

**INNOVATIVE SOLUTIONS** IN PUBLIC DEFENSE

# New York City

*Developing Performance Indicators for Assigned Counsel and a Data System to Track Their Representation*



## Problem

In New York City, legal representation of indigent people accused of crimes is provided by a combination of institutional providers and approved private attorneys. The city's institutional providers include the citywide Legal Aid Society and at least one additional provider in all boroughs except Staten Island. Approved private attorneys, commonly known as 18-B attorneys, make up the Assigned Counsel Plan (ACP).

The ACP is separated into two departments: the First Department, which includes the boroughs of the Bronx and Manhattan, and the Second Department, which includes the boroughs of Brooklyn, Queens, and Staten Island. The ACP oversees approximately 700 active 18-B attorneys who handle approximately 110,000 cases per year. At the time of the proposal, the ACP was staffed by just two administrators. Data on the 18-B attorneys' work was collected not by the ACP, but through a voucher-based system administered by the New York City Department of Finance (DOF).

The ACP's effectiveness was stifled by the lack of supervision for attorneys in the program, as well as by the lack of coordination between the ACP and DOF in measuring both payment and effectiveness of representation. Without this information, it was difficult to identify areas where the system needed changes or additional resources.

## Solution

Innovative Solutions grantee the New York City Mayor's Office of Criminal Justice (MOCJ) worked with the ACP and the DOF to reimagine the 18-B attorney administrative backbone as a system that could integrate case voucher data with data about the quality of representation provided by 18-B attorneys.

## Before & After

*At the start of the Innovative Solutions project, the Assigned Counsel Program for New York City consisted of about **700 attorneys** handling over **110,000 cases** per year, overseen by just **two administrators** who didn't have the data and metrics they needed to track and evaluate attorneys' performance.*

*Findings from this project led to the procurement of over **\$3.7 million** to improve the program's administration and technical infrastructure. The ACP is now poised to operate a **more sophisticated system** informed by best practices to report on attorneys' performance.*

## Program

The MOCJ, in collaboration with the DOF and research partner the Center for Court Innovation (CCI), undertook a project to identify best practices and quality performance indicators for New York City's 18-B attorneys and improve the ACP system and the DOF's vouchering system. CCI conducted an extensive needs assessment of the ACP, which included interviews and focus groups with judges, attorneys, and other stakeholders. CCI also reviewed DOF's information technology system and identified improvements to track more meaningful performance indicator data. Professor Steve Zeidman of the CUNY Law School provided expertise on the history and structure of the ACP.

This program was developed to address Principle #10 of the ABA Ten Principles of a Public Defense Delivery System, which recommends that “[d]efense counsel [be] supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards.”

## Results

The project team's rigorous qualitative research produced a robust needs assessment with recommendations on fifteen identified problem areas. The study was the basis for a series of strategic conversations with city and state stakeholders, including MOCJ, DOF, and the Appellate Divisions of the First and Second Judicial Departments of the Supreme Court of the State of New York, to develop solutions to the ACP's long-standing problems.

The project brought long-needed attention to the complexities of the ACP's unique governance structure and kick-started conversations that led to improvements in oversight of the ACP.

MOCJ secured an additional \$525,000 in city tax levy for the ACP to hire additional staff, including supervising attorneys and researchers, to support the ACP's administration and oversight. As of June 2019, the Office of the Assigned Counsel Plan had hired four additional staff members. Furthermore, MOCJ and the New York City Department of Finance secured an additional \$1.6 million in city tax levy to redesign the ACP's I.T. system. These funds will improve the program's data collection, allow for 18-B attorney case tracking, support management of 18-B attorneys' performance, and make the vouchering and scheduling processes more efficient.

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