



New York State Office of
Indigent Legal Services

Twelfth Annual Report

INDIGENT LEGAL SERVICES BOARD

Calendar Year 2023



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Director's Summary

2023 was a year of substantial growth and change for the Office of Indigent Legal Services (ILS). As discussed further in this report, 15 new staff members on-boarded in 2023, bringing our total number of staff positions from 35 at the end of 2022 to 49 at the end of 2023. After years of planning, working to secure space, and recruiting staff, the Western New York Regional Support Center located in Buffalo opened its doors in July, with four people staffing the Center by the end of 2023. The Statewide Appellate Support Center, which had opened its doors in 2022, swung into full operation in 2023 with the addition of three staff members. The Family Representation Unit added two staff members, including one to fill the newly created Family Court Program Associate, a position for which we had been recruiting for over a year. The Research Team filled the newly created Family Court Research Associate position by promoting the Data Outreach Officer and then quickly found someone to back-fill her then-vacant position. ILS was also finally able to hire an Assistant IT Director to bolster our IT capacity, and the Grants Unit added three much-needed staff members.

ILS also reimagined some of our unit structures and protocols so that we can better support counties, New York City, and their public defense providers. The *Hurrell-Harring* Settlement and the *Hurrell-Harring* Statewide Teams fully integrated into one team that incorporates the Western New York Regional Support Center, and in so doing adopted a regional approach to the work of implementing the *Hurrell-Harring* Settlement's quality improvement initiatives throughout all of New York State. This regional approach will ensure that county and New York City officials and public defense providers have a known point of contact at ILS, and that this point of contact has the perspective needed to envision regional approaches to improved quality public defense.

ILS' Grants Unit also implemented a series of changes to facilitate swift contract development and execution as well as changes to our claims submission and processing protocols. In mid-2023, the Grants Unit released to counties a new protocol for claims submission which, in the short time since its release, has already proven effective in helping counties catch up on submitting claims to ILS. The Grants Unit also transitioned from a paper-based to an electronic system of contract submission and claims processing, which has resulted in counties receiving executed contracts and claims payment more quickly.

These changes have made ILS more efficient and responsive to county and New York City officials and their public defense providers. But they have not impacted the features of ILS that have made us so effective over the past 12 years. ILS staff remain deeply committed to our statutory mission of improving the quality of representation provided to people facing criminal charges and parents in Family Court matters who cannot afford to retain counsel. We continue to approach our work with humility and a commitment to listening, brainstorming, and collaborating. This respectful, collaborative approach takes time, effort, and thoughtfulness. It does not result in *quick* development of quality improvement plans,

but it does result in *better* plans and generates more buy-in from the various stakeholders who will be involved in plan implementation.

At an event I recently attended, the keynote speaker quoted this proverb: *If you want to go fast, go alone. If you want to go far, go together.* ILS' core value continues to be that we go together with the counties and New York City on the vitally important work of improving the quality of New York's public defense system.



Patricia Warth
April 2024

Criminal Defense Reforms and Quality Initiatives

In 2023, ILS continued its progress in implementing the *Hurrell-Harring v. The State of New York* Settlement reforms to public criminal defense and to do so, reimagined our internal structure to better meet the needs of county and New York City officials and public defense providers.

Integration of the Hurrell-Harring Settlement and Statewide Teams – a Regional Approach

In March, ILS' *Hurrell-Harring* (HH) Settlement Implementation Team and the HH Statewide Implementation Team joined to form an integrated Criminal Defense Representation (CDR) Team dedicated to supporting counties' progress in implementing the HH Settlement and its extension statewide via Executive Law § 832(4) (HH Statewide). To integrate the teams in a way that maximizes ILS support and resources, the CDR Team adopted a regional approach, dividing the state into eight regions, with a designated CDR Team attorney serving as the point person for all the counties in that region. The Team attorneys are overseen by the CDR Team Chief Attorney (Nora Christenson), two Deputy Chief Attorneys (Jennifer Chenu and Claire Zartarian), and the Attorney-in-Charge of the Western New York Regional Support Center (Ian Harrington), with two paralegals supporting the CDR Team. This organizational structure ensures that public criminal defense providers and county and New York City officials know who their first point of contact is at ILS; it also helps in identifying and implementing regional approaches to improved quality representation.

The CDR Team attorneys began meeting regularly with the providers and county and New York City officials in their new regions, meeting in-person as often as possible to strengthen lines of communication and assist in implementing the HH Settlement and HH Statewide plans developed to ensure defense counsel representation at arraignment, reduced caseloads, and quality improvement initiatives.

This integration effort was facilitated by the addition of Enrico Purita, who joined the CDR Team as the CDR Counsel for Region G, and the launch of the Western New York Regional Support Center.

Western New York Regional Support Center

In July, ILS opened the Western New York Regional Support Center (WNY RSC) in Buffalo. The WNY RSC serves as the first point of contact for counties in the most western part of New York State: Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Orleans, Niagara, and Wyoming counties. With the Center situated locally, the WNY RSC staff can now more easily connect with public defense providers and county officials in the region to ensure successful HH Statewide implementation, identify and resolve implementation

challenges, and strategize regional initiatives. Ian Harrington started in July 2023 as the Attorney-in-Charge of the WNY RSC, followed by Andy Fiske, Criminal Defense Counsel, Jimmy Farrell, Family Court Counsel, and Alan McReynolds, Resource Support and Data Specialist, who all joined the ILS staff in October. ILS looks forward to adding an Appellate Counsel and an Administrative Assistant to the WNY RSC in 2024.

HH Settlement Implementation

In the eighth year of HH Settlement implementation, ILS worked with public defense providers and county officials in Onondaga, Ontario, Schuyler, Suffolk, and Washington counties to continue meeting the Settlement's goals of fair and uniform standards for determining financial eligibility for assigned counsel, defense counsel representation at arraignment, reduced caseloads, and quality representation. In April, ILS issued a report, *Criteria and Procedures for Determining Assigned Counsel Eligibility: Report on Implementation in the Hurrell-Harring Counties*, evaluating implementation of ILS' *Standards for Determining Financial Eligibility for Assigned Counsel*. The report noted that because of HH Settlement implementation, "people who need counsel can now expect a timely, fair, and transparent eligibility process" and "access to counsel has continued to expand as providers and the general public become more acquainted with the Eligibility Standards."

This ongoing progress faced two significant challenges in 2023 – a county-specific challenge and a statewide challenge. The county-specific challenge concerned Schuyler County. In mid-2023, all the staff members of the Public Defender Office resigned. Fortunately, Schuyler County's HH Settlement plan includes the creation of a Regional ACP with Tompkins County. This allowed ILS to coordinate with Schuyler County officials and the Regional ACP leadership to develop a temporary plan to ensure that clients continued to receive quality representation while Schuyler County recruited a new Chief Public Defender. This new Chief Public defender was hired in September and has quickly worked to rebuild the office.

The statewide challenge involved the hourly pay rate for ACP panel attorneys, which is set by County Law § 722-b. For several years prior to 2023, ILS had consistently warned that the progress of HH Settlement implementation was at risk because this hourly pay rate had remained stagnant since 2004, causing many ACP panel attorneys to stop taking assigned cases. The dramatically reduced number of ACP attorneys willing to take cases jeopardized compliance with ILS' caseload standards. In late 2022, the HH Settlement plaintiffs filed an Enforcement Action seeking to resolve this crisis with a State-funded increase to the ACP hourly rate. This Enforcement Action was pending in May when the State budget for fiscal year 2023-24 was enacted, including legislation amending County Law § 722-b to increase the hourly assigned counsel rates from \$60 for misdemeanors and \$75 for all other types of cases to \$158 for all types of cases. The County Law was not amended, however, to require the State to pay for this increase. Instead, the final enacted

State budget included funding for ILS to reimburse counties 50% of their expenditures for this assigned counsel payment rate increase.

To gauge the impact that this ACP rate increase would have, in September the HH Settlement parties agreed to resolve the Enforcement Action by extending the Settlement monitoring period for an additional six months, to March 31, 2024, with ILS continuing its HH Settlement monitoring role.

HH Statewide Implementation via Executive Law § 832(4)

In early 2023, ILS continued working to finalize the plans for using HH Statewide funding to meet the requirements of Executive Law § 832(4), and then to convert these plans into the contract budgets needed for ILS to disburse the funds. Because of the nature of the five-year phase-in of the HH Statewide funding, the fact that HH Statewide implementation occurred during the Covid pandemic, and ILS' commitment to taking the time needed for effective collaboration with providers and county officials on plan development, nearly all the counties had sufficient funding remaining on their first HH Statewide contract for a no-cost extension. Seven counties did not, and ILS worked with them to develop the plan and budgets needed for a 2nd HH Statewide contract. New York City had enough funding left on the first HH Statewide contract for a one-quarter no-cost extension, which allowed ILS to work with them on the plan and budget for a 2nd HH Statewide contract that could have a contract term coterminous with the New York City fiscal year, which should facilitate both plan implementation and New York City's ability to claim their expenditures for implementation. The work of developing the plans and budgets for the 2nd HH Statewide contracts and identifying any contract amendments needed for the counties receiving a contract extension coincided with the CDR Team integration, allowing for a more balanced workload for team attorneys.

ILS also issued three reports evaluating progress in meeting the HH Statewide goals set forth in Executive Law § 832(4). ILS' April 2023 *Performance Measures Annual Report* (PM Report) analyzed the performance measure data (i.e., data focusing solely on HH Statewide funded programs) that all the providers in the HH Statewide counties must submit to ILS. The PM Report is an opportunity to gauge progress made from 2018 to present in using the HH Statewide funding to ensure defense counsel representation at arraignment, hire staff and expand resources to meet caseload standards, and develop quality improvement initiatives. It is a window into the steps counties and New York City have taken to meet their HH Statewide contract goals as well as the obstacles to doing so. The April 2023 PM Report shows that since 2018, almost 1,100 additional attorney and non-attorney positions have been hired with HH Statewide funds to provide caseload relief. Further, new HH Statewide-funded structures for providing counsel at arraignment have led to an increased number of people represented at arraignment (from roughly 67,500 cases in the first two years of HH Statewide implementation to about 157,500 cases during this last year of implementation only) and significant progress has been made in increasing access to and use of investigators and other experts. Since the first year of implementation,

providers reported a 300% increase in funding used on investigators and a 457% increase in funding used on other experts.

The November 2023 *Statewide Plan for Implementing Counsel at Arraignment: Year Five Report* (CAFA Report) provides an in-depth analysis of the status of counsel at arraignment representation across New York State including: how the counties organize representation; any gaps in representation; systems for identifying arraignments in which defense counsel is not present; and any challenges to providing quality arraignment representation. The 2023 CAFA Report shows that with systems for representation in place, an increased number of Centralized Arraignment Parts (CAPs), and increased staffing, there continues to be progress toward ensuring that all people are represented at arraignment. But there are challenges which threaten the sustainability of the current arraignment representation systems, including the sheer number of courts that conduct arraignments, county geography, and attorney recruitment and retention. ILS continues to work with the counties in addressing these challenges, including working with the Office of Court Administration (OCA) and county officials to brainstorm solutions.

In the October 2023 *Statewide Plan for Implementing Quality Improvement and Caseload Relief: Year Five Report* (Quality/Caseload Report), ILS detailed the progress made in 2022 in hiring staff and building the infrastructure needed to meet ILS' caseload standards as well as progress in developing and implementing quality improvement initiatives. The 2022 data shows that public defense providers continue to struggle with recruitment and retention, particularly for attorneys. The data also shows that public defense provider caseloads in both criminal and Family Court continued to increase after the dramatic pandemic-related decline in 2020. Finally, the report discussed other factors, such as local bureaucratic processes and politics, that can slow the pace of HH Statewide implementation.

These reports inform and guide the CDR Team's work, helping the Team to better understand successes and challenges so ILS can assist counties and New York City in leveraging successes to overcome challenges.

Assigned Counsel Program (ACP) Summit

Since early *Hurrell-Harring* Settlement implementation, ILS has focused on building ACP infrastructure and supporting ACP leadership to ensure all clients receive quality representation, regardless of whether they are represented by an attorney from an institutional defender office (i.e., public defender, conflict defender, or legal aid society) or assigned a private ACP attorney. Historically ACPs have not only been underfunded, but also overlooked in public defense reform efforts. ILS has worked with counties to effectively use HH Settlement and HH Statewide funds to build well-managed ACPs to remedy that. In doing so, we have cultivated a network of ACP leaders to foster a supportive community as they build their programs and encourage panel attorneys to take advantage of resources previously unavailable to them.

In March, the CDR Team hosted ILS' first in-person New York State Assigned Counsel Program Summit (ACP Summit) at the New York State Bar Association in Albany. Starting in 2017, ILS began hosting ACP Summits for leaders in the five HH Settlement counties, and in 2020, ILS expanded these ACP Summits to virtual, periodic meetups for leaders statewide to address topics specific to ACP management and panel attorney representation. On March 30, ILS brought ACP leaders from across the state together for the first, in-person, all-day New York State ACP Summit. With more than 40 attendees, the day featured sessions on strategies for recruitment and retention, supporting panel attorney professional development, building successful mentor and second chair programs, encouraging use of specialized services such as investigators and experts, and taking a leadership role and navigating push-back. ACP leaders also heard remarks from then-NYSBA Bar President Sherry Levin-Wallach and an inspiring keynote speech from Founder and CEO of Gideon's Promise Jonathan Rapping.

Many ACP leaders expressed how energizing and inspiring the event was and how much they valued the chance to network with their peers from around the state. One provider said, "the Summit was fantastic for our office. We made a lot of connections with other ACPs and everyone's readiness to exchange help or advice on programs was incredible. It really does mean something to talk to everyone in person and motivate one another with both successes and challenges."

Quality Enhancement: Parent Representation

In 2023 the capacity of the Family Representation Unit (FRU) to meet its increased responsibilities was bolstered by the addition of two new staff members: Kira Schettino, who joined ILS in March as Assistant Counsel, Parent Representation, and Dai Nguyen, who joined ILS in November as Family Court Program Associate.

Family Defense Grants: Monitoring Implementation and Collecting Data

Throughout 2023, the ILS Family Representation Unit focused efforts on working with the counties that have been awarded ILS competitive grants for improved quality representation of parents in child welfare matters to monitor implementation of these grant awards and enhance data collection capacity. These grants awards include the following: the First Upstate Model Family Representation Office grant (Westchester); the Second Upstate Model Family Representation Office grant (Monroe); the First Upstate Family Defense Quality Improvement and Caseload Reduction grant (Cortland, Erie, Monroe, Steuben, and Suffolk); and the Second Upstate Family Defense Quality Improvement and Caseload Reduction Grant (Albany, Cattaraugus, Chautauqua, Dutchess, Erie, Genesee, Greene, Onondaga, Ontario, Putnam, Rensselaer, Saratoga, Schenectady, Steuben, Tompkins, Ulster, and Westchester).

The two Upstate Model Family Representation Office grants seek to demonstrate that improving the quality of representation provided to parents through a timely, interdisciplinary approach to representation in child welfare matters not only enhances the likelihood of fair and just outcomes, but also reduces the number of children entering foster care. Westchester County, the first grantee, selected Legal Services of the Hudson Valley (LSHV) to implement the grant, and Monroe County, the second grantee, selected the Public Defender's Office. Both these providers represent parents during child protective investigations as well as Family Court proceedings and have found that their social workers are vital to quality representation. As the first Model Office, LSHV has nearly three years of implementation data which demonstrates the value of timely access to counsel. LSHV represented parents during child welfare investigations in 91 instances; only two resulted in an Article 10 petition (child neglect or abuse) being filed in Family Court, and only one of these involved the child protective agency seeking to remove a child from their family.

The Family Defense grants, which involve significantly less funding, allow grantees to determine which of the following three features of quality parent representation to prioritize: attorney caseload relief, utilization of an interdisciplinary approach to representation, and timely access to counsel. Most grantees are creatively using the limited funding available to prioritize at least two of these features of quality representation. To support these efforts and to gauge grant implementation, the FRU regularly reached out to the grantees to ask about the progress of implementation and, where there were implementation challenges, to brainstorm strategies for overcoming these challenges. The most common challenge grantees faced was recruiting qualified and committed staff to fill the positions funded by the grant. Through persistence, as of December 2023, 88% of the funded attorney positions were filled and 80% of the funded other professional positions were filled.

The FRU also collaborated with the ILS Research Team to develop a uniform data collection protocol for the grantee counties – a significant challenge in New York State's county-based system of mandated representation where historically, there has been no statewide protocol for data collection and reporting. Having common case and data-related definitions is a necessary foundation to such a protocol. Accordingly, the FRU and Research Team initiated the work of establishing Family Court representation definitions, seeking input from ILS' Parent Representation Advisory Council (PRAC), which includes practitioners engaging in direct representation of parents in Family Court matters. This "on-the-ground" insight will be invaluable to creating workable definitions.

In September, ILS issued a Request for Proposal (RFP) for the Third Family Defense Quality Improvement and Caseload Reduction grant. Counties in receipt of the first and second Family Defense grants were not eligible for this third grant. Despite this limitation, by the October 27 deadline, ILS had received 11 proposals. In November, ILS released the RFP for the Third Upstate Model Family Representation Office grant. By the December 22 deadline, ILS received seven proposals for this RFP. The number of proposals submitted for both these grant opportunities highlights the need that counties and New York City have

for increased funding for parent representation. Awards for both grants are to be announced in early 2024.

September Consortium for Family Defense Grant Recipients

ILS hosted the first Family Defense Grantee Consortium on September 29 at the New York State Bar Association in Albany. The Consortium included leaders from each of the providers in the counties receiving ILS grant funding for improved quality parent representation in Family Court matters. During this full-day event, attendees heard various presentations on community outreach, collaborative and interdisciplinary representation, and implementation successes and challenges in developing new programs to enhance quality parent representation in Family Court.

Besides participating in presentations, the attendees were also able to network with other providers doing similar work in other areas of the state. Attendees also heard more about ILS' Statewide Appellate Support Center, and ILS' Research Team presented on the data collection survey ILS conducted in mid-2023 to determine how much it would cost to bring Family Court public defense providers into compliance with ILS' caseload standards (more on this below). FRU is planning to repeat this event for all Family Defense grantees in September, 2024.

Parent Representation Advisory Council

ILS continued to convene its Parent Representation Advisory Council (PRAC) quarterly and enhanced the composition of the PRAC by adding an expert with lived experience, Imani Worthy. Sadly, the PRAC unexpectedly lost a charter member - Linda Lovell, who was a Family Court attorney in Cattaraugus County, passed away in August. Another attorney from the Cattaraugus Public Defender's Office graciously consented to join PRAC to continue Linda's legacy. Dawn Westfall, a social worker for the Cattaraugus County Public Defender's Office also joined PRAC to provide guidance and counsel concerning the needs and role of a social worker as part of the family defense team.

In mid-2023, the PRAC initiated a project to update and revise the ILS *Standards for Parental Representation in State Intervention Matters*, which had been approved by the ILS Board in 2015. The PRAC members, ILS staff, and other expert volunteers came together to form the Standards Working Group, which currently includes five subgroups to tackle various sections of the revised standards. The Working Group hopes to have the revised standards ready to be presented to the ILS Board in late 2024.

Quality Enhancement: Appellate and Post-Conviction Representation

2023 was an exciting year for ILS' Appellate and Post-Conviction Representation Unit, as the unit worked in revising ILS' Appellate Standards, getting the Statewide Appellate Support Center up and running, and continuing the important initiatives of the ILS Appellate Defender Council.

Revised Appellate Standards

The intensive work of the Appellate Defender Council's Appellate Standards Working Group that reexamined and updated ILS's appellate standards came to fruition in October, when ILS issued its revised *Appellate Standards and Best Practices*, which were approved by the ILS Board at its September 2023 meeting. Drew Dubrin, the Chief of Appellate Practice at the Monroe County Public Defender's Office, spoke at the September ILS Board meeting about the impact the standards have had on his office. Mr. Dubrin worked on the initial standards that were released in 2015 and explained that they "brought his office closer to a consistently good level of appellate representation." He discussed that the most recent revisions reflect societal changes, changes in technology, and the need for attorneys to be aware of their own biases and advocate on behalf of their clients on issues of race, bias, and the impact of trauma.

Statewide Appellate Support Center

The new ILS Statewide Appellate Support Center was fully staffed by mid-2023, with Appellate Attorneys (Emily Lusignan and Elizabeth Isaacs), Junior Appellate Attorney (Daniel Speranza), Paralegal (Michelle Stroe), Special Assistant for Mitigation (Elizabeth Walker) and Special Assistant for Investigations (Kingston Farady) joining the Director of Quality Enhancement for Appellate and Post-Conviction Representation (Cynthia Feathers) and Senior Appellate Attorneys (Mandy Jaramillo and Kelly Egan). The addition of Elizabeth Walker and Kingston Farady to the team allowed the SASC to provide interdisciplinary support to defenders, mitigation specialists, social workers, and investigators, in addition to the legal support provided by the SASC's attorneys in trial, appellate, postconviction, and Domestic Violence Survivor's Justice Act (DVSJA) cases.

In partnership with the Appellate Defender Council's CLE Working Group and the New York State Bar Association, the SASC organized a two-day CLE for defense counsel on Creative and Effective Appellate Brief Writing in Albany. The training provided insight into how to persuasively convey clients' stories of injustice. Virtual trainings included sessions on combatting and litigating racial inequities in criminal and Family Court cases and developing a theory of the case through brainstorming and collaboration. Afternoon in-person workshops allowed participants to work with experienced appellate attorney facilitators to collaboratively apply the skills learned in the virtual sessions to their own cases. It was such a success that the working group immediately began planning the next iteration of the training to be held in Nassau County in March 2024.

The SASC created many resources throughout the year, including its first series of sample statements of law which address issues often present in appeals from guilty pleas; Criminal Procedure Law (CPL) Article 440 sample motions, templates, instructions, and outlines; a flowchart and outline related to Family Court appeals from interlocutory and final orders, in collaboration with the ILS Family Representation Unit; and DVSJA templates and guides, in collaboration with the DVSJA Statewide Defender Task Force. The addition of Elizabeth Isaacs, who brought to ILS her deep experience in litigating DVSJA and other post-conviction motions, greatly expanded the SASC's ability to conduct in-depth consultations on DVSJA and resentencing matters.

The SASC provided over 120 consultations in 2023, which ranged from procedural advice and help connecting assigned counsel to pro se litigants to more complex inquiries requiring legal research, one-on-one meetings, and brainstorming on strategy. The SASC was given an extraordinary opportunity to work with the Cortland County Public Defender's office on the *People v Michael Bay* appeal. Mr. Bay's case was the first in which the Court of Appeals granted leave to analyze issues related to the new discovery reform laws and their intersection with CPL 30.30. The SASC assisted with research, issue framing, and procedure in the brief-writing process and conducted two moot court sessions to help prepare the assistant public defender in her first appellate oral argument. In a unanimous opinion, the Court of Appeals reversed Mr. Bay's conviction, dismissed the charges pursuant to CPL 30.30, and provided valuable guidance on interpreting the new discovery statutes (*see People v Bay*, 2023 WL 8629188 [2023]).

Other consultation highlights included offering resources on how to create effective sentencing mitigation videos; brainstorming and case conferencing mitigation reports with a Public Defender Office's social work department; giving guidance on investigation strategy and legal arguments over multiple sessions with an attorney drafting a CPL 440 motion; discussing the potential use of an expert in a DVSJA case and suggesting additional legal arguments to accompany the DVSJA claim; and mooting other Court of Appeals and Appellate Division cases.

Research

In 2023, the ILS Research Team continued to assist public defense providers in the development of data collection infrastructures to ensure timely and accurate submission of required quarterly, semi-annual and annual data. The Research Team also expanded these efforts with the addition of a Family Court Research Associate, who coordinated with the FRU to initiate the process of developing standardized data reporting requirements for recipients of ILS grant funding for improved quality representation of parents in Family Court matters.

Data Reporting

April marked public defense providers' second submission of ILS-195 data for Parts 1 through 3, with the aggregate data analysis forming the basis for the data reported in two of the reports discussed earlier: the September 2023 CAFA Report and the October 2023 Quality/Caseload Report. April also marked public defense providers' fifth submission of the performance measure data analyzed in the PM Report discussed earlier. For each of these data submissions and reports, the Research Team coordinated with the CDR Team on reviewing the data submissions and following up with public defense providers when necessary to ensure that the data submitted was accurate and complete. To assist ILS-195 reporting by ACPs that do not yet have a case management system, Research Team members conducted on-site data collection visits. During these visits, Research Team members also discussed interim steps the ACPs could take to facilitate data collection until a case management program is implemented.

Family Court Parent Representation Data Collection

In June, the Research Team worked to obtain the information needed from mandated parent representation providers to estimate the cost of complying with ILS' *Caseload Standards for Parents' Attorneys in NYS Family Court Mandated Representation Cases* (Parent Representation Caseload Standards). The Research Team worked closely with the FRU to develop an online survey that was distributed electronically to 137 mandated parent representation providers statewide, requesting calendar year 2022 staffing, expenditure data, and caseload data. Through an analysis of these responses, along with county level petition filing data from OCA and ILS-195 and Annual Financial Report data submissions, the Research Team was able to estimate that conservatively, \$150 million is needed to achieve caseload standards compliance by each institutional provider office and ACP.

With the hiring of the first ILS Family Court Research Associate in January, ILS began working to standardize the collection of data from the ILS Family Defense grantees. Family Court Research Associate Reilly Weinstein met virtually with each parent representation provider involved in these grants to determine their progress toward collecting data on timely access to counsel, caseloads, and utilization of an interdisciplinary approach to representation. As stated above, the Research Team also coordinated with the FRU to start the process of developing uniform definitions for Family Court parent representation, which is foundational to uniform data collection. The goal is to develop a standardized form parent representation providers can use to report data to ILS.

Research on Centralized Arraignment Parts

In 2023, the Research Team also initiated a long-term research project focused on the Centralized Arraignment Parts (CAPs) created via Judiciary Law § 212(1)(w). As described in the 2023 CAFA Report, CAPs, which are a new feature of the arraignment landscape, have become integral to ensuring defense counsel representation at arraignments. The

Research Team anticipates that this research project will identify how these CAPs have ensured timely access to counsel and improved the quality of representation while also examining any unique features of these special court parts.

Data Officers

In August, the ILS Research Team achieved full staffing with the hiring of a new Data Outreach Officer, Bethany Simpson, who started the process of enhancing the work of the county-based Data Officers by conducting a series of virtual regional meetings, in accord with the CDR regions. The county-based Data Officers and other provider office staff involved in data collection participated in these virtual meetings to discuss upcoming annual data reporting requirements and challenges to data collection. These meetings not only promoted stronger connections with ILS Research Team staff, but also strengthened county-based Data Officer connections with each other. Bethany also participated in in-person county-based meetings with other ILS staff, including CDR attorneys, to connect with several providers who recently acquired new case management systems or who recently experienced a leadership change. By making contact early, ILS hopes to assist with the development of new data collection protocols intended to maximize timely collection of accurate data.

Other Activities

In November, the Research Team traveled to Philadelphia, PA for the annual meeting of the American Society of Criminology. ILS' presentations focused on the CAP research done to date and ILS' ongoing efforts to develop and implement a data repository that would streamline data reporting practices for public defense providers. In 2023, ILS also hired a graduate intern to assist the Research Team on various projects. Working with the Family Court Research Associate, the intern completed an annotated bibliography on the social return on investment (SROI) model to explore its applicability within public defense research, particularly in Family Court. The intern also conducted Family Court observations, summarized petition data provided by the OCA to supplement the parent representation survey, and coded assigned counsel program data for the 2023 ILS-195 submissions.

Regional Immigration Assistance Centers

Since 2015, ILS competitive grant funding has supported a statewide network of six Regional Immigration Assistance Centers (RIACs) to ensure that attorneys representing clients in criminal and Family Court matters are able to comply with their professional responsibility, as set forth in the United States Supreme Court decision, *Padilla v. Kentucky*, 559 U.S. 356 (2010), to accurately advise their clients of the immigration consequences of their criminal or Family Court involvement. These six centers are: Western NY RIAC; Central NY RIAC; Northern NY RIAC; Hudson Valley RIAC; New York City RIAC; and Long Island RIAC.

In 2023, the ILS Research Team played a crucial role in collecting and analyzing annual data to assess the achievements and challenges of these RIACs. At September's annual plenary meeting of RIAC staff and ILS, ILS reported that for calendar year 2022, the RIACs received 3,362 referrals representing an increase of 16% compared to the prior year. A total of 96 institutional provider offices and assigned counsel programs (69 and 27, respectively) requested assistance, with most of those requests pertaining to criminal defense (91%). In addition to the assistance requests, the six RIACs conducted 62 trainings and Continuing Legal Education (CLEs), which were attended by 2,395 participants. RIAC staff found that this analysis of the RIAC data was critical to understanding where the RIACS have succeeded, but also areas for improvement,

In July, ILS issued a third RFP to solicit proposals to continue the work of these RIACs, receiving at least one proposal from every region. In October, ILS announced the following grantees: Western NY RIAC, Ontario County; Central NY RIAC, Onondaga County; Northern NY RIAC, Albany County; Hudson Valley RIAC, Westchester County; and Long Island RIAC, Suffolk County. The New York City RIAC has continued via a non-competitive grant.

Grants

The Grants Unit is the fiscal backbone of ILS and plays a foundational role in ILS disbursing hundreds of millions of dollars a year to counties and New York City, from the issuance of contracts to the review and processing of claims.

In 2023, the Grants Unit seized on opportunities to create efficiencies and improve processes both internally and for the counties, New York City, and the public defense providers with whom ILS works. The significant increase in the number and value of the claims the Grants Unit staff were processing necessitated these efficiencies and improved processes: in 2023, ILS received 1,518 claims, a 33% increase over the 1,136 claims ILS received in 2022. These 2023 claims totaled \$215.7 million in value, a 145.7% increase over the value of the claims received in 2022.

While this significant increase in claims necessitated implementing efficiencies and improved processes, the addition of three new staff members to the Grants Unit made it possible. Kim Martell joined ILS as a Grants Administrator in May and was quickly promoted to an Assistant Grants Manager 1 to work more directly with counties and public defense providers in reviewing claims, as well as serve as the Grants Unit point person for assigned counsel rate reimbursement. Later in the year, Amanda Goldfine joined the Grants Unit as Assistant Grants Manager 1, and Wahidullah Attahi joined the Grants Unit as a Contract Manager. Both Amanda and Wahid hit the ground running, with Amanda quickly becoming the Grants Unit point person for a portfolio of counties, focused on reviewing outstanding claims and reducing the workloads of her colleagues, while Wahid has been integral in the contracting processes, ensuring counties quickly receive executed contracts.

With these new staff members, ILS was able to build upon the successful 2022 development and rollout of a streamlined claims submission process for New York City to release the *NYS Office of Indigent Legal Services Cost Manual for Counties Outside of NYC*. This Manual has already facilitated more timely submission of claims by counties and improved the ILS claims review process, all while adhering to sound fiscal controls consistent with the Office of State Comptroller's guidance. The updated claims review process accomplishes these goals by tailoring the fiscal backup documentation that ILS requests be submitted with a claim to the type and amount of expenditures contained in the claim. It also calls for ILS to conduct periodic desk audits of claims and on-site audits of counties to ensure that they are maintaining the required fiscal backup, utilizing sound internal controls, and claiming the expenditures permitted to be reimbursed by their ILS contracts.

The Grants Unit also assumed the responsibility of disbursing a new source of funding to the counties and New York City: 50% of the expenditures counties and New York City incur because of the change to County Law § 722-b increasing the hourly rate paid to ACP attorneys. ILS Counsel worked closely with Grants Unit staff to develop a certification form and process to allow counties to efficiently and swiftly claim the reimbursement to which they are entitled.

Finally, in 2023 the Grants Unit began processing claims electronically after an internal analysis of current processes and discussions with oversight agencies to ensure there would be no disruption to payments to counties. This transition quickly proved to be a success. In addition to significantly reducing the paperwork ILS, county, and public defense provider staff process and copy, the time it takes to pay out a claim has been reduced by an average of one to two weeks.

The Grants Unit anticipates adding additional staff in 2024. The growing team will continue the momentum started in 2023 in achieving the Grants Unit's goals of creating training programs for county-based personnel involved in claiming, continuing the move to electronic procedures, and taking a more proactive approach to interactions with county personnel involved in claiming.

Administrative

2023 was a very active year for ILS recruitment and hiring, eclipsing 2022 as the busiest personnel year in ILS history. In total, 15 employees started their employment with ILS in 2023, including:

- [Kira Schettino](#), Assistant Counsel for Parent Representation
- [Rachel Rubitski](#), Assistant IT Director
- [Kimberly Martell](#), Grants Administrator

- [Kingston Farady](#), Special Assistant for Investigations, Statewide Appellate Support Center
- [Elizabeth Walker](#), Special Assistant for Mitigation, Statewide Appellate Support Center
- [Ian Harrington](#), Attorney-in-Charge, Western New York Regional Support Center
- [Bethany Simpson](#), Data Outreach Officer
- [Elizabeth Isaacs](#), Appellate Attorney, Statewide Appellate Support Center
- [Alan McReynolds](#), Resource Support & Data Specialist, Western New York Regional Support Center
- [James Farrell](#), Family Court Counsel, Western New York Regional Support Center
- [Andrew Fiske](#), Criminal Defense Counsel, Western New York Regional Support Center
- [Amanda Goldfine](#), Assistant Grants Manager 1
- [Wahidullah Attahi](#), Contract Manager
- [Dai Nguyen](#), Family Court Program Associate
- [Enrico Purita](#), Criminal Defense Representation Counsel - Region G

Additionally, several ILS employees were promoted or hired for new positions internally, including Ummey Tabassum (Hurrell-Harring Research Associate), Reilly Weinstein (Family Court Research Associate), Nora Christenson (Chief of Criminal Defense Representation Team), Jennifer Chenu (Deputy Chief of Criminal Defense Representation Team), Claire Zartarian (Deputy Chief of Criminal Defense Representation Team), and Tammy Smith (Assistant Grants Manager 2).

Successful navigation of this wave of hiring and onboarding was made possible by the DEI Hiring Toolkit developed by Statewide Implementation Analyst & DEI Liaison Luchele Chisunka, and by the efforts of Administrative Officer Christine Becker, Administrative Assistant Liah Darlington, and Assistant Counsel Jami Blair. Nonetheless, ILS will use the experience from the swift growth in 2023 to continue to hone its recruitment, interviewing, and onboarding processes. ILS also anticipates expanding its Diversity, Equity, and Inclusion efforts in 2024, to focus on the well-being of existing staff and cultivating a workplace culture in which all ILS staff members feel that their experiences, expertise, and contributions are valued.

The number of new staff and ILS' increased responsibilities has required an increase in ILS' State Operations budget and increased spending on contracted services and other non-personnel spending. With this vastly increased fiscal responsibility, ILS' Administrative staff have stepped up to the plate, implementing and maintaining policies and protocols that allow ILS staff to quickly obtain the items or services needed, while ensuring sound fiscal and internal controls so that every penny spent is accounted for.

The continued growth of ILS in 2023 also necessitated adding an additional Information Technology professional, to ensure that ILS staff have timely assistance with their IT needs. In

May, Rachel Rubitski joined ILS as Assistant Manager of Information Technology, and she quickly earned a reputation as a knowledgeable and reliable resource for her ILS coworkers.

ILS Board Members

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*Faculty Fellow for the Office of Strategic Initiatives in Academic Affairs and
the Office of Diversity and Inclusion, Syracuse University College of Law*

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

Jill Paperno
Chief Strategy Officer, Empire Justice Center

**as of December 31, 2023*

ILS Staff

Patricia J. Warth, Director
Burton W. Phillips, Counsel

Jennifer Aguila
*Paralegal, Criminal Defense
Representation Team*

Wahidullah Attahi
Contract Manager

Peter W. Avery
Manager of Information Services

Christine Becker
Administrative Officer

Jami Blair
Assistant Counsel

Jessica Bogan
*Paralegal, Criminal Defense
Representation Team*

Marian Bush
Auditor

Jennifer Chenu
*Deputy Chief – Criminal Defense
Representation Team*

Luchele Chisunka
Statewide Implementation Analyst

Nora Christenson
*Chief – Criminal Defense
Representation Team*

Alyssa Clark
Senior Research Associate

Allison Clifford
*Criminal Defense Representation
Counsel – Region D*

Lisa Coleman
Assistant Grants Manager 1

Jennifer Colvin
*Manager of Grant Solicitation
and Distribution*

Liah Darlington
Administrative Assistant

Kelly Egan
Senior Appellate Attorney

Kingston Farady
Special Assistant for Investigations

James Farrell
*Family Court Counsel – WNY
Regional Support Center*

Andrew Fiske
*Criminal Defense Counsel – WNY
Regional Support Center*

Amanda Goldfine
Assistant Grants Manager 1

Ian Harrington
*Attorney in Charge – WNY Regional
Support Center*

Elizabeth Isaacs
Appellate Attorney

Mandy Jaramillo
Senior Appellate Attorney

Brendan Keller
*Criminal Defense Representation
Counsel – Region B*

Sahun (Elton) Kim
Student Assistant – Graduate Intern

Claire Knittel
*Criminal Defense Representation
Counsel – Region C*

Karlijn Kuijpers
Senior Research Associate

Emily Lusignan
Appellate Attorney

Melissa Mackey
Director of Research

Kimberly Martell
Assistant Grants Manager 1

Lucy McCarthy
*Director of Quality Enhancement,
Parent Representation*

Alan McReynolds
*Resource Support and Data Analyst
– WNY Regional Support Center*

Kathryn Murray
*Criminal Defense Representation
Counsel – Region F*

Dai Nguyen
Family Court Program Associate

Petros Papanicolaou
Assistant Grants Manager 1

Enrico Purita
*Criminal Defense Representation
Counsel – Region G*

Rachel Rubitski
*Assistant Manager of Information
Services*

Kira Schettino
*Assistant Counsel, Parent
Representation*

Bethany Simpson
Data Outreach Officer

Madeline Smith
*Criminal Defense Representation
Counsel – Region E*

Tammy Smith
Assistant Grants Manager 2

Michelle Stroe
*Paralegal, Statewide Appellate
Support Center*

Ummey Tabassum
Research Associate

Elizabeth Walker
Special Assistant for Mitigation

Cie-Nicholas Watson
Data Scientist

Reilly Weinstein
Family Court Research Associate

Claire Zartarian
*Deputy Chief – Criminal Defense
Representation Team*

**as of December 31, 2023*