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# Fact Sheet: Smart Defense Sites Advance Equal Justice Innovation

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The Smart Defense Initiative is part of the U.S. Department of Justice, Bureau of Justice Assistance (BJA) **Smart Suite** of criminal justice programs, which support criminal justice professionals in building evidence-based, data-driven criminal justice strategies that combine the expertise of researchers and practitioners for maximum, sustained, and measurable impact.

Each of the six Smart Defense sites pairs practitioners with researchers to implement and test innovative strategies for creating fairer and more effective indigent defense systems, in line with the American Bar Association's *Ten Principles of a Public Defense Delivery System*.

The goal of the project is to develop evidence-based approaches to help ensure that no person faces the loss of liberty without first having the aid of a lawyer with the time, ability, and resources to present an effective defense. Most sites are now reporting their preliminary findings.



## Alameda County, California

### Piloting public defender representation at arraignment.

**Program Agency:** Alameda County Public Defender Office

**Research Partner:** Impact Justice

Prior to receiving its grant, Alameda was the only one among California's larger counties unable to provide counsel at a client's first court appearance – arraignment – where pre-trial release decisions are made that can have profound immediate and long-term consequences for the client.

With the grant, the Alameda County Public Defender Office (ACPDO) hired three attorneys to provide representation at arraignment on a pilot basis. The assigned assistant public defenders are collecting data, including demographic information, charges and arraignment outcome. Through preliminary data review, Impact Justice is finding that the intervention has resulted in better case outcomes and less time in custody for represented clients.

ACPDO is also developing communication materials to support its counsel at first appearance project in conjunction with Silicon De-Bug and the Albert Cobarrubias Justice Project. The template for an informational pamphlet called “The First 24” (i.e., hours after arrest) is completed but not yet launched.

## Contra Costa County, California

### **Partnering with police to improve misdemeanor citation and release.**

**Program Agency:** Contra Costa County Office of the Public Defender

**Research Partner:** Justice Management Institute

The Contra Costa County Smart Defense project is designed to reduce issuance of failure to appear (FTA) warrants in misdemeanor cases where a citation is issued in lieu of arrest. The Contra Costa Office of the Public Defender (OPD), working in conjunction with the Richmond Police Department, developed an information card that police officers provide to individuals at the point of citation. The multilingual card provides contact information for the OPD so that cited individuals can consult with an attorney prior to their initial court date. Truly a system-wide intervention, OPD staff have trained Richmond Police Department officers about the process, and worked with the District Attorney and Court Clerk to obtain police reports and early discovery to better serve clients.

OPD’s recently launched Smart Defense program offers public defender advice and consultation to individuals well in advance of their initial court dates. An experienced public defender and a legal assistant began working with cited individuals in early February 2017. OPD staff are based at a community Re-Entry Success Center, which offers one-stop linkages to other referral services housed at the Center. And with timely receipt of police reports and discovery, the Misdemeanor Early Representation Project better prepares OPD attorneys to ensure clients will appear on their initial court dates.

The project’s research partner, the Justice Management Institute (JMI), is examining the Contra Costa County court data system to understand its structure to determine how to best reduce manual data entry and code entries to avoid data analysis problems. JMI is also working with OPD to develop performance measures for the project.

## Kentucky

### **Supervising and supporting contract attorneys handling conflict of interest cases.**

**Program Agency:** Kentucky Department of Public Advocacy

**Research Partner:** University of Louisville Department of Justice Administration

The Kentucky Department of Public Advocacy (DPA) is responsible for providing representation to indigent criminal clients in all parts of the Commonwealth outside Louisville-Jefferson County, and operates public defender offices across the state. In cases presenting a conflict of interest to staff public defenders, representation is provided by private counsel who are on contract with DPA. DPA identified

areas in the present conflict counsel system which do not comply with two of the ABA's Ten Principles that it seeks to address. Interventions include additional support services provided to conflict counsel working in one region (the "target zone") and specialized training offered to all conflict counsel in the state.

The University of Louisville has conducted and analyzed a self-assessment survey sent to all of DPA's conflict attorneys in the target region, as well as a pre-training survey administered to attorneys who attended a special training in May 2016. This data allows the DPA, for the first time, to look at actual hours spent by conflict attorneys on various types of cases, which had previously been unknown due to the structure of the DPA contract system. Also, through the analysis, DPA has been able to identify areas where conflict attorneys are demonstrating proficiencies as well as areas that could be strengthened. For instance, future training topics will address the use of investigators and pre-trial motion practice.

It is expected that results of the Smart Defense project will provide DPA leadership with information to seek funding for a permanent support structure for its contracted, conflict of interest attorneys.

## New York City, New York

### **Developing performance indicators for assigned counsel and a data system to track their representation.**

**Program Agency:** New York City Mayor's Office for Criminal Justice

**Research Partner:** Center for Court Innovation

Most indigent defense representation in New York City is provided by several independent, non-profit organizations, or "institutional providers," including the oldest and largest, the New York Legal Aid Society. Case volume is high; for instance, there were more than 365,000 arraignments in 2013, of which 95% involved clients who are indigent. While most are represented by institutional providers, in conflict of interest cases, private attorneys from New York City's Assigned Counsel Plan (ACP) are appointed.

Through this grant, the Center for Court Innovation has completed a detailed needs assessment of the ACP. The assessment presents findings and recommendations across 15 areas, including: governance, administration, the ACP attorney panels, technology and the vouchering system. Notably, it presents a single, coherent picture of the ACP governance structure, which had previously been murky to almost all involved with the ACP. The needs assessment will play a guiding role for the Mayor's Office for Criminal Justice's plans and actions to reform the ACP system, through the end of the Smart Defense grant period and beyond.

The Mayor's Office for Criminal Justice and the city's Department of Finance (DoF) have presented a proposed budget to the Mayor's Office of Management and Budget (OMB) to rebuild the ACP's IT vouchering system and provide for collection of attorney performance indicator data. The budget proposal also includes a request for additional staff to aid the two current ACP supervisors.

## Texas

### **Reporting the state of indigent defense in 254 Texas counties through a new web portal.**

**Program Agency:** Texas Indigent Defense Commission

**Research Partner:** Texas A&M University Public Policy Research Institute

The funding, delivery and oversight of indigent defense services in Texas is primarily a county responsibility. Indigent defense practices vary widely throughout the state's 254 counties, making it difficult to easily access data about individual programs or to compare systems across counties.

Through the grant, Texas seeks to expand the reporting and public accessibility of county-level indigent defense data from all 254 counties through the creation of an indigent defense portal. Initially, five large pilot counties will contribute data to the portal for system testing and review.

When complete, the portal will provide detailed and easy to navigate information on indigent defense systems in all of Texas' counties for use by multiple audiences, including the Texas Indigent Defense Commission (TIDC), the public, courts, elected officials, funders, bar associations, and the advocate community. The project builds upon the current TIDC web portal to create the Texas A.C.T. Smart Web Portal, which will be a highly accessible communication system informing jurisdictions of their performance on multiple quality indicators, and keeping policymakers apprised of "the state of indigent defense" in Texas. It will serve as a resource to help counties learn how to elevate their current performance and to understand why it is important to do so.

## Wisconsin

### **Integrating court data with public defender system data for more robust analytic capacity.**

**Program Agency:** The Wisconsin State Public Defender

**Research Partner:** University of Wisconsin Population Health Institute

Though the Wisconsin State Public Defender's current case management system is relatively robust, it is not integrated with that of the state court system, the Consolidated Court Automation Program (CCAP). Integration between these systems will build significant capacity for SPD within two ABA Principles: controlling attorney workload and systematic supervision and review of defense counsel for quality and efficiency.

Through the grant, the Reporting, Analysis and Mining Project (RAMP), the Wisconsin State Public Defender (SPD) will vastly enhance its existing CMS with improved and expanded data collection and then use that data to assist in oversight and monitoring of services provided by public defenders and assigned counsel throughout the state. Automatic data feeds from CCAP will be integrated into the SPD's CMS and new performance indicators will produce richer reports about system

performance. RAMP will further the ability of the SPD to use data to analyze indigent defense and tie its funding requests to rigorous system performance.

Reports produced by RAMP allow managers to compare work performed by OPD staff attorneys with work performed by conflict counsel, enable OPD to track the number of withdrawals by counsel, and allow OPD to review attorney trial history, including the number of bench and jury trials, case type, and what the dispositions were. These reports, along with other data from the RAMP system, will be used by managers in annual staff attorney evaluations. Additionally, one of the newly created RAMP functions will allow staff attorneys to see the historical outcomes for a given type of case, in a given county, for a given judge.

When completed, RAMP will use data to facilitate evidence-based decision-making around key performance indicators, to develop strategies for assisting with quality representation, and to respond to external requests for info. RAMP will identify critical data needs and analysis to inform the SPD's biennial budget process and to assist SPD in responding to requests for information from internal and external stakeholders.

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The National Legal Aid & Defender Association is the national training and technical assistance provider for the Smart Defense Initiative. Founded in 1911, NLADA is America's oldest and largest non-profit association devoted to ensuring excellence in the delivery of legal services to those who cannot afford counsel. For over 100 years, NLADA has pioneered access to justice at the national, state and local level.



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NLADA partners with the National Criminal Justice Association (NCJA) to provide training and technical assistance to the Smart Defense sites. NCJA represents state, tribal and local governments on criminal and juvenile justice issues, and provides its expertise on strategic planning, evidence-based practices, and justice information sharing.



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