



New York State Office of
Indigent Legal Services

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INDIGENT LEGAL SERVICES BOARD MEETING

December 13, 2024, 11:00 am
New York City Bar Association
42 West 44th Street, New York, NY

This meeting will occur in-person. Members of the public who wish to observe the meeting can observe in person or remotely via this link: <https://meetny-gov.webex.com/meet/rachel.rubitski-new> (hit: Ctrl + Click to follow link or copy and paste it into your web browser).

AGENDA

- I. Approval of Minutes of September 20, 2024 Board Meeting (attachment) (**vote**)
- II. Updating ILS Caseload Standards for Criminal Defense Representation (attachment) (Nora Christenson)
- III. Implementing Public Defense Reforms - Providers' Perspectives
Special Guests:
Susan Lettis, Otsego County Public Defender
Andy Correia, Wayne County Public Defender
Mark Funk, Monroe County Assigned Counsel Program
- IV. ILS Office Updates (Burton Phillips)
- V. Adjourn

ILS Board Meetings for 2025:

- April 4th
- June 13th
- September 19th
- December 12th

All meetings will take place at 11:00 am at the New York City Bar Association.

Agenda I
(Sept. 20, 2024 ILS Board Meeting Minutes)

Minutes for the Indigent Legal Services Board Meeting

September 20, 2024

11 A.M.

In person at the New York City Bar Association

Board Members Present: Chief Judge Rowan Wilson, Diane Atkins, Hon. Carmen Ciparick, Christopher DeBolt, Vince Doyle (virtual), Suzette Meléndez, Lenny Noisette, and Jill Paperno

ILS Office presenters: Patricia Warth, Burton Phillips, Ian Harrington, Tammy Smith

Minutes taken by: Mindy Jeng

I. Approval of Minutes of June 7, 2024 Board Meeting (attachment) (vote)

Judge Ciparick moved to approve the minutes. Jill Paperno seconded the motion. The Board voted unanimously to approve the minutes.

II. ILS Budget Request for State Fiscal Year 2025-26 (Patricia Warth & Burton Phillips) (attachment) (vote)

Director Warth discussed ILS' fiscal year (FY) 2025-26 budget request with the Board. Every year, ILS finalizes the budget request documents for submission to the Division of Budget (DOB). DOB works with the Governor's office to prepare the Executive budget. In October, the budget director sends state agencies a call letter that sets forth the Governor's budget priorities. For the past several years, DOB has requested that state agencies limit their budget requests. Last year, DOB asked state agencies to keep their budget requests flat and to request no more than what was appropriated in the current fiscal year.

Director Warth continued to say that the creation of the ILS Board was intentional. The Board affords ILS the independence that was called for by the 2006 Commission on the Future of Defense in New York. ILS' guiding principle in developing the agency budget is improving the quality of public defense, and the ILS Board is integral to developing an ILS budget proposal that is true to that mission even if doing so is contrary to what the budget director calls upon state agencies to do.

Ms. Warth went on to note that ILS' total budget is divided into two bills, the State Operations budget bill (which includes the funding needed to run the ILS office) and the Aid to Localities budget bill (which includes the funding that ILS is authorized to disburse to the counties and NYC).

State Operations Budget

Director Warth said that for FY 25-26, ILS proposes a State Operations budget of \$8.5 million. This includes salaries, fringe, travel, supplies, contract services, etc. This amount is \$500,000 over the current year budget appropriation. Most of the increase is a 3% cost of living increase that the state has approved. In addition, ILS is requesting two new positions. One is an organizational development specialist. There has been significant change within the office, and some staff members have felt that the change was not sufficiently inclusive or transparent. Director Warth said that ILS needs in-house expertise in navigating and strategic planning for growth and change that is transparent and inclusive and that is consistent with our diversity, equality, and inclusion goals. The second additional position is an administrative assistant for the Research Team so team members can devote their time to data collection and analysis and other research priorities, and not have to spend a lot of time on clerical and administrative work. A new administrative staff member can manage communications and help update training for data maintenance.

Ms. Paperno raised the concern that it is difficult to hire DEI staff, like the proposed organizational development specialist, because private companies can pay a higher salary. Ms. Meléndez agreed that the proposed salary range for this position needs to be higher. Mr. DeBolt also agreed that a higher salary range is important, and he gave kudos to ILS for taking the initiative to seek an organizational development specialist. He stated that it is a brave and important request.

Ms. Atkins asked if the position is a long-term position or a contract position. Director Warth said they are all long-term positions.

Aid to Localities Budget

Director Warth gave an overview of the proposed Aid to Localities budget. The ILS Grants/Distributions portion of the budget has remained at \$81 million since fiscal year 2013-14, but salaries, fringe, and other space and equipment costs have increased. ILS is requesting a modest 6% cost of living increase. This is consistent with inflation rates and will result in a \$85 million request for next fiscal year.

ILS is also proposing to combine into one the *Hurrell-Harring* settlement program with the statewide implementation program for all counties in New York State. It makes sense to have one program for all the counties, now that the *Hurrell-Harring* settlement period is over. This will also be easier to manage administratively. The budget for the consolidated program is \$273.9 million. ILS is not seeking an increased appropriation from the current budget year (\$250 million for statewide implementation and \$23.9 for the HH settlement). Instead, ILS reached an agreement with the Division of Budget about using unspent reappropriated funding to increase the current statewide and settlement implementation contracts.

Mr. Noisette asked what the unspent money was originally supposed to be used for. Director Warth said ILS will be able to use unspent funding to reallocate it to the counties and

to New York City to increase their current contracts. That money was originally intended for statewide and settlement implementation. The reason that the money wasn't spent in a previous year is because it takes time to hire and build a program. There is always a gap between when the funding is appropriated and when it can be fully spent.

Chief Judge Wilson asked if the money was spent but unclaimed. Director Warth said the money was not spent at all.

Ms. Paperno asked how this reallocation is represented in the budget. Director Warth said the budget won't reflect the reallocation but does show total reappropriation.

Mr. Phillips said that ILS is initiating the plan in consultation with the Division of Budget. DOB will be aware of what is needed. Mr. DeBolt said that the professionals at DOB will understand about the lag in spending appropriations, but ILS needs to make sure that the Executive branch doesn't have an argument that ILS does not need an increase. Director Warth agreed.

Director Warth stated that the enacted budget for FY 2023-24 amended County Law § 722-b to increase the assigned counsel hourly rates. The counties and NYC were left to pay for the increase. The enacted budgets for FY 2023-24 and FY 2024-25 included an appropriation of \$92 million for ILS to disburse to the counties and New York City for reimbursement of 50% of their expenditures related to the increase. There is language in the budget allowing ILS to reimburse counties and NYC via a certification rather than a contract. This certification process allows ILS to collect data on the rate increase, and we anticipate in one or two years there will be more complete information to allow us to estimate the full cost of the rate increase. At that time, there should be discussion on whether the state should pay for the full increase, which ILS has historically supported.

Mr. Phillips said that all counties have submitted claims for the first two fiscal quarters. Most counties are regularly submitting claims shortly after the close of each fiscal quarter, thanks to the process being streamlined.

Mr. Noisette asked if the \$92 million is sufficient to cover 50% of the costs. Director Warth said yes, it has been more than enough.

For parent representation under the Aid to Localities proposed budget request, the state has not made the same fiscal commitment to improvements as it has made to improving criminal defense. The current appropriation is \$19.5 million. It is not enough to disburse to every county and New York City. ILS has been disbursing through competitive grants, which is burdensome on the counties and ILS. Last year, ILS surveyed public defense providers around the state to see how much funding is needed to comply with caseload standards issued by ILS. Caseload standard compliance is the major driver of the funding and a prerequisite to quality improvement. What ILS concluded after the survey is that, conservatively, \$150 million is

needed to address the crisis in parent representation. ILS proposes that the \$150 million be phased in over three years, starting with \$50 million in FY 2025-26.

Ms. Atkins asked how many counties there are outside of New York City. Director Warth said there are 57 counties. There is currently funding for only 26 counties plus New York City. The increased funding will allow ILS to reach out to the whole state.

Mr. Noisette asked how many people would the \$50 million reach? Director Warth said they would be able to jumpstart programs in every county if they receive the \$50 million in funding.

Judge Ciparick asked if the funding would go to New York City. Director Warth said yes, it would go to the NYC.

The Chief Judge asked if the increase in funding would help the people who are unrepresented. Director Warth said the people who are in Family Court and are unrepresented are not counted in current caseloads, which is the information ILS used to estimate the \$150 million needed for caseload standards compliance. This is another feature of the conservative nature of the estimate. But having enough funding to disburse to every county is an important first step and will allow ILS to work more closely with public defense providers to get more information about their Family Court practice.

Ms. Meléndez said that ILS still needs to make clear that even if the \$150 million is disbursed, it won't fully resolve the need. Ms. Meléndez said that there needs to be a growth mindset. We need to think about how our conceptualization of the issue can be expanded. Money needs to be managed in a forward-looking way. Director Warth agreed and said that the \$150 million is a start that will also be useful to collect information from counties as they are implementing programs. There are a lot of unknowns that we cannot currently budget for, but so we need to start with what we know.

Ms. Paperno said that they have a difficult time staffing up in counties outside NYC, and asked what the plans are for increasing recruitment. Director Warth said that at a recent consortium that ILS hosted, providers discussed building a pipeline to public defense work, starting in law schools and colleges and even earlier. Indeed, one public defense leader talked about going into elementary schools to talk about public defense. ILS supports these efforts, and ILS funds can be used for internship programs and law graduate programs. Director Warth said that ILS will need to be flexible in how the funding is spent, including allowing it to be used for positions other than attorneys that can help alleviate the workloads like social workers, paralegals, family advocates, etc.

Mr. DeBolt echoed Ms. Paperno's comment about recruitment. Mr. DeBolt used to work in Washington County. The county employed almost the entire bar. There will not be enough attorneys in certain areas. He said it is a good idea to start incrementally with \$50 million. It would not be wise for the state to appropriate the money, and then the counties are unable to spend it because they cannot hire. In Ontario County, Mr. DeBolt said they try to have the public defender's office and the social services department work together. The first time a CPS investigation is conducted, they are bringing in intensive functional family therapy. Mr. DeBolt stated they try to work with preventative services upfront.

The Board voted to approve the budget request, with the change that the funding for the State Operations budget should be adjusted up by \$50,000 to accommodate a higher salary range for an organizational development specialist, given how important this position is. Judge Ciparick moved to vote on the budget request. Ms. Meléndez seconded the motion. The Board unanimously approved the budget request with the \$50,000 adjustment.

III. Western New York Regional Support Center Updates (Ian Harrington)

Ian Harrington, the attorney in charge of the Western New York Regional Support Center, introduced himself to the Board. He shared his legal career background and spoke about the other five employees who work in the WNY Regional Support Center. All the staff have experience with public defense. Mr. Harrington noted that the Support Center has been open for about a year.

Mr. Harrington said the Support Center has worked to cultivate strong, supportive relationships with public defense providers in the eight counties the Support Center covers. They have made regular contact and are responsive to them, working to try to identify and resolve issues. The providers all report the challenges of recruitment and retention. He noted the problem is most acute for Family Court representation where caseloads are overwhelming and shared the story of an attorney in a provider office who recently quit, saying in his resignation letter that he really wanted to do the work but is just too overwhelmed. To support recruitment and retention, the Support Center is partnering with the University of Buffalo Law School to develop a course in public defense, inviting public defense providers as guest lecturers to connect them to students interested in public defense.

Mr. Harrington spoke about the challenges of developing strong Assigned Counsel Programs, which prior to the statewide expansion of the settlement, did not have adequately funded administrative infrastructures. The Support Center is working on strategies to use ILS funding to build these important infrastructures, including strategies for regional assigned counsel programs.

Chief Judge Wilson said it is good to get information to first year law students. He emphasized the shortage of Family Court attorneys and said that Family Court judges are eager to go into schools to discuss the value of Family Court representation to interest students into

taking Family Law courses. Chief Judge Wilson said he can help facilitate that. Ms. Meléndez said she has been talking about this idea in Onondaga County. It is important for students to hear from the judges. Mr. Doyle said he also teaches a criminal law class at UB. He offered to assist Mr. Harrington if he needs anything.

IV. ILS Grants Unit Updates (Tammy Smith & Burton Phillips)

Mr. Phillips shared with the Board updates relating to the ILS Grants Unit. The Grants Unit is the backbone of ILS, and their work underpins all the public defense reform work. The Grants Unit has updated policies and protocols to better serve the counties and NYC. A key change has been ILS' updated cost manual for the counties, which streamlines the fiscal backup documentation that ILS requires counties to submit to ILS with claims for reimbursement. Previously, ILS required counties to submit detailed backup documentation for every single expenditure for which they were seeking reimbursement. As the amount of funding ILS disburses increased, this process became untenable. ILS consulted with other state agencies and the office of the state comptroller to settle on best practices to ensure that ILS adheres to fiscal controls but also makes the claim reimbursement process smoother.

Mr. Phillips then introduced Tammy Smith, who is the Assistant Grants Manager overseeing the claims review process at ILS.

Ms. Smith said that the updated cost manual significantly streamlines the claim process. For one county, a claim under the previous policy would have been 130 pages. Based on the updated guidelines, the claim can be reduced to 30 pages. ILS has gotten a lot of positive feedback from the counties.

Ms. Smith stated that another initiative within the Grants Unit was enabled by hiring new staff. The Grants Unit used to review claims on a first in, first out basis. Now there is a specific point person for each county. This helps ILS to build better relationships with the counties, and ILS can gain a better understanding of their different needs. It allows ILS to have a more collaborative approach and provides more clarity to the counties. Ms. Smith said the counties are now more proactive on the front end. They ask more questions up front, and it helps ILS to resolve claims more quickly.

Ms. Smith said the Grants Unit also took an inventory of all the steps during the claims process. They had multiple points in the process where they were collecting the same information. They were able to eliminate the redundancies and eliminate unnecessary steps. They also added the ability to share documents so multiple employees can review it at the same time. The Grants Unit also migrated from a paper-based system. Previously, most counties were mailing in their claims. Now 80-90% are emailing their claims. Electronic submission allows employees to access documents when they are working remotely. It saves costs, space, and time. The Grants Unit was also previously sending paper documentation to the state's Business Service Center for final payment to counties and NYC. Now they are

sending this information electronically, which facilitates quicker final payment. Ms. Smith said that it previously would take a month for the county to get paid. Now claims are getting processed faster: in two weeks or less.

Ms. Smith handed out a chart showing total claims paid in the first eight months of 2024 compared to claims paid during the same period in 2022 and 2023. In 2024, there was a significant increase in the number and dollar amount of claims paid. The number of current pending claims has also been reduced. Previously, the Unit would have 150-180 pending claims. Now they only have 50-60 pending claims. Ms. Smith said she is proud of the improvements that have been made. Ms. Smith said she has established weekly one-on-one reviews with her staff. This allows her to stay on top of issues and for staff to share questions and concerns.

Director Warth said that when she started at ILS, there were a lot of complaints about how long it took to get an executed contract and how long it took to get claims paid. Now, she goes to chief defender meetings and hears about how accessible, efficient, and supportive the Grants Unit is.

V. ILS Office Updates (Burton Phillips)

Mr. Phillips provided the Board with ILS office updates. Since the last board meeting, ILS has hired some new employees and promoted others. Elizabeth Isaacs has been promoted to Supervising Appellate Attorney. Nicole Manico has been hired as Assistant Director of Information Technology. A new attorney has also been hired as a new Assistant Appellate Attorney within the Statewide Appellate Support Center. ILS is also in the process of hiring a new Special Assistant for Mitigation. ILS is also recruiting for a few vacant positions for Assistant Counsel, Family Representation, an Appellate Attorney position, and Criminal Defense Representation Counsel for the north country region. ILS is also interviewing for the Grants Administrator position. They are also in the process of creating positions to further bolster the Grants Unit with an additional Auditor, Contract Manager, and Assistant Grants Manager.

V. Adjourn

Chief Judge Wilson adjourned the meeting at 12:30 p.m. The next ILS Board meeting will be December 13, 2024.

Agenda II (Caseload Standards)

American Bar Association
Ten Principles of a Public Defense Delivery System
Principle 3: Control of Workloads

The workloads of Public Defense Providers should be regularly monitored and controlled to ensure effective and competent representation. Workloads should never be so large as to interfere with the rendering of quality representation or lead to the breach of ethical obligations. Workload standards should ensure compliance with recognized practice and ethical standards and should be derived from a reliable data-based methodology. Jurisdiction-specific workload stands may be employed when developed appropriately, *but national workload stands should never be exceeded....* (emphasis added)

National Public Defender Workload Study Caseload Standards: Their Implications for the Office of Indigent Legal Services’ Caseload Standards

In December 2016, pursuant to the *Hurrell-Harring v. The State of New York* Settlement (HH settlement), the New York State Office of Indigent Legal Services (ILS) issued caseload standards for providers of mandated criminal defense.¹ New York State committed to fully funding implementation of these standards in the five HH settlement counties: Ontario, Onondaga, Suffolk, Schuyler, and Washington. These standards included five trial level case types and two appellate level case types, the minimum average hours per case type, and the maximum annual assignments per case type based on an 1,875-hour work year.² The ILS standards for the five trial level case types are set forth below:

Case Type	Maximum Annual Assignments	Minimum Average Hours
Violent Felonies	50	37.5
Non-Violent Felonies	100	18.8
Misdemeanors and Violations	300	6.3
Post-Disposition (including Probation Revocation)	200	9.4
Parole Revocation	200	9.4

¹ See *A Determination of Caseload Standards pursuant to § IV of the Hurrell-Harring v. The State of New York Settlement* (December 8, 2016) (“ILS Caseload Standards Report”), available at: <https://www.ils.ny.gov/files/Caseload%20Standards%20Report%20Final%20120816.pdf>.

² This document concerns only trial level case types because the National Public Defense Workload Study focused exclusively on trial level case types.

In 2017, the State enacted legislation extending the HH settlement initiatives statewide and, among other things, committed to funding compliance with ILS caseload standards. To date, the State has committed \$273.8 million for implementation of the HH settlement and its extension statewide, most of which is necessary for compliance with ILS caseload standards.

The public defense landscape has shifted since 2016, when ILS issued caseload standards. In 2019, New York State enacted legislation overhauling New York’s antiquated discovery scheme, which allowed the prosecution to hold back evidence from the defense until the eve of trial. New York’s new discovery scheme requires the disclosure of evidence early in each case, prior to any decisions about possible case resolution. This new discovery scheme has meaningfully enhanced transparency, fairness, and justice, but it has also significantly increased the amount of time that defense attorneys must devote on each case to representing their clients.³

In August 2023, the American Bar Association (ABA) passed a resolution adopting the *Revised Ten Principles of a Public Defense Delivery System* (Ten Principles). In adopting the Ten Principles the ABA also called upon states to “swiftly assess its compliance with the Ten Principles of a Public Defense Delivery System... and implement any necessary legal and policy changes where deficiencies exist.” Principle #3 emphasizes the imperative that defense attorneys have manageable caseloads to ensure effective and competent representation. The Ten Principles further state that public defense providers should comply with caseload standards that are “derived from a reliable data-driven methodology,” and that while jurisdiction-specific caseload standards should be used when appropriately developed, “national workload standards should never be exceeded.” Regarding national workload standards, the Ten Principles cite to the new national standards set forth in the National Public Defense Workload Study (NPWDS), a collaboration between the Rand Corporation, the ABA Standing Committee on Legal Aid and Indigent Defense, the National Center for State Courts, and Stephen F. Hanlon, noting that these new workload standards “are grounded in a rigorous study of 17 prior jurisdiction-specific workload studies..., use the Model Rules and ABA Criminal Justice Section standards as the reference for a reasonably effective assistance of counsel,” and rely upon “the Delphi Method to obtain a reliable professional consensus of criminal defense experts.”⁴

The NPWDS is the most methodologically sound, data-driven determination of caseload standards conducted to date. Heeding the ABA’s call for every jurisdiction to “swiftly assess its compliance with the Ten Principles,” ILS decided to better understand the

³ See, e.g., The Impact of Discovery Reform Implementation in New York, Report of a Defense Attorney Survey Conducted Jointly by: Chief Defenders Association of New York, New York State Defenders Association, NYS Association of Criminal Defense Lawyers, NYS Office of Indigent Legal Services (March 28, 2022), available at: <https://www.ils.ny.gov/files/Discovery-Reform-Survey-Report-03.28.22.pdf>. This report addresses both the enhanced fairness resulting from discovery reform as well as the increased amount of time involved in defending clients.

⁴ All the quoted material on this paragraph is from the August 2023 Revised Ten Principles of a Public Defense Delivery System, which can be found here: [23A603 \(americanbar.org\)](https://www.americanbar.org/publications/23A603).

implications of the NPWDS caseload standards on the ILS caseload standards. To do so, we had to map the NPWDS caseload standards to the ILS caseload standards, a task complicated by the fact that the NPWDS trial level caseload standards include twelve case types, while the ILS caseload standards include only five. ILS convened an internal working group that proposed an initial mapping framework. In early October, ILS circulated this mapping framework to all the chief defenders in the state and invited feedback. On October 24, 2023, ILS hosted a full-day meeting with its Chief Defender Advisory Group to review the ILS-developed framework for mapping and the comments received from other chief defenders to determine a final mapping scheme. The chart below captures the consensus achieved for mapping the NWPDS caseload standards to the ILS caseload standards:

ILS Case Type [denoting minimum number of average hours and maximum number of annual case assignments]	NPWDS Case Type Most Relevant to ILS Case Type	Minimum # Average Hours	Maximum Annual Assignments (based on 1,875 hours/year)
Homicide/Life Sentence Possible [not captured by current ILS case type] ⁵	Felony-High-Life Without Parole	286	7
Violent Felonies 37.5 min # average hours 50 max annual assignments	Felony-High-Other	99	19

⁵ This case type is for homicides and other cases in which a sentence of life (with or without the possibility of parole) is the maximum sentence that can be imposed. It includes the following: homicide charges; all Class A-I and A-II non-drug felonies (though it includes Penal Law § 220.27, Major Drug Trafficker); Penal Law § 130.95 (predatory sexual assault); and Penal Law § 130.96 (predatory sexual assault of a child). It also includes all offenses listed in Penal Law § 60.06 which are: Penal Law § 125.27, (Murder 1st); Penal Law § 125.25(5) (Murder 2nd involving the intentional murder of child during specified sex offense); Penal Law § 125.26 (1), (2) (Aggravated Murder); Penal Law § 490.25 (Terrorism when the specified offense is a class A-1 felony); Penal Law § 490.45 (Criminal Possession of a Chemical Weapon or a Biological Weapon 1st); and Penal Law § 490.55 (Use of a Chemical Weapon or a Biological Weapon 1st). Finally, it includes all cases where a life sentence may be imposed because of persistent or second felony offender statutes.

Other Felonies 18.8 min # average hours 100 max annual assignments	Felony-Low	35	53
Misdemeanors/Violations 6.3 min # average hours 300 max annual assignments	Misdemeanor Low	13.8	136
Post-Disposition-Probation Revocation 9.4 min # average hours 200 max annual assignments	Probation and Parole Violations	13.5	139
Parole Revocation 9.4 min # average hours 200 max annual assignments	Probation and Parole Violations	13.5	139

In terms of understanding the implications of the NPWDS caseload standards for ILS caseload standards, the above mapping chart reveals two salient themes:

- 1) ILS' caseload standards are not sufficiently discriminating in case types. The current ILS standards categorize homicide offenses and offenses for which life without parole is a possible sentence as Violent Felony cases. But the consensus of both the ILS internal working group and the Chief Defender Advisory Group was that homicide and life without parole cases should be categorized as a separate case type to better honor the seriousness of the charges, the lifelong sentencing implications, and the significant amount of time needed to provide quality representation on these cases. Therefore, the chart above includes a homicide/life sentence case type that is currently not included in the ILS caseload standards.
- 2) ILS' caseload standards significantly understate the minimum average amount of time needed to provide quality representation, and therefore significantly overstate the maximum number of cases attorneys should accept each year. For example, while the ILS caseload standards cap the number of new Violent Felony cases at 50 assignments annually, the NPWDS caseload standards indicate that the maximum number of new Violent Felonies should be 19. Similarly, for Felonies, the ILS caseload standards cap new case assignments at 100, while the NPDWS caps them at 53 and for misdemeanors, ILS caseload standards cap new case assignments at 300 each year, while the NPWDS standards cap these cases at 136.

Updated ILS Caseload Standards Case Types

Case Types for ILS' Current Caseload Standards:

1. **Violent felony**

This category includes offenses listed in Penal Law 70.02 and all class A felonies except drug felonies.

2. **Other felony**

3. **Misdemeanor/Violation**

4. **Appeal of a Guilty Verdict after Trial**

5. **Appeal of a Guilty Plea**

This category includes:

- Appeals of a conviction resulting from plea
- SORA appeals
- Re-sentencing appeals
- Response to prosecution appeal (CPL 450.20)
- DVSJA cases that, after an initial investigation, are determined to be without merits (DVSJA cases that require a full investigation and litigation are counted as Appeals of a Guilty Verdict after Trial)

6. **Parole violation**

7. **Post-Disposition**

This category includes:

- Sentence violations - where client is alleged to have violated a condition to their sentence of probation or conditional discharge, or to have failed to pay a fine.
- SORA classification/designation proceedings
- SORA modification petitions
- 440 motion or *coram nobis* when assigned by court or entitled to assigned counsel under County Law 722

Case Types for ILS' Revised Caseload Standards:

1. **Homicide/Life Sentence Possible**

This case type is for homicides and other cases in which a sentence of life (with or without the possibility of parole) is the maximum sentence that can be imposed. It includes the following: homicide charges; all Class A-I and A-II non-drug felonies

(though it includes Penal Law § 220.27, Major Drug Trafficker); Penal Law § 130.95 (predatory sexual assault); and Penal Law § 130.96 (predatory sexual assault of a child). It also includes all offenses listed in Penal Law § 60.06 which are: Penal Law § 125.27, (Murder 1st); Penal Law § 125.25(5) (Murder 2nd involving the intentional murder of child during specified sex offense); Penal Law § 125.26 (1), (2) (Aggravated Murder); Penal Law § 490.25 (Terrorism when the specified offense is a class A-1 felony); Penal Law § 490.45 (Criminal Possession of a Chemical Weapon or a Biological Weapon 1st); and Penal Law § 490.55 (Use of a Chemical Weapon or a Biological Weapon 1st). Finally, it includes all cases where a life sentence may be imposed because of persistent or second felony offender statutes.

2. Violent Felonies

Violent felonies are defined as those offenses listed in Penal Law 70.02.

3. Other Felonies

4. Misdemeanor/Violations

5. Parole and Sentence Violations

This case type includes the following:

- Parole violations
- Sentence violations - where client is alleged to have violated a condition to their sentence of probation or conditional discharge or to have failed to pay a fine.
- Administrative appeals of denial of parole release

6. Arraignment only

This category includes cases in which representation was limited to the arraignment because of either of the following circumstances:

- 1) as part of the assigned counsel eligibility screening, the charged individual is deemed not eligible for assigned counsel or retains private counsel within 48 hours of the arraignment; or 72 hours if a Saturday, Sunday or legal holiday occurs during that time period.
- 2) the charged individual is assigned to another provider office within 48 hours of the arraignment; or 72 hours if a Saturday, Sunday or legal holiday occurs during that time period.

This category does not include instances in which the case is resolved at arraignment, either by plea, dismissal, or adjournment in contemplation of dismissal. Nor does it include instances in which representation is discontinued more than 48 hours (or 72 hours if a Saturday, Sunday or legal holiday occurs during that time period) after the arraignment.

7. Complex/Trial Verdict Appeals

This category includes:

- Appeals of guilty verdicts from a trial
- Appeals to the Court of Appeals
- Appeals of denial of a 440 motion (where entitled to assigned counsel)

8. Guilty Plea Sentence Only Appeals

This category includes appeals after guilty pleas challenging the sentence, including appeals involving a challenge to the validity of a purported waiver of appeal. This category does not include appeals from the denial of a DVSJA sentencing following a hearing pursuant to PL § 60.12.

9. Substantive Appellate Proceedings

This category includes:

- Appeal after a guilty plea challenging the plea itself
- Appeal after a guilty plea challenging the denial of DVSJA sentencing following a hearing pursuant to PL § 60.12.
- Appeal of guilty plea following a hearing denial (e.g., suppression, 30.30)
- Anders briefs/Motions to Withdraw in lieu of Anders
- SORA classification/designation proceedings
- SORA modification petitions
- Appeals of SORA classifications/designation proceedings and modifications
- Prosecution appeals pursuant to CPL § 450.20

10. 440 Practice

The category applies to CPL Article 440 and *coram nobis* proceedings where there is a right to assigned counsel or where the judge assigns counsel. This includes:

- Domestic Survivors Justice Act (DVSJA) resentencing (CPL 440.47)
- The 2019 amendment to County Law § 722 authorizing assigned appellate counsel to investigate and file a 440 motion or request assignment of another counsel to do so.