County Conflict Defender no longer included as a provider in this report (see above).
- Madison County contract Public Defender discontinued

2022

- First and Second Alternate Conflict Defender in Columbia County no longer included.

2023

- Columbia County Conflict Defender no longer included.
- Steuben County Conflict Defender abolished.
- Franklin County Second Conflict Defender added.
- Oswego County Public Defender added.

# Appendix B

**Appendix B. Average Weighted Cases per Attorney at 72 Institutional Providers in 52 non-Hurrell-Harring Counties Outside New York City and 9 Institutional Providers in New York City in 2023**

County	Provider	Caseload Numbers: Number of Cases Opened									Total Expenditures in USD	Staffing		Weighted Numbers	
		Violent Felonies	Other Felonies	Misdemeanors and Violations	Parole Violations	Post-Dispositions	Appeals of a Guilty Plea	Appeals of a Verdict	Family Court	Family Court Appeals	Expenditures	Attorney Staff - Criminal Only	Non-Attorney Staff - Criminal Only	Total Weighted Cases - Criminal Only	Weighted Cases Per Attorney - Criminal Cases Only
Albany	Conflict Defender	181	294	519	10	19	8	6	783	0	\$ 2,170,108.21	7	3	2749.06	392.72
Albany	Public Defender	509	1503	4163	168	219	7	2	2045	0	\$ 7,380,003.20	31.55	16.68	12416.49	393.55
Allegany	Public Defender	58	145	588	1	51	0	0	340	0	\$ 797,327.00	1.5	3	1449	966.00
Broome	Public Defender	377	1088	5222	129	374	11	3	0	0	\$ 1,729,929.11	14	19	11671.77	833.70
Cattaraugus	Public Defender	78	444	1604	25	55	0	0	698	0	\$ 3,186,828.58	7.5	8.5	3524	469.87
Cattaraugus	Regional Appellate Program	0	0	0	0	0	2	2	0		\$ 70,000.00	0.73	0	67.14	91.97
Cayuga	<i>No institutional provider - ACP only</i>														
Chautauqua	Public Defender	253	1064	4940	77	358	13	2	1744	0	\$ 4,220,640.87	14.13	16	10463.91	740.55
Chemung	Public Advocate	39	92	347	12	43	0	0	780	0	\$ 749,554.80	1.8	1	939.5	521.94
Chemung	Public Defender	105	325	1457	33	170	0	0	440	0	\$ 1,559,094.37	5.05	3.85	3366.5	666.63
Chenango	Public Defender	52	171	903	2	109	0	0	212	0	\$ 625,970.00	2	3	1894.5	947.25
Clinton	Public Defender	71	309	1378	12	221	0	0	0	0	\$ 1,582,105.79	7	5.5	3080.5	440.07
Columbia	Public Defender	42	188	798	8	43	3	0	391	0	\$ 1,315,540.73	5	1.5	1716.21	343.24
Cortland	Public Defender	36	161	814	8	34	0	0	351	0	\$ 999,857.31	5.8	2.2	1576	271.72

County	Provider	Caseload Numbers: Number of Cases Opened									Total Expenditures in USD		Staffing		Weighted Numbers	
		Violent Felonies	Other Felonies	Misdemeanors and Violations	Parole Violations	Post-Dispositions	Appeals of a Guilty Plea	Appeals of a Verdict	Family Court	Family Court Appeals	Expenditures	Attorney Staff - Criminal Only	Non-Attorney Staff - Criminal Only	Total Weighted Cases - Criminal Only	Weighted Cases Per Attorney - Criminal Cases Only	
Cortland	Rural Law Center	0	0	0	0	0	0	1	0	0	\$ 38,480.00	0.24	0.08	25	104.17	
Delaware	Public Defender	53	169	609	11	72	0	0	301	1	\$ 327,317.81	4	1.5	1558.5	389.63	
Dutchess	Public Defender	253	815	3085	53	241	34	4	2460	0	\$ 10,028,924.65	25.8	23.6	7880.38	305.44	
Erie	Legal Aid Bureau	905	1445	4077	0	58	81	6	0	0	\$ 8,854,552.60	48.73	25.52	14773.17	303.16	
Essex	Conflict Defender	15	45	90	1	10	0	0	0	0	\$ 202,203.55	1	1	331.5	331.50	
Essex	Public Defender	26	92	359	4	50	1	0	0	0	\$ 850,828.84	5	1	880.57	176.11	
Franklin	Conflict Defender	45	162	383	3	12	0	0	430	0	\$ 466,149.61	1.21	1	1161.5	959.92	
Franklin	Public Defender	79	288	823	12	47	0	0	349	0	\$ 967,175.89	3.12	4.75	2249.5	720.99	
Franklin	2nd Conflict Defender	10	36	67	0	15	0	0	56	0	\$ 240,000.00	1	0	257.5	257.5	
Fulton	Public Defender	93	250	780	1	71	0	0	286	0	\$ 1,115,399.58	5	2	2196	439.20	
Fulton	Rural Law Center	0	0	0	0	0	3	2	0	3	\$ 38,480.00	0.18	0.06	75.71	420.61	
Genesee	Public Defender	64	407	967	30	111	0	0	600	0	\$ 1,910,420.00	7	4.35	2783.5	397.64	
Genesee	Regional Appellate Program	0	0	0	0	4	24	4	0	0	\$ 100,000.00	0.94	0	311.68	331.57	
Greene	Public Defender	42	294	976	18	35	4	0	474	0	\$ 1,439,262.73	5.9	3.96	2223.78	376.91	
Hamilton	Public Defender	4	10	53	1	0	0	0	22	0	\$ 252,434.00	2	0	108.5	54.25	

County	Provider	Caseload Numbers: Number of Cases Opened									Total Expenditures in USD		Staffing		Weighted Numbers	
		Violent Felonies	Other Felonies	Misdemeanors and Violations	Parole Violations	Post-Dispositions	Appeals of a Guilty Plea	Appeals of a Verdict	Family Court	Family Court Appeals	Expenditures	Attorney Staff - Criminal Only	Non-Attorney Staff - Criminal Only	Total Weighted Cases - Criminal Only	Weighted Cases Per Attorney - Criminal Cases Only	
<b>Herkimer</b>	<i>No institutional provider - ACP only</i>															
<b>Jefferson</b>	Public Defender	75	428	1588	38	166	0	0	303	0	\$ 934,760.15	8	4	3628	453.50	
<b>Lewis</b>	Public Defender	16	77	198	4	36	0	0	211	0	\$ 706,151.36	3	2	585	195.00	
<b>Lewis</b>	Conflict Defender	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>Livingston</b>	Conflict Defender	21	97	185	7	15	14	4	334	0	\$ 678,386.15	5	0.5	854.98	171.00	
<b>Livingston</b>	Public Defender	46	287	969	58	56	0	0	750	0	\$ 1,456,536.01	8	3	2277	284.63	
<b>Livingston</b>	Regional Appellate Program	0	0	0	0	0	0	0	0	0	\$ -	0	0	-	-	
<b>Madison</b>	<i>No institutional provider – ACP only</i>															
<b>Monroe</b>	Conflict Defender	0	1	2511	44	69	0	0	1597	0	\$ 2,517,854.65	11	7	2683.5	243.95	
<b>Monroe</b>	Public Defender	1229	2057	4538	324	682	14	4	4908	15	\$ 16,434,013.50	67	39.41	19811.98	295.70	
<b>Montgomery</b>	Public Defender	25	319	608	12	42	0	0	346	0	\$ 1,387,984.92	6.5	0	1796	276.31	
<b>Nassau</b>	Legal Aid Society	756	2183	5439	123	287	29	25	2007	68	\$ 610,428.27	43	12	18012.53	418.90	
<b>New York</b>	Appellate Advocates	0	0	0	0	137	929	97	0	0	\$ 16,262,736.08	53	24	10592.03	199.85	
<b>New York</b>	Brooklyn Defender Services	3086	3083	17282	0	0	0	0	415	0	\$ 51,506,749.00	182	132	45047	247.51	
<b>New York</b>	Center for Appellate	0	0	0	0	191	369	58	0	0	\$ 12,130,009.00	27.8	9.7	4898.83	176.22	

County	Provider	Caseload Numbers: Number of Cases Opened									Total Expenditures in USD		Staffing		Weighted Numbers	
		Violent Felonies	Other Felonies	Misdemeanors and Violations	Parole Violations	Post-Dispositions	Appeals of a Guilty Plea	Appeals of a Verdict	Family Court	Family Court Appeals	Expenditures	Attorney Staff - Criminal Only	Non-Attorney Staff - Criminal Only	Total Weighted Cases - Criminal Only	Weighted Cases Per Attorney - Criminal Cases Only	
	Litigation															
New York	Legal Aid Society	9119	11274	65862	609	164	762	90	0	0	\$ 222,703,968.00	722.3	467	164337.84	227.52	
New York	Neighborhd Defender Service of Harlem	489	491	3062	0	25	0	0	988	1	\$ 12,826,248.34	36.2	21	7506.5	207.36	
New York	New York County Defender Services	826	1117	4919	0	89	0	0	7	0	\$ 22,922,389.44	77.9	60	13359.5	171.50	
New York	Office of the Appellate Defender	0	0	0	0	43	120	50	0	0	\$ 5,788,978.00	24	12	2342.9	97.62	
New York	Queens Defenders	1695	1916	10980	21	88	0	0	245	0	\$ 26,119,756.75	72	31	27061.5	375.85	
New York	The Bronx Defenders	1430	962	9000	0	1866	0	0	1045	10	\$ 46,832,593.73	107	72	23265	217.43	
Niagara	Conflict Defender	58	172	372	6	19	0	1	1485	0	\$ 181,105.15	4.55	1.75	1298.5	285.38	
Niagara	Public Defender	209	994	4993	75	341	36	2	1489	1	\$ 4,317,060.45	25.43	12.94	10211.52	401.55	
Oneida	Public Defender	232	728	4395	103	358	15	11	0	0	\$ 3,121,435.00	16	16	9066.05	566.63	
Orange	Legal Aid Society	258	1071	5017	0	0	0	0	2138	0	\$ 4,604,551.63	19	9	9778	514.63	
Orleans	Public Defender	42	157	428	11	42	0	0	5	0	\$ 1,039,082.35	5.5	1.8	1230.5	223.73	
Orleans	Regional Appellate Program	0	0	0	0	1	1	0	0	0	\$ 35,000.00	0.4	0	10.07	25.18	

County	Provider	Caseload Numbers: Number of Cases Opened									Total Expenditures in USD		Staffing		Weighted Numbers	
		Violent Felonies	Other Felonies	Misdemeanors and Violations	Parole Violations	Post-Dispositions	Appeals of a Guilty Plea	Appeals of a Verdict	Family Court	Family Court Appeals	Expenditures	Attorney Staff - Criminal Only	Non-Attorney Staff - Criminal Only	Total Weighted Cases - Criminal Only	Weighted Cases Per Attorney - Criminal Cases Only	
Oswego	Public Defender	26	107	435	2	1	0	0	0	0	\$ 724,674.44	7.5	6	916.5	122.20	
Otsego	Public Defender	34	119	412	3	20	0	0	211	0	\$ 649,805.00	3	3	1007.5	335.83	
Otsego	Rural Law Center	0	0	0	0	0	3	2	0	1	\$ 81,237.00	0.39	0.13	75.71	194.13	
Putnam	Legal Aid Society	49	193	780	3	36	0	0	401	0	\$ 1,512,548.00	5.25	3	1711.5	326.00	
Rensselaer	Conflict Defender	60	115	203	2	19	1	0	530	0	\$ 826,614.06	4.09	0.6	948.07	231.80	
Rensselaer	Public Defender	239	804	2094	33	1	0	0	1334	0	\$ 2,992,903.00	15.43	5.56	5991	388.27	
Rockland	Public Defender	281	636	3464	14	86	10	2	0	0	\$ 6,636,229.00	24.43	12.33	7343.7	300.60	
Saint Lawrence	Conflict Defender	30	129	370	9	5	0	0	517	0	\$ 771,641.99	2.35	1.5	958	407.66	
Saint Lawrence	Public Defender	74	296	1181	27	90	0	0	640	0	\$ 857,531.67	3.95	2	2688.5	680.63	
Saint Lawrence	Rural Law Center	0	0	0	0	0	24	5	0	2	\$ 196,677.00	1.26	0.42	330.68	262.44	
Saratoga	Rural Law Center	0	0	0	0	0	0	0	0	0	\$ 8,551.00	0.06	0.02	0	0.00	
Saratoga	Conflict Defender	27	130	179	1	4	0	0	774	0	\$ 675,263.43	2	2	738.5	369.25	
Saratoga	Public Defender	113	553	1734	26	87	0	0	1046	20	\$ 2,491,211.16	10.5	2.1	4240.5	403.86	
Schenectady	Conflict Defender	47	79	289	2	2	0	0	979	0	\$ 1,345,010.30	4.5	3.75	814	180.89	
Schenectady	Public Defender	188	641	2692	143	84	0	0	1005	0	\$ 3,481,957.19	11.9	5.8	6083.5	511.22	
Schoharie	No institutional provider - ACP only															



County	Provider	Caseload Numbers: Number of Cases Opened									Total Expenditures in USD	Staffing		Weighted Numbers	
		Violent Felonies	Other Felonies	Misdemeanors and Violations	Parole Violations	Post-Dispositions	Appeals of a Guilty Plea	Appeals of a Verdict	Family Court	Family Court Appeals	Expenditures	Attorney Staff - Criminal Only	Non-Attorney Staff - Criminal Only	Total Weighted Cases - Criminal Only	Weighted Cases Per Attorney - Criminal Cases Only
Seneca	Public Defender	24	139	353	2	38	0	0	104	0	\$ 1,004,056.07	3.25	1.25	974	299.69
Steuben	Public Defender	165	489	1219	39	122	0	0	2070	0	\$ 2,646,041.74	14	6	3917.5	279.82
Sullivan	Conflict Legal Aid Bureau	44	78	122	0	1	0	0	196	0	\$ 698,708.33	4	0.75	621.5	155.38
Sullivan	Legal Aid Society	111	331	1629	37	98	0	0	404	0	\$ 1,568,644.50	11.8	1.5	3490.5	295.81
Tioga	Public Defender	51	145	447	13	53	0	0	241	0	\$ 914,084.64	4	2	1287	321.75
Tompkins	<i>No institutional provider - ACP only</i>														
Ulster	Public Defender	193	706	2571	25	131	4	1	583	0	\$ 3,985,900.87	16.4	4.26	6140.28	374.41
Warren	Public Defender	75	395	1593	35	91	0	0	412	0	\$ 1,721,768.56	9.5	4.25	3417	359.68
Warren	Rural Law Center	0	0	0	0	0	7	0	0	4	\$ 64,134.00	0.33	0.11	59.99	181.79
Wayne	Public Defender	79	365	1170	23	187	11	3	0	0	\$ 2,863,955.21	10.5	8.5	3223.27	306.98
Westchester	Legal Aid Society	943	2472	389	2	100	2	1	273	0	\$ 15,721,090.00	45.75	33.27	13658.14	298.54
Wyoming	Attica Legal Aid	0	0	0	10	0	0	0	0	0	\$ 267,690.85	0.89	2.06	15	16.85
Wyoming	Public Defender	52	177	379	0	19	1	0	306	0	\$ 924,717.15	4.54	5.03	1259.07	277.33
Yates	Public Defender	12	68	273	2	37	0	0	128	0	\$ 459,266.00	1.85	0.3	607.5	328.38

# Appendix C

**Appendix C. Average Spending per Weighted Case by 52 Assigned Counsel Programs in 52 non-Hurrell-Harring Counties Outside New York City and 2 Assigned Counsel Programs in New York City in 2023**

County	ACP Caseload Numbers: Number of Cases Opened or Closed									Expenditures in USD			Weighted Numbers	
	Violent Felonies	Other Felonies	Misdemeanors and Violations	Parole Violations	Post-Dispositions	Appeals of a Guilty Plea	Appeals of a Verdict	Family Court	Family Court Appeals	Total Expenditures	OTPS Criminal Court Cases	OTPS Family Court Cases	Criminal Court - Avg Spending per Weighted Case	Family Court - Avg Spending per Weighted Case
Albany	40	40	29	2	6	13	8	688	7	\$1,851,351.57	\$483,437.50	\$883,246.83	\$678.59	\$453.19
Allegany*	28	45	133	1	6	1	0	308	2	\$1,063,733.00	\$450,546.00	\$475,567.00	\$990.06	\$556.64
Broome	131	221	553	23	53	8	0	0	0	\$809,459.40	\$349,345.53	N/A	\$159.92	N/A
Cattaraugus	47	177	464	2	12	0	0	415	3	\$1,759,937.05	\$615,906.68	\$847,310.56	\$474.50	\$732.94
Cayuga	0	210	1111	13	0	0	34	625	0	\$2,335,997.00	-	-	-	-
Chautauqua	35	124	150	0	5	0	0	0	0	\$428,602.53	\$343,602.53	N/A	\$464.64	N/A
Chemung	3	41	65	19	7	2	16	354	10	\$689,389.45	\$337,576.01	\$351,813.44	\$509.83	\$318.33
Chenango*	54	208	904	8	99	0	0	438	0	\$562,322.30	\$320,124.71	\$183,345.76	\$159.07	\$156.78
Clinton*	17	70	89	2	3	0	0	150	1	\$1,063,177.22	\$304,660.64	\$248,333.58	\$745.80	\$596.24
Columbia	20	64	22	3	3	1	1	192	3	\$723,108.62	\$252,207.50	\$312,076.87	\$669.75	\$556.64
Cortland*	51	198	659	10	53	0	0	844	0	\$500,790.15	\$275,846.25	\$224,943.90	\$166.83	\$99.82
Delaware	112	25	102	0	1	0	0	189	8	\$362,713.12	\$153,617.54	\$209,095.58	\$180.62	\$330.52
Dutchess	16	47	69	0	7	9	1	991	12	\$2,896,370.93	\$483,467.31	\$2,107,601.87	\$1,154.88	\$742.64
Erie*	1456	3421	12010	219	543	28	16	6692	64	\$20,510,125.00	\$10,687,458.22	\$5,719,020.30	\$325.92	\$302.73

County	ACP Caseload Numbers: Number of Cases Opened or Closed									Expenditures in USD			Weighted Numbers	
	Violent Felonies	Other Felonies	Misdemeanors and Violations	Parole Violations	Post-Dispositions	Appeals of a Guilty Plea	Appeals of a Verdict	Family Court	Family Court Appeals	Total Expenditures	OTPS Criminal Court Cases	OTPS Family Court Cases	Criminal Court - Avg Spending per Weighted Case	Family Court - Avg Spending per Weighted Case
Essex*	12	41	26	0	0	0	0	612	4	\$536,975.88	\$96,805.66	\$440,170.22	\$438.03	\$259.22
Franklin*	7	21	28	2	2	0	0	26	0	\$546,276.66	\$255,191.32	\$88,778.57	\$1,835.91	\$1,278.86
Fulton	13	41	54	1	6	0	0	790	0	\$907,719.18	\$145,334.57	\$665,708.81	\$547.40	\$315.61
Genesee*	45	146	242	0	5	0	0	623	2	823,551.17	350,608.67	435,442.50	366.17	256.84
Greene	64	0	92	0	0	12	0	392	0	361,616.88	112,233.56	249,383.32	193.89	238.27
Hamilton*	2	1	1	0	0	0	0	13	0	-	34,796.13	42,406.61	2,174.76	1,221.74
Herkimer	0	443	1164	18	0	1	2	434	0	1,004,536.75	411,500.63	254,509.41	159.58	219.64
Jefferson	21	79	191	7	31	2	1	733	3	851,277.61	263,332.92	503,104.49	403.18	250.91
Lewis	4	9	5	5	0	1	0	62	0	165,369.47	41,523.62	72,976.76	576.16	440.84
Livingston	37	13	34	1	0	1	1	67	1	194,923.26	122,138.26	60,065.40	370.04	308.20
Madison*	78	282	1336	13	66	0	2	268	0	1,619,595.00	1,232,101.00	387,494.00	437.15	541.53
Monroe	606	669	2822	97	1	31	30	2226	11	5,757,280.16	3,625,279.73	690,699.26	376.55	112.87
Montgomery	17	51	80	0	5	0	0	327	0	591,244.87	113,166.35	284,353.52	330.41	325.69
Nassau	0	1180	3704	106	0	0	81	1864	0	13,521,666.35	11,139,026.00	1,800,416.96	1,181.48	361.76
Niagara*	30	30	94	0	4	0	0	292	0	1,473,374.99	169,523.34	113,029.85	458.17	144.98

County	ACP Caseload Numbers: Number of Cases Opened or Closed									Expenditures in USD			Weighted Numbers	
	Violent Felonies	Other Felonies	Misdemeanors and Violations	Parole Violations	Post-Dispositions	Appeals of a Guilty Plea	Appeals of a Verdict	Family Court	Family Court Appeals	Total Expenditures	OTPS Criminal Court Cases	OTPS Family Court Cases	Criminal Court - Avg Spending per Weighted Case	Family Court - Avg Spending per Weighted Case
New York 1 <sup>st</sup> & 2 <sup>nd</sup> Dept*	4366	3470	12662	62	0	0	0	0	0	84,086,800.00	82,319,868.00	N/A	1,667.71	N/A
Oneida	15	25	119	0	4	0	0	377	0	434,531.60	121,053.28	313,478.30	417.43	311.43
Orange*	96	205	504	34	19	6	2	462	7	2,839,600.48	2,044,934.75	782,955.63	1,090.10	581.89
Orleans	9	38	72	4	0	2	2	238	6	604,114.32	188,233.82	374,880.50	601.12	512.51
Oswego*	322	1040	4572	59	0	2	1	2037	2	2,400,253.23	1,187,667.20	839,612.52	121.75	153.47
Otsego	18	72	127	21	5	0	0	304	12	586,148.60	215,693.44	370,455.20	440.19	369.10
Putnam	13	49	58	2	0	4	1	204	2	857,945.39	390,523.81	467,422.39	1,131.04	810.54
Rensselaer	39	0	42	0	0	2	0	383	0	898,596.20	249,816.80	648,779.44	852.21	634.43
Rockland*	61	48	91	0	5	0	0	892	0	2,466,746.13	-	-	-	-
Saint Lawrence	25	166	378	11	0	3	3	419	1	744,379.31	632,575.91	22,411.68	553.33	19.75
Saratoga	96	320	327	2	6	0	0	213	0	816,151.71	348,090.67	329,128.42	185.65	578.73
Schenectady	53	65	105	2	3	0	0	674	7	1,229,482.78	475,661.76	699,059.40	760.45	365.70
Schoharie	5	83	232	2	18	0	0	366	5	1,104,183.32	604,657.66	499,525.66	1,117.67	472.49
Seneca*	35	190	314	0	22	2	1	126	0	379,859.65	219,165.01	160,694.64	187.46	477.66
Steuben*	43	127	185	5	20	13	0	368	0	1,084,660.05	566,201.80	518,458.25	581.97	527.66

County	ACP Caseload Numbers: Number of Cases Opened or Closed									Expenditures in USD			Weighted Numbers	
	Violent Felonies	Other Felonies	Misdemeanors and Violations	Parole Violations	Post-Dispositions	Appeals of a Guilty Plea	Appeals of a Verdict	Family Court	Family Court Appeals	Total Expenditures	OTPS Criminal Court Cases	OTPS Family Court Cases	Criminal Court - Avg Spending per Weighted Case	Family Court - Avg Spending per Weighted Case
Sullivan	115	294	350	9	15	6	5	37	7	572,495.38	305,793.15	98,679.30	143.27	468.14
Tioga	13	25	30	1	0	1	0	229	1	470,336.30	168,271.17	238,038.16	871.56	379.39
Tompkins	90	12	234	4	16	0	0	224	0	843,021.62	373,375.92	424,705.00	444.50	710.11
Ulster	9	17	27	1	0	12	0	61	13	61,336.00	-	-	-	-
Warren	10	69	119	0	4	0	0	333	0	-	-	-	-	-
Wayne	3	36	63	0	4	0	0	0	0	337,590.64	247,960.26	N/A	1,271.59	N/A
Westchester	814	407	6921	160	30	117	15	6527	68	14,934,978.79	9,161,622.98	4,832,812.45	623.72	261.02
Wyoming*	23	44	68	0	7	0	0	200	0	380,529.07	204,842.99	146,709.78	587.78	274.74
Yates	0	20	34	0	0	3	3	114	2	480,757.04	206,508.87	188,223.52	1,060.60	559.56

\* Provider is notified of all new cases opened at the time of opening. For these providers, the number of cases opened are reported in this appendix. For the other providers, the numbers of cases closed are reported as they are unable to provide the number of cases opened.