

**THE JOINT BAR ASSOCIATIONS' TASK  
FORCE ON THE NEW YORK CITY ASSIGNED  
COUNSEL PLAN**

**INTERIM REPORT ON THE STATUS OF NEW  
YORK CITY'S ASSIGNED COUNSEL PLAN**

**January 2026**

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# INTERIM REPORT ON THE STATUS OF NEW YORK CITY'S ASSIGNED COUNSEL PLAN

## EXECUTIVE SUMMARY

The New York City Assigned Counsel Program (“ACP”) is responsible for providing counsel in criminal cases to over 24,000 New Yorkers every year who cannot otherwise afford a lawyer.<sup>1</sup> As such, the quality of its operation directly impacts whether New York City criminal courts dispense justice fairly and without regard to wealth.

Because of serious problems plaguing the ACP administration, eight local bar associations formed a task force to evaluate the program and recommend modifications. The Joint Bar Associations’ Task Force on the New York City Assigned Counsel Plan (the “Task Force”) did not evaluate the performance of the individual panel members, who make up an indispensable component of the City’s public defense system, nor should its findings be interpreted as a reflection on the quality of panel members’ representation. Instead, the Task Force conducted extensive fact-finding about the independence, funding, and staffing of the ACP. The Task Force has concluded that the ACP administration’s lack of independence and inability to access funds prevent the ACP administration from meeting basic standards established by the State’s Office of Indigent Legal Services (“ILS”). The ACP administration has not been able to access over \$50 million in state funding earmarked for quality improvement. As a result, the ACP administration is severely understaffed and fails to provide panel attorneys in the program with the full range of support to which they are entitled, thus hamstringing the provision of legal services to those in New York City who cannot afford it. The Task Force’s preliminary conclusion is that the City must take immediate action to mitigate the funding and staffing crisis while simultaneously working collaboratively with the Task Force and ILS to move the ACP administration out of the Mayor’s Office of Criminal Justice (“MOCJ”) where it currently resides.

The first of two planned reports, this document provides an overview of the ACP, describes the current problems, and explains why there is an urgent need for reform. The second report will make a recommendation for an ACP plan to implement the necessary reforms.<sup>2</sup>

The Task Force includes ACP panel attorneys, ACP staff members, current and former staff of institutional public defense providers, family court panel members, ACP screening committee members, members of the county bar associations, and representatives of both the Appellate Division First and Second Departments.

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<sup>1</sup> The Assigned Counsel Plan attorneys represent another 100,000 New Yorkers who receive Summons.

<sup>2</sup> The Offices of Attorneys for Children provide counsel for litigants in Family Court who cannot afford counsel. This report focuses on the criminal court ACP program, but the Task Force would also support relocating County Law Article 18-B Family Court representation to the new structure.

## I. INTRODUCTION

### A. History

In 1965, following the landmark Supreme Court decision *Gideon v. Wainwright*, 372 U.S. 335 (1963), which established the constitutional right to counsel for people charged with crimes who cannot afford counsel, the State of New York empowered the governing body of each local jurisdiction in the State to create an indigent defense plan that conformed with one of four options:

- a public defender within the local government (County Law § 722(1));
- counsel furnished by private nonprofit organizations like The Legal Aid Society (§ 722(2));
- representation pursuant to a plan of a bar association whereby services are provided by (i) private counsel as coordinated by an administrator or (ii) by an office of conflict defender (§ 722(3)(a)); or,
- a combination plan pursuant to any preceding subsections of the statute (§ 722(4)).

In the aftermath of *Gideon*, the bar associations of the boroughs of the City<sup>3</sup> approved a “plan of a bar association” pursuant to § 722(4) to have the City furnish representation through a combination of an institutional provider and private counsel coordinated by an Administrator (the “indigent defense plan” or “1966 plan”). This plan worked in conjunction with Executive Order No. 178,<sup>4</sup> which Mayor Wagner issued on November 27, 1965, to establish and adopt a combination plan pursuant to County Law § 722(4) as proposed by the bar associations.<sup>5</sup>

While mayoral executive orders and litigation over the following decades clarified various aspects of the 1966 plan and codified the City’s ability to distribute work across multiple institutional defense providers, the core elements of the original plan have remained intact. Through Executive Orders No. 118 and No. 132, the City directed that the Office of the Criminal Justice Coordinator (“CJC”) would oversee the ACP. This structure was later codified in the Rules of the City of New York in 2010. A 2015 amendment to the New York City Charter renamed the CJC as the Mayor’s Office of Criminal Justice.

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<sup>3</sup> The indigent defense plan was drafted by the then Association of the Bar of the City of New York (now the NYC Bar Association), the New York County Lawyers Association, the Bronx County Bar Association, the Queens County Bar Association, the Brooklyn Bar Association, and the Richmond County Bar Association.

<sup>4</sup> This plan also required and received approval from the Administrative Board of the Courts, which is a body comprising the Chief Judge and the four Presiding Justices of the State Supreme Court’s Appellate Divisions.

<sup>5</sup> Various counties similarly established ACPs around this time to meet the obligation under County Law § 722. For example, on January 24, 1966, the Nassau County Board of Supervisors authorized its Assigned Counsel Defender Plan.

While Article 18-B of the County Law gave the City of New York the authority to change its indigent defense plan, it did not grant the City the authority to materially change the bar associations' plan without the associations' approval and that of the Administrative Board of the Courts.

The consent requirement was flouted, however. Under the 1966 plan, the authority to appoint an Administrator and to promulgate the rules for the ACP was expressly delegated to the Presiding Justices of the New York State Court Appellate Divisions. Executive Order 132, in particular, reduced the role of the Presiding Justices in the administration of the ACP without the consent of the bar associations or the Presiding Justices.

In 2010, New York State established ILS to “monitor, study and make efforts to improve the quality of [indigent defense] services” and granted ILS the authority to distribute state funds for indigent defense. N.Y. Executive Law § 832. An ILS Board was created to oversee the activities of the ILS and ensure a degree of independence in its operations. N.Y. Executive Law § 833.

In 2007, people assigned counsel in criminal prosecutions in five New York State counties sued the State for depriving them of their constitutionally and statutorily guaranteed right to counsel. *Hurrell-Harring v. State*, 15 N.Y.3d 8, 15, 930 N.E.2d 217, 219 (2010). In 2014, the State settled the litigation. The settlement required the State to fund quality improvements to the public defense system in the five New York counties<sup>6</sup> involved in the suit, and the State tasked ILS with creating and carrying out the improvement plans. *Hurrell-Harring v. State of New York*, No. 8866-07, Settlement Agreement (N.Y. Sup. Ct. Albany Cnty. Oct. 21, 2014).

In 2017, this settlement was codified into law and expanded to the entire State, considerably increasing funding for public defense to all New York counties. N.Y. Executive Law § 832(4). Accordingly, ILS now works to improve the quality of representation provided by ACPs throughout the State. It negotiates budgets with individual counties and with New York City. ILS then reimburses local jurisdictions for a variety of ACP expenditures, including funding for staff positions and for quality improvement initiatives. These initiatives include supervising attorneys, second chair programs, mentorship programs, and comprehensive training, together with increased support for accessing specialized providers, such as mental health, youth, and forensic specialists, investigators, mitigation specialists, social workers, and interpreters, and with operations support for data management, technology, and human resources.

## **B. ILS and ABA Standards**

In 2019, to guide local jurisdictions and ACP Administrators, ILS issued standards for creating and administering ACPs (the “Standards”). The Standards, which are consistent with the American Bar Association’s (“ABA”) Ten Principles of a Public Defense Delivery System,<sup>7</sup>

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<sup>6</sup> The “five counties” are Onondaga, Ontario, Schuyler, Suffolk, and Washington.

<sup>7</sup> The ABA Standards similarly focus on the importance of independence from political influence and the judiciary, proper case management control, regular supervision and evaluation of public defense providers, and access to specialized professionals like investigators, social workers, mitigation specialists, and expert witnesses.

outline the structure and resources necessary for ACPs to provide quality legal representation. *See* Standard 1.3. They emphasize the importance of independence, stating that each ACP is to “remain independent and free from improper influence and conflicts of interest.” *See* Standard 2.3. The Standards also recommend that each ACP operate under the “guidance of a governing Board” that is independent of all branches of local government and that it be responsible for appointing “an Administrator to implement the policies and duties of the ACP.” *See* Standard 3.2; Standard 3.3.

The Standards also call for each ACP to provide critical resources to assigned counsel panel attorneys, including appropriate oversight, mentorship for new attorneys, proper training, a second chair program, an established procedure for receiving and addressing complaints, and suitable personnel to carry out these tasks. *See* Standard 4.2; Standard 4.3; Standard 14. In particular, each ACP must provide its lawyers with an orientation to the ACP as well as initial and ongoing training and access to necessary specialized professionals. *See* Standard 8.5; Standard 12.

### **C. Current Structure and Operation of the NYC ACP**

New York City’s ACP is currently located within MOCJ. *See* Ch. 13 of Title 43 of the Rules of the City of New York. While MOCJ contributes some money to the ACP’s operations, the majority of the ACP’s budget is allocated pursuant to contracts that MOCJ negotiates with ILS for state funding. The First and Second Departments of the Appellate Division are each responsible for appointing the respective ACP Administrator for the Department, and the two Administrators oversee the City’s ACP. The Administrator for the First Department oversees the Bronx and Manhattan; the Administrator for the Second Department oversees Kings, Queens, and Richmond counties. In the early 1990s, each Appellate Division oversaw the ACPs as ancillary programs, much like the Appellate Divisions currently oversee the Office of Attorneys for Children and Mental Hygiene Legal Services. In the mid-1990s, the ACPs for both Departments were combined and all ACP employees were transferred to the New York City payroll. MOCJ now exercises significant control over the operation of the ACP: it controls hiring, expenditures, and the ACP’s case management system.

ACP panel attorneys typically receive case assignments by signing up for either arraignment or on-call shifts.<sup>8</sup> Panel attorneys attending court for arraignment shifts are assigned to new cases where the institutional providers have a conflict, including cases with multiple defendants. During on-call shifts, panel attorneys are assigned cases when a defendant who cannot afford counsel wants to change their attorney or when a conflict is discovered. In addition, judges and the Administrators sometimes directly assign panel attorneys to cases based on specific circumstances, including particularly complex homicide cases where there is a need for a panel attorney with specific or extensive experience.

The judge presiding over the case approves the ACP panel attorney’s fee vouchers, which are then submitted to the NYC Department of Finance for payment. The City covers the majority of voucher expenses for the ACP, but the Department of Finance may seek reimbursement from

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<sup>8</sup> Each borough’s case assignment system differs slightly. For example, Staten Island has only a “primary” day, which covers arraignment shifts, and does not have an on-call shift for the felony panel.

ILS for 50% of the expenditures it incurs because of the increase to the assigned counsel rates in 2023.<sup>9</sup>

#### **D. Formation of the Task Force, Composition, and Mandate**

There have been concerns about the operation of the New York City ACP administration for many years. In 2024, in a joint effort to assess and recommend improvements to the ACP administration, the New York City Bar Association, the New York County Lawyers Association, the Bronx County Bar Association, the Queens County Bar Association, the Brooklyn Bar Association, the New York Criminal Bar Association, the Kings County Criminal Bar Association, and the Richmond County Bar Association formed the Task Force.<sup>10</sup>

The Task Force is chaired by Philip Desgranges, Member of the Board of Directors, New York City Bar Association; Justine Olderman, Distinguished Scholar in Residence with the Center on Race, Equity and the Law at NYU School of Law and Senior Research Scholar in the Litmus program of the NYU Marron Institute and former Executive Director of Bronx Defenders; and David Patton, a partner at Hecker Fink LLP and former Executive Director and Attorney-in-Chief of Federal Defenders of New York. The Vice Chairs of the Task Force are Michael Cibella, representing the Brooklyn Bar Association; Gloria Keum, representing the New York Criminal Bar Association; Ronald Minkoff, representing the New York County Lawyers Association; Matthew Santamauro, representing the Richmond County Bar Association; Barbara Wilkanowski, representing the Queens County Bar Association; and Darran Winslow, representing the Kings County Criminal Bar Association.

The Task Force has over 45 members with a range of experiences, including ACP panel attorneys, current and former ACP staff (including Administrators and supervising attorneys), current and former staff of institutional public defense providers (including appellate providers), Family Court panel members, ACP screening committee members, and representatives of the Appellate Division First and Second Departments. Debevoise & Plimpton LLP serves as pro bono counsel to the Task Force.

#### **E. Work of the Task Force**

For more than seven months, the Task Force and Debevoise conducted extensive fact-gathering regarding the ACP, which included:

- interviewing different stakeholders, including panel members, the ACP Administrators and staff, members of the judiciary, and staff of MOCJ, ILS, and some of the institutional defenders;

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<sup>9</sup> See *18-B Assigned Counsel Rate Reimbursement*, N.Y. State Office of Indigent Legal Services, [https://www.ils.ny.gov/funding/18b\\_assigned\\_counsel\\_rate\\_reimbursement.php](https://www.ils.ny.gov/funding/18b_assigned_counsel_rate_reimbursement.php) (last visited Jan. 16, 2026).

<sup>10</sup> All of the bar associations involved in the indigent defense plan are represented on the Task Force. The New York Criminal Bar Association and the Kings County Criminal Bar Association, which were not involved in the indigent defense plan, are also represented on the Task Force.

- conducting a survey of ACP panel members;
- reviewing documents related to the ACP’s contracts, operations, and legal standards, as well as other guidelines regarding the effective operation of ACPs; and,
- participating in informational and advocacy meetings with City and state stakeholders.

## **II. THE ACP ADMINISTRATION REQUIRES SIGNIFICANT STRUCTURAL CHANGE TO FULFILL ITS MISSION.**

The Task Force has concluded that the ACP administration fails to meet the Standards, and the City must take immediate action to improve its operations and provision of services. The Task Force believes the City must also work to transition the ACP from being housed within MOCJ to a more independent structure. This is necessary because, as currently situated, the ACP lacks requisite independence. In addition, MOCJ has proven that its mission is not aligned with that of the ACP, as evidenced in part by its failure—over a period of more than seven years—to access tens of millions of dollars in state funding available for the program through ILS.

### **A. MOCJ Has Not Accessed State Funding for the ACP Administration.**

Since 2018, MOCJ has failed to access over \$50 million that ILS has allocated to the NYC ACP under two separate contracts. As a result, the ACP administration is severely understaffed and under-resourced.

Under the first contract, which ran for five years from April 1, 2018 through June 30, 2023,<sup>11</sup> ILS allocated approximately \$33 million dollars to the ACP for administrative expenses, including over \$23 million for staff positions and \$4.3 million for quality improvement measures, nearly \$500,000 for a second-chair program, nearly \$500,000 for a mentoring program, and hundreds of thousands of dollars for office furniture and equipment, training expenses, and technological resources.

Under the second contract, which runs for three years from July 1, 2023 through June 30, 2026, ILS has allocated approximately \$34.5 million to the ACP for similar expenses.

Pursuant to the contracts, MOCJ must first incur expenses and then can seek reimbursement from ILS for the expenditures. In the first two and a half years of the initial contract’s term, MOCJ did not submit a single claim to ILS for ACP expenditures, and it has indicated to ILS that it will not do so, resulting in over \$13 million of unspent but available funds.<sup>12</sup> In August 2025, seven years after the date of the initial contract, MOCJ submitted its first claims, seeking reimbursement for expenses incurred between November 1, 2020, and June 30, 2022. However, MOCJ’s reimbursement requests are only for approximately \$950,000 out of the nearly \$18.25 million available for this period. The vast majority of these claims are for salaries for ILS-

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<sup>11</sup> The contract initially ran from April 1, 2018 through March 31, 2023 and was extended to June 30, 2023.

<sup>12</sup> MOCJ may still seek reimbursement for later years of the initial contract but we can definitively say that it will not seek reimbursement for \$13 million dollars available in the contract’s first two years.

funded ACP staff, with just one claim of \$30,770 for computers and other technology. ILS has concluded that none of the claims are for expenses incurred pursuant to ILS-funded quality improvement initiatives. Key stakeholders report that MOCJ has not yet begun to implement those initiatives, nor has it worked with the ACP to fill the 34 dedicated ACP staff positions funded in the current contract with ILS to bolster the ACP infrastructure and improve the quality of representation.

MOCJ has indicated its intention to submit claims for reimbursement of ACP expenses under the second and current contract, but as of September 2025, it has not submitted any claims or indicated to ILS how much it intends to claim.

It is clear that MOCJ cannot access the vast majority of funding because it has largely not incurred the relevant expenditures in the first place. By failing to make any sort of positive change in the way ACP representation is provided, MOCJ has thwarted the ACP's legislative mandate and failed hundreds of thousands of low-income individuals accused of crimes.

### **III. THE REFUSAL TO ACCESS FUNDING IS A SIGNIFICANT BARRIER TO THE SUCCESS OF THE ACP ADMINISTRATION.**

#### **A. The ACP Lacks Sufficient Staffing.**

The ACP administration has been severely understaffed for years, despite dedicated ILS funding, because of MOCJ's failure to prioritize hiring for critical positions necessary to support the ACP administration and expand its services. Today, the ACP administration employs just one-third of the staff for whom funding is allocated under the City's contract with ILS.

Based on the current contract between ILS and the City, the ACP administration is entitled to partial or full state funding for up to 40 employees, including: two Administrators;<sup>13</sup> a senior supervising attorney; two borough-based supervising attorneys; 11 specialized supervising attorneys, including attorneys with expertise in mental health, youth representation, and forensics issues; and 14 staff positions, including a technology coordinator, a human resources generalist, and a director of expert resources. Yet the ACP office currently<sup>14</sup> employs only 15 people:<sup>15</sup> two Administrators; a senior supervising attorney; some borough-based supervising attorneys; a Director of Expert and Ancillary Services; several specialty supervising attorneys; and a limited number of staff members, including a case management system administrator (who monitors data

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<sup>13</sup> The City currently funds both Administrator positions. ILS has allocated funding to increase the Administrators' salaries, but MOCJ has not agreed to the full increase ILS has made available and has not yet claimed reimbursement for the more limited salary increase to which they have agreed. The ILS Standards provide that the ACP Administrators are supposed to be paid comparable salaries to the attorneys in charge of the institutional providers. MOCJ refuses to comply with this ILS Standard.

<sup>14</sup> Current as of September 2025.

<sup>15</sup> The contract between the City and ILS would pay the salaries of ten of these 15 employees if MOCJ sought reimbursement from ILS, which it has not yet done. MOCJ's unwillingness to hire employees based on the contract also creates confusion. For example, it is unclear whether two borough-based supervising attorney positions are preexisting New York City-funded positions or if they are newly created ILS-funded positions.

and provides technological support), senior program coordinators (who work with the system administrators), and program coordinators (who support the senior program coordinators).

Despite the available funding to cover additional staff positions, the ACP administration continues to operate without key staff, including a Supervising Attorney for Training and sufficient borough-based supervising attorneys to effectively support panel attorneys. The ACP also lacks supervising staff to support panel attorneys who are working with clients struggling with mental health issues, facing complex homicide charges, or handling cases involving new issues stemming from the changes to the discovery laws. The absence of a technical coordinator for digital discovery is particularly challenging. Many stakeholders commented on the increase in attorney workloads because of recent changes to discovery laws, which have resulted in ACP panel members handling large quantities of discovery and having to litigate new legal issues without adequate support and tools.

Further, the ACP administration was eligible to receive New York State Division of Criminal Justice Services (“DCJS”) funds for discovery management. Such funds would largely alleviate the need for the ACP to use its ILS budget for this purpose. Yet MOCJ did not include the ACP in a list of NYC providers that it furnished to DCJS to receive funding. For this reason, DCJS directed all available defense-side discovery funds only to the institutional providers. As a result, the New York City ACP program is the only one in the State of New York that did not receive these DCJS funds.

The ACP administration’s placement within MOCJ means that it is subject to the City’s lengthy hiring process, which makes it particularly difficult to expand and retain staff. Because of the hurdles to hiring and onboarding qualified candidates, several ACP administration positions have been vacant for more than a year, despite the ACP having received applications from multiple qualified candidates. Between December 2023 and January 2025, the ACP extended soft offers to 12 candidates for open positions. Of these, only three were eventually hired. The Task Force was told that several qualified offerees accepted other jobs while waiting for City approval.

The ACP is further hampered because the salaries specified in the contract between MOCJ and ILS are higher than the City’s salary schedule, and therefore, the City’s Office of Management and Budget has rejected proposed salaries for new staff and raises for current staff. Assistant District Attorneys in the various boroughs with similar experience levels to the ACP’s supervisors are paid significantly higher salaries. According to ACP staff, the ACP has difficulty attracting qualified staff due to substandard salaries, and between 2022 and 2025, seven ACP staffers left their positions for reasons including insufficient compensation and benefits, deficient workspace conditions, and inadequate resources to perform their job responsibilities. The resulting lack of staff has prevented the ACP from operating effectively. Further, the ILS budget provides a retention stipend that MOCJ refuses to disburse.

## **B. The ACP Has Not Been Able to Properly Invest in the Growth and Development of Panel Attorneys.**

As noted above, the Task Force did not examine the performance of individual panel members. However, it found that the ACP administration’s inability to access already-allocated state funding limits its ability to provide panel attorneys with vital resources. As noted in the

Standards, mentorship and training are vital to ensuring quality client-centered representation. *See* Standard 4.2. The ILS contracts provide ample funding for training, mentoring, and second chair programs for panel attorneys, but MOCJ has not created the processes needed to implement these programs and use this funding. As a result, the ACP administration is only able to offer limited development opportunities for panel attorneys, requiring panel attorneys to seek these opportunities elsewhere

While the ACP administration currently provides CLE training on some topics, new panel attorneys would benefit from a standard introductory training program, and all panel attorneys could use more ongoing training on current issues, including changes to the bail laws, discovery laws, immigration issues, the Clean Slate program, and Raise-the-Age. Currently, panel attorneys attend different bar association and defender organization CLEs. Some panel attorneys shared that trial training opportunities are of particular interest to them.

A second chair program, which pairs panel attorneys who have less criminal defense experience with more seasoned trial defenders, would help these attorneys acquire the necessary trial experience to grow their practices. The limited number of trials taking place in New York City's courts makes it hard for new ACP attorneys on the misdemeanor panel to gain the experience necessary to move to the felony and homicide panels. Similarly, the overall decrease in trials in the past several years means that even panel attorneys who formerly worked at institutional providers lack the required trial experience to join the felony panel.

Some panel attorneys shared that they believe second chair opportunities would not only help younger ACP attorneys develop their skills and offer critical trial experience to those attorneys seeking to move up to the felony or homicide panels, but would also provide additional resources and a fresh perspective to experienced panel attorneys on complex cases. Judges generally approve the use of second chairs, who are paid via vouchers like the primary attorneys on cases, but the ACP does not currently have a structured second chair program.

The ACP administration also lacks a structured mentorship program that provides panel attorneys in the early stages of their careers with support and guidance from more experienced attorneys. The Standards call for each panel attorney who is new to public defense to receive a mentor, and other counties have implemented such programs. *See* Standard 4.2(b). For instance, a full-time training attorney mentors each new Erie County ACP panel member for eight to ten months. Under its contract with ILS, the New York City ACP could access the resources necessary to implement a similar initiative but has been prevented from doing so. Currently, only informal mentoring is available to panel attorneys seeking additional support. For example, the ACP created an email list for panel attorneys, which they use to seek advice and share knowledge with each other, in addition to other listservs like those of various bar associations. Many panel attorneys in the First Department also consult with each other when working in the attorneys' lounges in the courthouse between appearances. These informal mentorship structures are welcome and useful, but they are no substitute for more widespread mentoring programs like those that exist in other jurisdictions for those attorneys new to the panel.

Despite the desire of ACP staff to provide panel attorneys with additional professional development opportunities, the ACP lacks the capacity to do so because of the current staff shortage. Notably, since the prior training director left two years ago, the ACP has been unable to

fill the vacancy. With adequate staff, the ACP could implement a trial skills program, expand CLE offerings, implement a mentorship program, and provide support and incentives for a second chair program.

1. More Support for Panel Attorneys Would Improve the ACP's Services.

The ACP's panel attorneys and the clients they serve would benefit from ACP staff having the time and resources to provide greater consultation to panel attorneys, but the ACP currently lacks sufficient supervisory staff to be able to observe attorneys in the courtroom, serve as a resource to attorneys who need help on their cases, and liaise with judges and the courts. For example, the ACP Supervisory Attorney for Queens oversees more than 100 panel attorneys and, due to the lack of office space, must meet with attorneys in the law library of the courthouse. Similarly, the ACP Senior Supervisory Attorney for Brooklyn and Staten Island oversees about 150 panel attorneys in Brooklyn and 40 in Staten Island. The supervising attorneys are also often tasked with filling other roles, such as overseeing the ACP's list of specialized professionals and creating a bank of model motions that attorneys can use, which limits their ability to serve as an individualized resource for panel attorneys.

With additional resources, borough-based supervisory attorneys could provide panel attorneys with targeted guidance on criminal justice developments as well as more robust support and mentorship. Additional resources could also allow supervising attorneys to better support new attorneys who join the ACP.

Adequate staffing and funding would also allow the ACP to standardize and strengthen the recertification process to provide more useful feedback to panel attorneys, who must periodically submit recertification applications to remain on the panel. As part of this process, the ACP requests information from the attorney regarding their hearings and trials and reviews any grievances against the attorney. The ACP also asks judges to complete a one-sheet evaluation form for the attorney, which asks about the attorney's candor, preparedness, and related qualities.

However, the frequency of recertification varies. While some panel attorneys in both Departments reported being recertified every two to three years, one panel attorney in the First Department reported only being recertified once in 12 years. Opinions vary regarding the rigor and efficacy of the recertification process, which remains one of the only ways through which panel attorneys receive formal evaluation and feedback.

**C. Panel Attorneys Do Not Have Sufficient Access to Experts and Specialized Professionals.**

Panel attorneys must be able to hire expert witnesses and specialized professionals such as mental health specialists, interpreters, and investigators as needed.<sup>16</sup> The ACP maintains a roster of approved specialized professionals. The ACP employs a Director of Expert and Ancillary

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<sup>16</sup> ACP employees support panel attorneys pursuant to their roles with the ACP but do not work on individual cases. Currently, specialized professionals needed for individual cases are engaged on a case-by-case basis by attorneys and paid through the voucher system, after being approved by the judge presiding in the case.

Services who is responsible for administering the roster and ensuring that the professionals' credentials are current. The current roster is outdated and includes providers who have retired or moved or who are otherwise inaccessible to panel attorneys. Like their predecessor, the current Director of Expert and Ancillary Services is overburdened with numerous clerical tasks and is unable to devote the time necessary to recruit new members of the expert roster and manage the current members of the roster. The ACP Administrators had requested that MOCJ fill the position of Background Review Associate (a staffer who would be responsible for the process of enrolling new experts and attorneys in the ACP payment system). However, MOCJ has declined to fill that position for almost a year, even though a qualified candidate has been identified.

The ACP's current roster of approved expert witnesses and specialized professionals also lacks sufficient experts in DNA, digital forensics, and physical and mental health, as well as investigators, interpreters, social workers, and other types of professionals. For example, stakeholders have reported that it is difficult to hire interpreters willing to meet with clients in Rikers Island correctional facilities, and the few quality investigators are sometimes overwhelmed by demand and are unavailable for additional work.

Panel attorneys often struggle to engage pre-approved specialized professionals on the roster and must instead search for them themselves. However, this process is time-consuming and burdensome, as specialized professionals must be approved by both the ACP and the City before they can work on ACP cases and their fees must then be approved by the court.

ILS has made funding available for the ACP Administrators to directly approve and pay for panel attorney use of specialized professionals without the need for a court order. However, MOCJ has not created a process through which the ACP can begin to use these allocated funds for this purpose. This funding is therefore not being utilized, and panel attorneys can only be reimbursed for their use of an expert's services if approved by a court. As a result, some stakeholders said some panel attorneys use specialized professionals in fewer cases than they should.

#### **D. MOCJ Has Failed to Provide the ACP with an Effective Case Management System.**

The current case management system selected by MOCJ, ACP Cases, developed by its vendor, Arbola, fails to meet the needs of the ACP and its panel attorneys. Prior to 2023, the ACP did not have a case management system; it had a voucher payment system only. That system was known as 18B Web and was maintained by the New York City Department of Finance. The City abruptly announced that this system would be terminated in July 2023, forcing the rapid implementation of ACP Cases in August 2023 without sufficient time for user testing. As a result, after ACP Cases' launch, panel members initially experienced significant issues with case assignments and voucher processing and months-long delays of critical voucher payments. The City had the opportunity to launch a case management system for ACP for several years prior to August 2023 but failed to take action. After the New York State Office of Court Administration ("OCA") announced in July 2023 that it would replace its outdated data feed with a new one, the City was forced to quickly migrate the ACP voucher payment system to its current platform.

ACP Cases has since been improved, and the delays have been reduced. Some panel attorneys continue to find the system clunky and difficult, while several others reported that they are being paid in an efficient and timely manner and that the current system has more capabilities than the prior system. Some panel attorneys and judges also appreciate the ability to approve vouchers online, rather than on paper. However, ACP Cases still lacks basic functionalities, such as fields to make it easier for panel attorneys to record their tasks for billing purposes. Panel attorneys noted that it is time consuming to submit billing information, including because the drop-down menus on ACP Cases generally do not accurately reflect the work panel attorneys do on cases, requiring them to input this information manually. ACP Cases is also unable to discern between open and closed cases on an attorney's roster. This makes it difficult for the Administrators and supervisors to manage panel members' caseloads.

Furthermore, under County Law 722-f(1) and the ILS contract, the ACP is required to annually report basic information to ILS, including data on the number of hours that panel attorneys worked on different classes of cases, the outcome of the cases, and the number of cases in which specialized professionals were used by completing the ILS-195, a survey that assesses this information. However, despite significant efforts by ACP staff to address this issue, ACP Cases does not collect the necessary information. As a result, the ACP cannot provide ILS with legally required data and instead enters "UR"—to indicate that the information is unreported—for most of the required form fields. This lack of data makes it harder for ILS to understand how the ACP is functioning and address deficits.

Stakeholders have reported that other counties use case management systems that are more effectively optimized for the needs of an ACP, including the collection of key data. Although Arbola has listened to feedback that ACP Cases is insufficient for the collection and analysis of data needed for the ILS-195, it does not understand the requirements, seems unclear about what data needs to be collected and analyzed, and has been unresponsive to requests to make these critical changes.

#### **E. The ACP Lacks Office Space and Basic Resources.**

Both ILS contracts allocate significant funding to the ACP for office space, office furniture, technology, and other resources. This is consistent with the Standards, which call for each indigent defense program to have adequate office space in a suitable location and sufficient technology, equipment, and supplies. *See* Standard 4.1.

Despite the allocated funding, the ACP has only a single, small office in Manhattan, which includes only a few personnel offices, cubicles for most employees, and a small conference room. The current office also doubles as a storage unit for old furniture and filing cabinets that MOCJ seems unable to remove. At best, the current space can accommodate 19 staffers, and if a few more staffers are hired, the ACP will hit capacity in its current space.

MOCJ has failed to secure office space for the ACP in the other four boroughs, which makes it more difficult for the ACP to offer efficient support to local panel attorneys and forces staff to travel between boroughs regularly. For example, although the Second Department covers Brooklyn, Queens, and Staten Island, the Second Department staff are located in the Manhattan office. The ACP staff covering the Second Department have requested office space and additional

staffing in their three boroughs to no avail. There are plans to open a Brooklyn office but that is only because the judiciary in the Second Department agreed to provide space. This lack of office space makes it difficult for supervisory attorneys to meet with panel members and be at courthouses as needed. The ACP also does not provide space for panel attorneys to meet with their clients, which is particularly difficult for attorneys whose offices are not near the courthouses, forcing them to meet with clients in the courthouse hallways. For over a year, the ACP has requested approval for satellite offices located near the courthouses in each county. This would allow supervisors to meet with panel members, provide attorneys with space to meet clients, and offer access to computers, printers, and other technological equipment.

The Task Force was told that the ACP has also experienced significant delays in obtaining basic office supplies and equipment, and the ACP office in Manhattan often lacks basic resources. The ACP cannot purchase basic supplies directly and instead must request them from MOCJ.

#### **IV. THE ACP IS NOT SUFFICIENTLY INSULATED FROM THE JUDICIARY.**

According to the Standards, the ACP must remain free from influence by the judiciary so that panel attorneys are subject to judicial supervision only to the same degree as other attorneys. *See* Standard 2.3. To insulate the ACP from inappropriate influence, the Standards also call for an independent governing board to appoint the Administrator(s) and oversee the operation of the ACP. *See* Standard 3.2 and 3.3.

The ACP's current operating structure does not comply with these Standards. ACP Administrators are currently appointed by the judiciary and supervised by MOCJ. Judges also form part of the ACP's advisory committees in the Second Department, and the ACP works with the Appellate Division on the selection of panel attorneys. In practice, the extent to which the judiciary is involved in the operation of the ACP reportedly depends on the philosophy of the current presiding justice of the respective Appellate Division. Judges also assign certain cases and authorize the use of specialized professionals.

The role of the judiciary, in this case the Presiding Justices, is established by the Bar Association Plan of 1966. The Administrative Board of the Courts approved the Bar Association plan as written. Under the Bar Association Plan, the Presiding Justices appoint the Administrators and promulgate the rules of the program, including the processes by which panel attorneys are certified, recertified, and disciplined. The roles of the Presiding Justices can be changed in a new Bar Association Plan. However, the role of judges in assigning attorneys and experts, as well as approving their vouchers, cannot be altered without an amendment to Article 18-B of the County Law. Without such an amendment, judges will continue to exercise significant control over which attorneys are assigned to cases, whether panel attorneys may engage experts (and, if so, which ones), and the compensation provided to panel attorneys and experts.

Certain panel attorneys felt that some judges prioritize courtroom efficiency or assign cases to favored attorneys over ensuring proper allocation of cases among panelists. For example, although most judges adhere to the ACP's procedures for case assignments, others assign attorneys pursuant to their own process. With proper staffing and resources, the ACP could better manage case assignments and directly authorize the use of specialized professionals to reduce the influence of the judiciary.

Judges and judiciary staff have repeated exposure to the work of ACP panel members in court and add valuable perspectives to the operation and governance of the ACP, but the ACP should be sufficiently independent from the judiciary.

## **V. OTHER CONCERNS**

The placement of the ACP within MOCJ subjects the ACP to undue political influence, conflicts of interest, and a lack of insulation from government priorities, in violation of Standard 2.3. MOCJ has also demonstrated a lack of interest in vigorously advancing or an inability to advance the vital mission of the ACP.

The Task Force was told that on multiple occasions, MOCJ has criticized ACP staff for raising concerns with the OCA about the funding, functioning, and independence of the ACP, and instructed ACP staff not to have such conversations. The Task Force was also told that, on at least one occasion, a deputy mayor pushed back on the hiring of a qualified applicant for ideological reasons.

Several panel attorneys and other stakeholders told the Task Force that MOCJ's goals do not align with those of the ACP. Stakeholders understand that MOCJ's primary goal is public safety,<sup>17</sup> while the ACP is focused on providing criminal defense attorneys with the resources they need to best represent their clients. MOCJ acknowledged to the Task Force that supporting the ACP and developing its infrastructure has not been a key priority in recent years. As a result, the ACP has been unable to grow and implement changes necessary for it to better meet the needs of panel attorneys and their clients. As City employees, ACP Administrators have been restricted from voicing concerns about issues affecting their programs. For years, they were prohibited from speaking publicly about the hourly attorney rates, which had remained unchanged since 2004. Only through the intervention of other individuals, organizations, and legislators were the rates finally increased in 2023—more than 19 years after the last adjustment. By contrast, the institutional providers are permitted to make public statements about issues that affect indigent defense providers and to lobby City and State legislators for changes to laws and programs that benefit their clients. ACP Administrators have no such freedom to engage in advocacy.

## **VI. THE TASK FORCE FOUND THAT PANEL ATTORNEYS THINK SOME ASPECTS OF THE ACP WORK WELL.**

In discussions with the Task Force, panel attorneys were generally complimentary of ACP staff, including supervisory attorneys and other support staff who work with limited resources but nonetheless work tirelessly to make themselves available to support panel attorneys. Panel attorneys reported that ACP staff share relevant case law developments with panel members, assist with the engagement of specialized professionals, and, when possible, are present to provide support at the courthouse. Panel attorneys were particularly grateful for the work that ACP employees have done to develop CLE trainings and help panel attorneys when difficulties arise in

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<sup>17</sup> See also *About Us*, NYC Mayor's Office of Criminal Justice, <https://criminaljustice.cityofnewyork.us/about-us/> (last visited January 16, 2026).

cases. Panel attorneys also appreciate the freedom and independence they have as members of the 18-B panel as opposed to as employees of an institutional provider.

## **VII. CONCLUSION**

The New York City Assigned Counsel Program administration is in a state of crisis. The administration of the ACP fails to meet the ILS and ABA Standards. The ACP administration lacks independence, proper governance, and sufficient staffing to provide panel attorneys with the requisite level of support, training, mentorship, and access to experts and specialized professionals set forth by ILS and the ABA. These shortcomings are not merely administrative: they risk undermining the constitutional right to counsel and perpetuating unequal justice across the City.

The Task Force has concluded that the ACP must ultimately be restructured outside of the MOCJ under an independent governing board consistent with ILS and ABA principles. That process will take time, and immediate steps must be taken to stabilize and strengthen the ACP now: the City must move swiftly to access all available state funds, approve pending positions, expedite hiring, and empower the ACP to provide its panel attorneys with the same level of support, expertise, and consultation available to institutional providers. Only by acting with urgency and commitment can the City continue to ensure that the low-income New Yorkers who rely on ACP attorneys receive the representation they are guaranteed by law and deserve in practice.

At the same time, the City, the State, and the bar associations must work cooperatively to restructure the ACP so that it is protected from improper influence and pressures while also ensuring that the ACP has the necessary funding and resources to provide higher quality representation to their clients. That can be done while maintaining aspects of the ACP that are working well now.

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