

# Defense System Caseloads in 52 Upstate Counties and New York City, 2019

A Report to the Division of Budget

October 30, 2020

## Introduction

The Office of Indigent Legal Services (ILS) presents this report to the Division of Budget pursuant to its commitment to deliver an analysis of ‘baseline’ caseloads in defender providers across New York beginning in 2017. This is the third annual report. This report focuses on the jurisdictions covered by legislation passed in April 2017, which extends the reforms implemented in five counties following the settlement of the *Hurrell-Harring et al. v. State of New York et al.* lawsuit<sup>1</sup> to fifty-two upstate counties and New York City. It contains data on the caseloads of every provider of criminal representation in those localities in 2019, the numbers of attorneys employed to handle those caseloads, resources expended by providers, and historical data to show trends over time.

It is important to note at the outset of this report that the applied case weights are measured according to a slightly revised version of the 1973 National Advisory Council (NAC) standards of 150 felony assignments or 400 misdemeanor assignments or 25 appeals assignments per year.<sup>2</sup> These standards have lost credibility over time<sup>3</sup> and in New York they have been superseded by the significantly more precise and appropriate ILS Caseload Standards enunciated in *A Determination of Caseload Standards pursuant to § IV of the Hurrell-Harring v. The State of New York Settlement* (December 8, 2016) which differentiates cases by seven case types. We use the NAC standards in this report only because, as explained in our December 1, 2017 statewide plan for caseload relief submitted pursuant to Executive Law § 832 (4), most providers of mandated criminal defense representation currently lack the capacity to provide accurate case data under the seven categories of cases required by the new standards. This will change by 2021, as explained herein; but it is important to recognize that the caseload numbers generated under the discredited NAC standards are for baseline purposes only.

The report also contains analyses showing changes over time in the adequacy of resources available in providers of criminal defense representation. These analyses are performed in two different ways, reflecting a fundamental distinction between two different systems in place for supplying defense representation in New York. For ‘*institutional providers*,’ which are offices employing attorneys as staff members on either a full- or part-time basis to provide representation, we compare the total number of weighted cases to the total numbers of attorneys and support staff available. This results in a ‘weighted cases per attorney’ metric which can be interpreted as an indicator of resource sufficiency in these providers and can be tracked over time to monitor whether caseloads per attorney are going up or down.

*Assigned counsel programs* differ from institutional providers in that they do not deliver representation through the use of staff attorneys whose employment status is knowable – i.e., full or part-time, etc. This poses a challenge in assessing weighted cases per attorney. Instead, these programs deliver representation using private attorneys who are paid an hourly statutory rate to represent clients on

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<sup>1</sup> See N.Y Executive Law §832(4).

<sup>2</sup> This slightly revised version of 367 weighted cases (or 138 felonies, or 23 appeals) in any given year was adopted by the ILS Board in September 2014. This revised NAC caseload standard takes into account the need to factor in supervisory resources. For a more comprehensive explanation see *A Determination of Caseload Standards pursuant to §IV of the Hurrell-Harring v. The State of New York Settlement*, December 8, 2016, Section IV, p. 12.

<sup>3</sup> See *A Determination of Caseload Standards pursuant to §IV of the Hurrell-Harring v. The State of New York Settlement*, Section I, pp. 2-5.

cases to which they are assigned.<sup>4</sup> Accordingly, we compare the total number of cases in these programs to the amounts expended on representation, resulting in a ‘dollars per case’ metric which can also be interpreted as an indicator of resource sufficiency in providers, and can be tracked over time to monitor whether resources are becoming more or less ample.

We do not, in this report, make specific judgments about whether resource levels in providers are adequate, or how much additional resources might be needed to make them so. These analyses were already performed and presented in our December 1, 2017 *Plan for Implementation of Caseload Standards in New York State*. Rather, the analyses we present here are a continuation of the ‘baseline data’ originally reported in 2017, 2018, and 2019 against which future changes in the resources that providers dedicate to cases can be judged. As the statewide expansion of the *Hurrell-Harring* reforms gets underway, we expect the numbers of cases per attorney in institutional providers to fall, and the dollars expended per case in assigned counsel providers to rise.

These expectations are hedged by important caveats. First, while the metrics presented in this report will be sufficient to show progress toward the general goals of caseload reform in New York, they are limited in their precision. This is because most providers of representation across the state provide counsel both to defendants in criminal cases, and also to parent respondents in Family Court. While the *Hurrell-Harring* expansion legislation targets funding toward the improvement of criminal representation exclusively, our data do not allow us to separate out the staffing or expenditures of providers dedicated to criminal representation from those dedicated to representation in Family Court. Accordingly, while the impact of the statewide expansion legislation ought to be visible over time in the metrics we present here for this report, it is not yet feasible to separate out the impact that the reform is having on criminal representation from contemporaneous work by providers in Family Court.

Second, we will begin collecting more refined data from providers beginning in 2021 which will permit us to distinguish staffing and expenditures dedicated to criminal and Family Court representation in calendar year 2020. Also, at that time, we will collect data on provider caseloads that will distinguish the seven types of cases in the ILS Caseload Standards, permitting us to apply a weighting system to the caseload data published in our 2016 report *A Determination of Caseload Standards pursuant to § IV of the Hurrell-Harring v. The State of New York Settlement*. Thus, the metrics used in this report, though they may provide suggestive evidence of the trajectory of caseload changes across the state, will in 2021 be supplanted by improved measurements.

The analyses that follow are therefore presented as the third year of the three-year ‘baseline data’ against which to judge the direction, though not the precise magnitude, of progress toward caseload standards compliance among providers of defense representation across New York.

## **The Data**

This report relies on data collected annually by ILS on the caseloads, staffing and expenditures of providers of criminal representation in the fifty-two upstate counties for the calendar years 2012-2019, and in New York City for the calendar years 2017-2019. The data include the reported numbers of homicide, felony, misdemeanor/violation, Family Court and criminal appeal cases opened in each provider in the year in question; the number of attorney and non-attorney staff in each institutional

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<sup>4</sup> See N.Y. County Law §722-b, which sets the hourly rate for assigned counsel attorneys.

provider on July 1 of the year in question, expressed in full-time equivalent terms; and the total expended by the provider across the whole year. Although ILS collected data for all the counties and providers in the state (totaling 159 providers in 2019), we omit from this report any data relating to any provider in the five *Hurrell-Harring* defendant counties (n=11), and any provider that engaged solely in Family Court representation (n=11). Thus, our dataset is comprised of 137 providers of representation.

The specific techniques used to collect these data were consistent across the years in which the data were collected and were as follows.

- First, ILS received the annual reports, known historically as the ‘UCS-195’ form, directly from providers and extracted from those reports data on caseloads and expenditures for all providers where available. Unlike previous years, this year’s annual report also included providers’ attorney and non-attorney staffing numbers.
- Second, where those reports were missing, incomplete, facially inaccurate, or combine statistics for multiple providers into a single form, ILS followed up with providers for clarification and corrections.
- Third, ILS sought and received appellate case counts from the clerks of the Second, Third and Fourth Departments who are able to supply consistent counts of cases broken down by providers within counties. (First Department appellate caseloads were obtained from providers of representation directly.)

The dataset itself is organized by ‘provider’ of representation: where we speak in this report about caseloads, staffing and expenditures, the implicit understanding throughout is that these are properties of individual providers of defense representation. The definition of the term ‘provider’ cannot be taken for granted, however. To clarify its need for data to be broken down appropriately by provider, ILS has developed the following definition of ‘provider’:

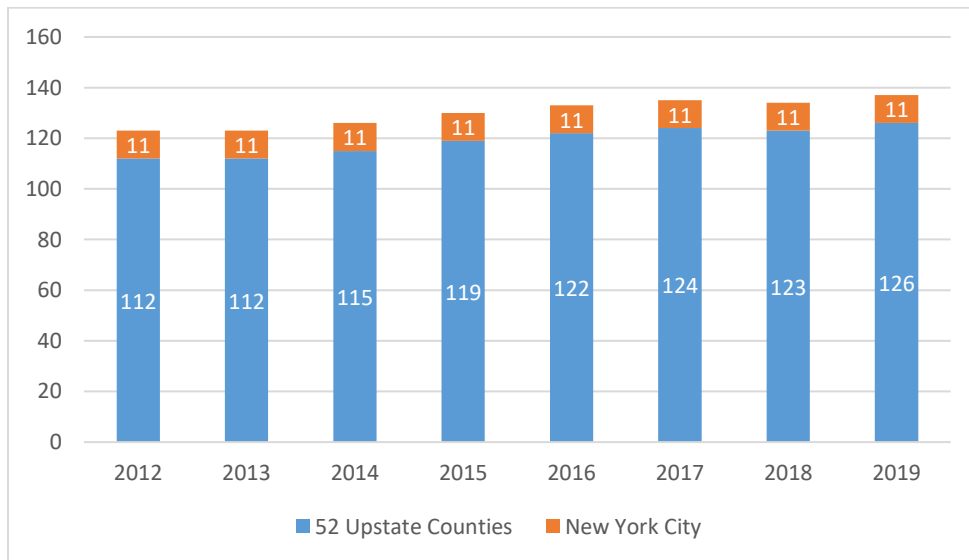
*A provider is a public defender office, conflict defender office, legal aid society, assigned counsel program, or any other office, firm, individual, or entity that provides representation to persons financially unable to afford counsel in criminal or Family Court cases as defined in NY County Law 18-b. We consider assigned counsel ‘providers’ to exist in counties even where no formal administration exists and judges assign counsel ad hoc. Except in New York City, we consider providers to be specific to a county. Where a single organization supplies representation in multiple counties (sometimes called a ‘regional’ program), separate data must be submitted for services provided by that organization in each county respectively. Where one person or entity oversees two or more providers according to this definition (as, for example, where public defender offices oversee assigned counsel systems) separate data must be submitted for each provider.*

Across the years for which the data have been gathered, the number of providers of representation has changed slightly, generally as the result of the addition of new programs providing representation. In 2019, ILS counted 137 providers of mandated criminal representation across the fifty-two upstate counties and New York City. Twenty-four of these were dedicated only to criminal representation; the remaining 113 carried a mixture of Family Court and criminal cases. Figure 1 shows the trend in the number of providers of representation across these counties and New York City since 2012, while Table 1 notes the specific changes in providers that occurred each year.

Table 1: Provider changes by year.

Year	New providers created
2014	<ul style="list-style-type: none"> <li>Appellate representation programs in Cattaraugus, Genesee and Orleans Counties.</li> </ul>
2015	<ul style="list-style-type: none"> <li>Appellate representation programs in Otsego, Saint Lawrence and Warren Counties.</li> <li>Yates County Conflict Defender.</li> </ul>
2016	<ul style="list-style-type: none"> <li>Franklin County Alternate Conflict Defender.</li> <li>Steuben County Conflict Defender.</li> <li>Appellate representation program in Fulton County.</li> </ul>
2017	<ul style="list-style-type: none"> <li>Third Alternate Conflict Defender in Columbia County (program existed since 2015 but took criminal cases for the first time).</li> <li>Appellate representation program in Cortland County.</li> </ul>
2018	<ul style="list-style-type: none"> <li>Appellate representation in Livingston County.</li> <li>Franklin County Alternate Conflict Defender Office abolished.</li> <li>Third Alternate Conflict Defender in Columbia County only takes Family Court cases.</li> </ul>
2019	<ul style="list-style-type: none"> <li>Public Defender in Clinton County.</li> <li>Public Defender in Delaware County.</li> <li>Appellate representation program in Saratoga County.</li> </ul>

Figure 1: Providers of representation by year, family court providers and Hurrell-Harring defendant counties excluded.



In previous years, ILS has needed to substitute in data from the most recent prior year available in order to create a complete dataset for analysis (see *Defense System Caseloads in 52 Upstate Counties and New York City, 2017*).<sup>5</sup> This year, ILS was able to obtain caseload, staffing, and expenditure data from 133 providers in the state and substituted data from previous years for four providers.<sup>6</sup>

We also collected caseload, staffing and expenditure data for New York City providers of representation. In so doing, we were cognizant of the fact that some NYC providers not only provide criminal defense representation, but also legal representation in civil matters such as the denial or loss of public housing, employment, or public benefits, as well as immigration proceedings. These providers recognize that clients represented on criminal cases may also face various civil legal issues, and therefore seek to not only provide criminal defense representation but to also support and assist their clients with the non-criminal legal problems that they may face. Thus, some of the NYC institutional providers not only have a criminal defense practice, but also a civil legal services practice that goes beyond the legal representation mandated under County Law article 18-B. To ensure that the data we collected about staffing pertains only to the criminal defense services mandated by County Law 18-b, we instructed the NYC providers as follows:

- Please count *only* staff that are providing mandated representation pursuant to County Law 18-B. Staff engaged in immigration or housing advocacy, for example, should not be counted, even if they are working with clients that also have criminal cases pending.
- If staff members split their time between mandated and other-than-mandated work, please count them toward the total in the same way you would a part-time person: thus, if 50% of a full-time attorney's time is spent in mandated representation and the other 50% is spent on immigration, please count them as 0.5 FTE.

In the analysis section that follows, we present data on the caseloads, staffing and expenditures of providers of defense across New York, distinguishing institutional provider, assigned counsel, and upstate and New York City data where appropriate and useful. We then present two metrics reflecting resource adequacy in defense providers – weighted cases per attorney in institutional providers (Figure 13) and spending per weighted case in assigned counsel providers (Figure 14). It is by repeated assessment of these latter metrics that we propose to measure the progress of caseload standards implementation in coming years.

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<sup>5</sup> There are six exceptions to this rule. In 2012, five providers did not supply any data, and, having no prior years from which to substitute figures, those data are simply missing in our dataset. In 2015, similarly, the Yates County Conflict Defender was founded, but did not supply any data, and did not have any data from prior years we could use. Those values are also missing in our dataset, therefore.

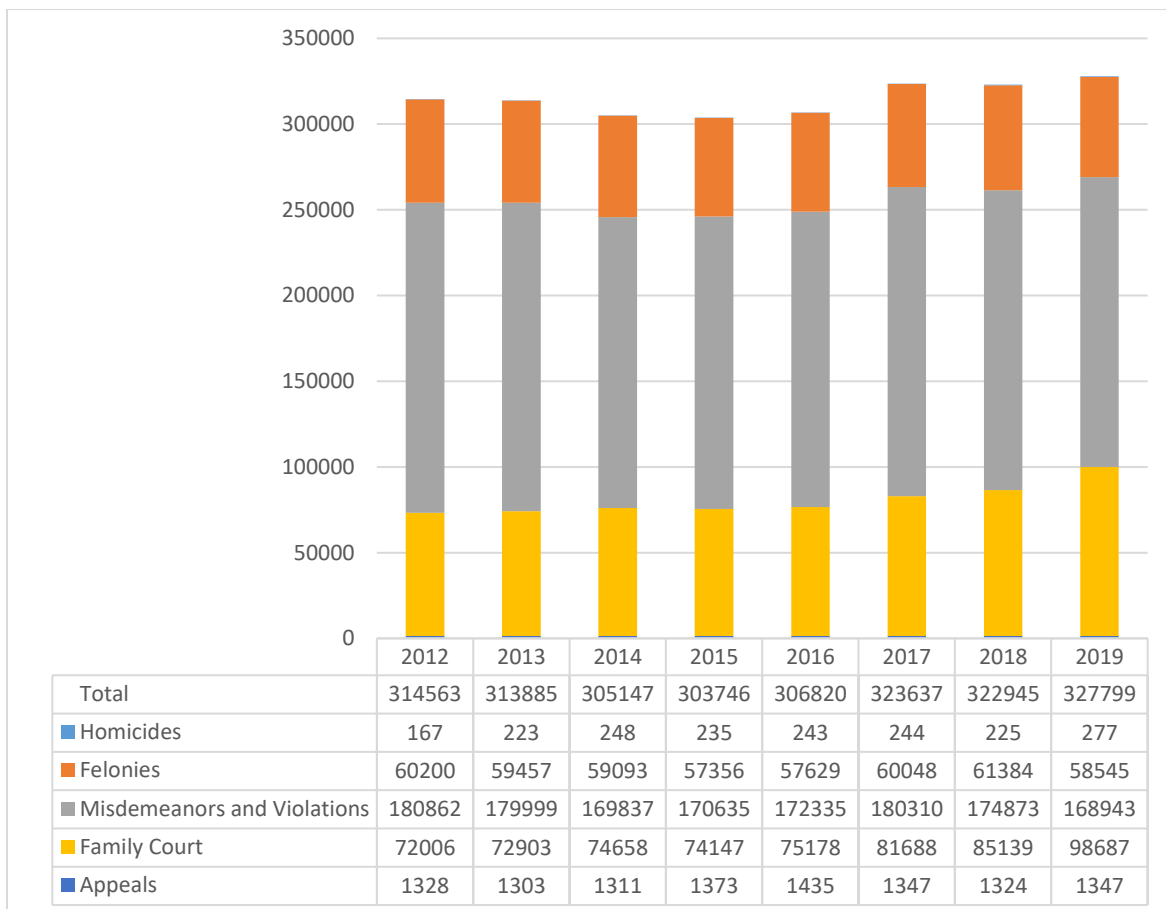
<sup>6</sup> For an additional nine providers, there were one or two missing data points, and ILS substituted 2018 data for those missing data points.

## I. Caseloads

### Providers' caseloads in the fifty-two upstate counties in New York

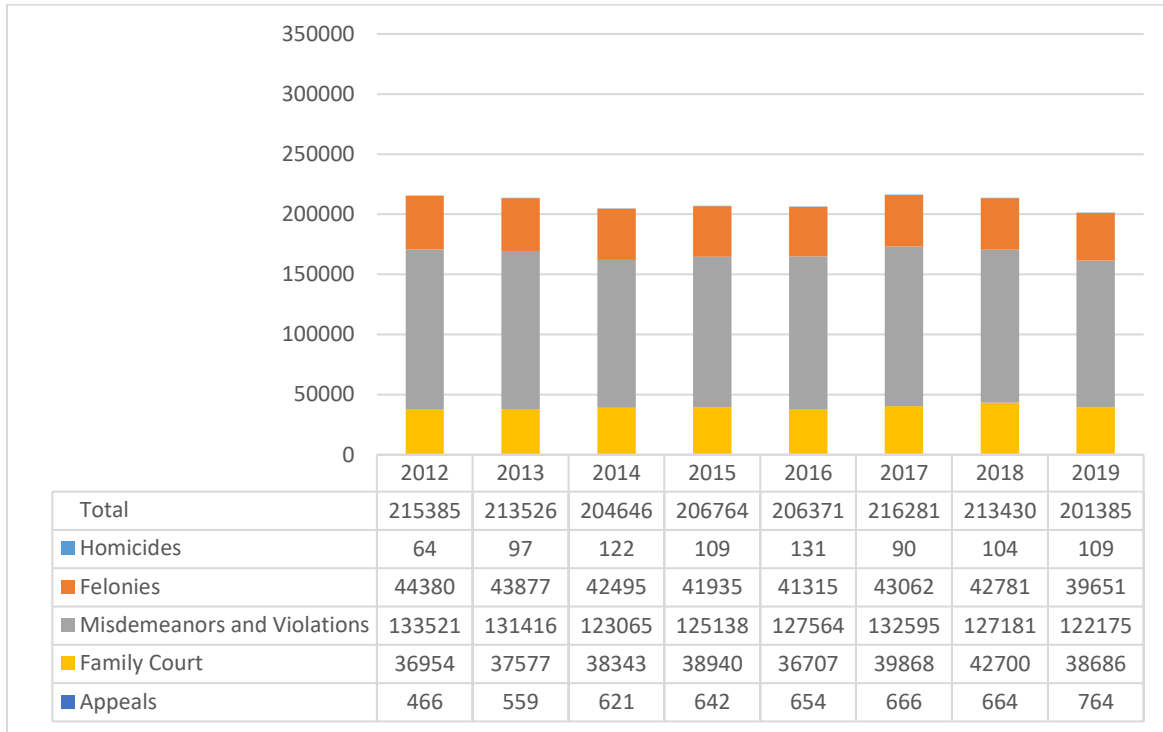
Since 2012, ILS has collected data on providers' caseloads and monitored annual fluctuations in these caseloads. Figure 2 presents the sum of total caseloads for the three criminal categories (homicides; felonies; misdemeanors and violations), Family Court and appeals for all providers of mandated criminal representation in the fifty-two upstate counties in New York. It includes the caseloads for both institutional providers and assigned counsel programs.

Figure 2: Total Caseloads Handled by Providers of Criminal Representation in Fifty-two Upstate Counties, 2012-2019

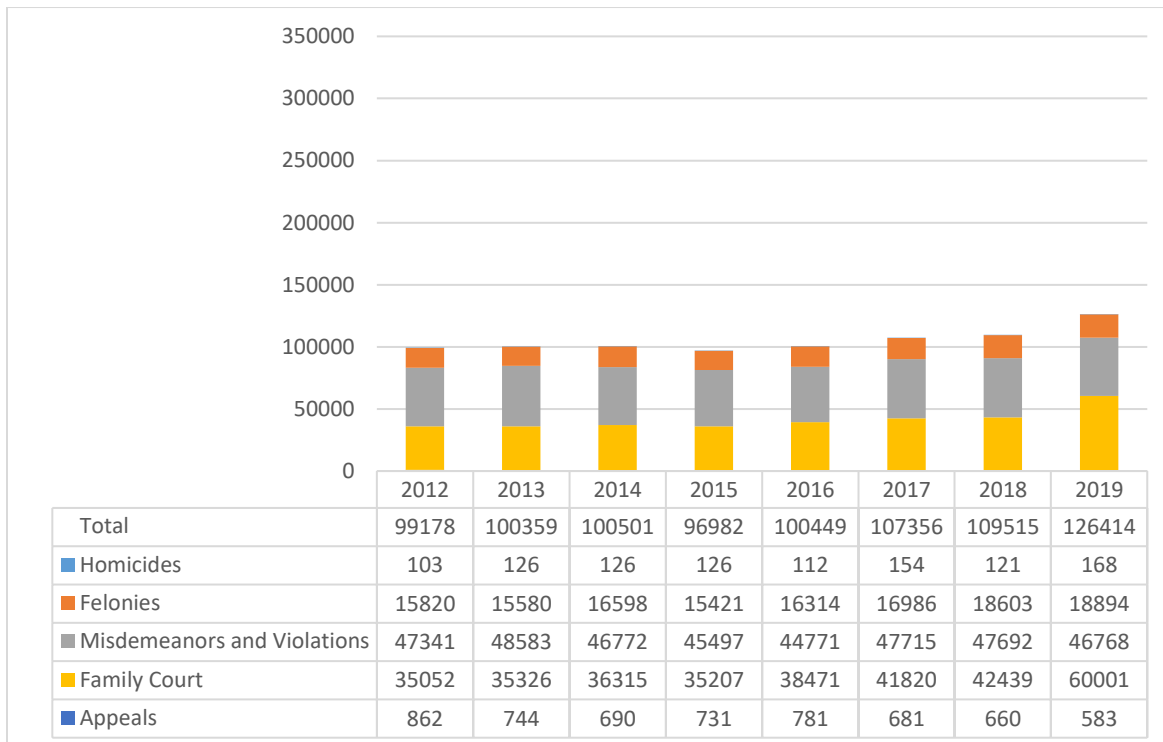


In the following two figures, the total caseloads for the three criminal categories, Family Court, and appeals are presented *separately* for institutional providers (Figure 3) and assigned counsel programs (Figure 4).

**Figure 3: Total Caseloads Handled by Institutional Providers of Criminal Representation in Fifty-Two Upstate Counties, 2012-2019**



**Figure 4: Total Caseloads Handled by Assigned Counsel Providers of Criminal Representation in Fifty-Two Upstate Counties, 2012-2019**





### ***Highlights of providers' caseloads in the fifty-two upstate counties:***

- As depicted in Figure 2, the **total caseload** (i.e., including the three criminal categories, Family Court, and appeals) handled by all providers of mandated criminal representation in the fifty-two counties **has remained fairly consistent** over the past eight years, ranging between **303,746** (in 2015) **and 327,799** (in 2019) **cases**.
- Also as depicted in Figure 2, in 2019 the majority of providers' caseloads consist of **misdemeanors and violations (51.5% of the total caseload)**, followed by **Family Court cases (30.1%)** and **felonies (17.9%)**<sup>7</sup>.
- When examining the caseloads separately for institutional providers (Figure 3) and assigned counsel programs (Figure 4), a different picture emerges. In 2019, institutional providers proportionally handled the most **misdemeanors and violations (60.7%)**, followed by **felonies (19.7%)** and **Family Court cases (19.2%)**. In contrast, assigned counsel programs proportionally handled the most **Family Court cases (47.5%)**, followed by **misdemeanors and violations (37.0%)** and **felonies (14.9%)**<sup>8</sup>.
- Annually, **roughly one third** of the total volume of cases is handled by **assigned counsel programs**, and about **two thirds** by **institutional providers**. It is important to note that usually, there is one assigned counsel provider per county whereas most counties have one or more institutional providers.<sup>9</sup>

### **Providers' caseloads in New York City**

The following three figures present caseload information for New York City for 2019. Figure 5 presents the sum of total caseloads for the three caseload categories (homicides; felonies; misdemeanors and violations) as well as for Family Court and appeals for all providers of mandated criminal representation. It includes the caseloads for both institutional providers and assigned counsel programs.

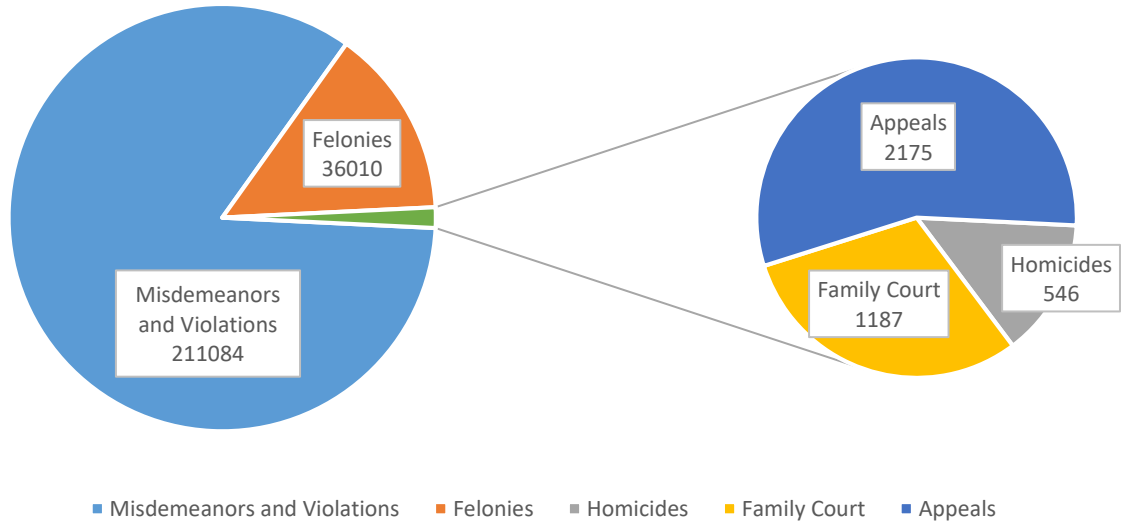
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<sup>7</sup> Please note that there are eight providers statewide that focus on Family Court cases exclusively. These providers and their caseload numbers are not included here as this report only includes providers of mandated criminal representation.

<sup>8</sup> However, please note that 2019 is the first year for which Family Court cases rank first and misdemeanors and violations rank second. From 2012 to 2018, this ranking was reversed with misdemeanors and violations being first and Family Court cases second.

<sup>9</sup> Except for Cayuga, Hamilton, Herkimer, Oswego, Schoharie and Tompkins County, who have one assigned counsel program and no institutional providers.

Figure 5: Total Caseloads Handled by Providers of Criminal Representation in New York City in 2019



In Figure 6 and 7, the total caseloads in the three criminal categories, Family Court, and appeals are presented *separately* for institutional providers (Figure 6) and assigned counsel programs (Figure 7) in New York City.

Figure 6: Total Caseloads Handled by Institutional Providers of Criminal Representation in New York City in 2019

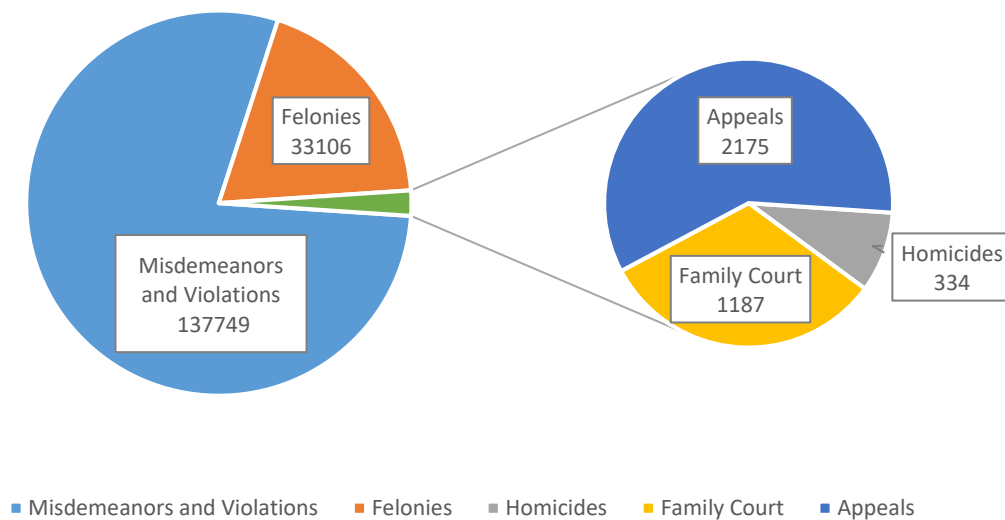
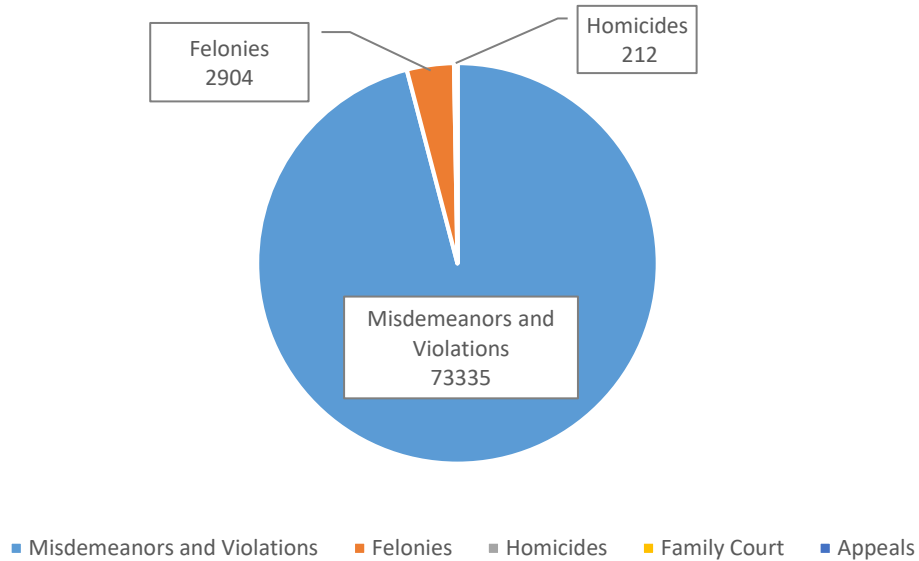


Figure 7 Total Caseloads Handled by Assigned Counsel Programs in New York City in 2019



**Highlights of providers’ caseloads in New York City:**

- The majority of providers’ caseloads consist of **misdemeanors and violations (84.1% of the total caseload for all providers in 2019)**, followed by **felonies (14.3%)<sup>10</sup>**.
- In New York City, annually **roughly one third** of the total volume of cases is handled by its two **assigned counsel programs**, and about **two thirds** by its nine **institutional providers** that are included in this report.<sup>11</sup>

**II. Staffing**

**Attorney and non-attorney staff in the fifty-two upstate counties and New York City**

In addition to providers’ caseloads, it is relevant to know how many staff members are handling these caseloads. Figure 8 shows the number of full-time equivalent attorney and non-attorney staff for 2012 to 2019 for all institutional providers across the fifty-two upstate counties.

<sup>10</sup> Please note that New York City has three providers which focus on Family Court cases exclusively. These providers and their caseloads are not included here as this report only includes providers of mandated criminal representation.

<sup>11</sup> Again, please note that New York City has another three providers which focus on Family Court cases exclusively (as mentioned in the above footnote), and that these are not included in this report.

Figure 8: Full-Time Equivalent Attorney and Non-Attorney Staff in Institutional Providers in Fifty-Two Upstate Counties.

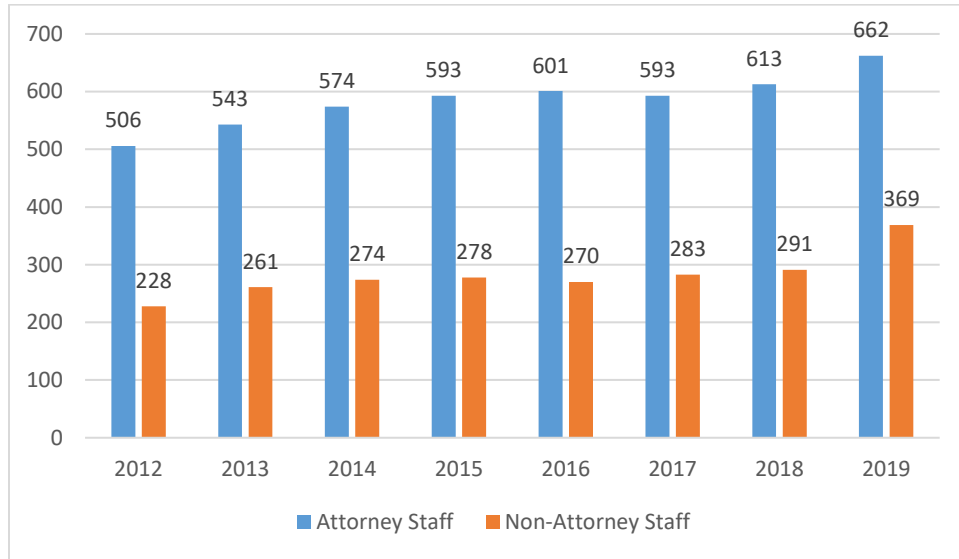
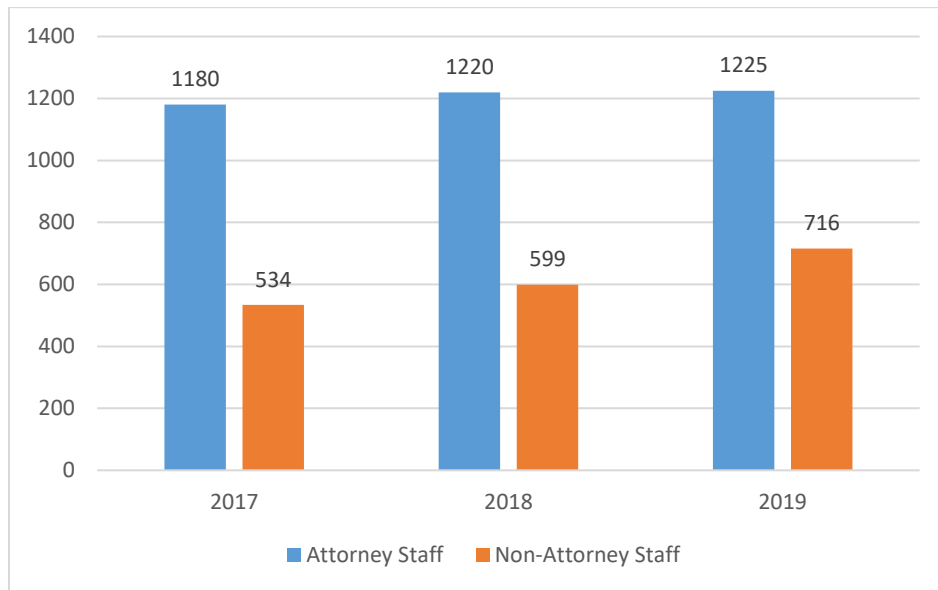


Figure 9 presents the same data for New York City, for which data are available as of 2017.

Figure 9: Full-Time Equivalent Attorney and Non-Attorney Staff in Institutional Providers in New York City.



**Staffing highlights:**

- The number of attorneys on staff at institutional providers in the fifty-two upstate counties has **increased substantially from 506 full-time equivalent attorneys in 2012 to 662 attorneys in 2019** (Figure 8). This is an **increase of 30.8%** over the past eight years.

- The same is true for non-attorney staff, increasing from **228 full-time equivalent non-attorneys in 2012 to 369 in 2019** in the upstate counties (Figure 8). This is an **increase of 61.8%** over the past eight years.
- For New York City, the number of full-time equivalent **attorneys** has slightly **increased from 1180 in 2017 to 1225 in 2019** (Figure 9). The number of full-time equivalent **non-attorneys** has **increased significantly from 534 in 2017 to 716 in 2019** (Figure 9). This is an **increase of 34.1%** over the past three years.

### III. Expenditures

#### ***Expenditures in the fifty-two upstate counties and New York City***

After presenting providers’ caseload and staffing numbers, we now turn to the expenditures associated with it. All of the expenditures presented in the following figures include 1) expenditures on personal services (i.e., salaries, wages, and fringe benefits for attorneys, investigators, social workers and other staff members employed by the provider), 2) expenditures on all other than personal services (i.e., expenditures for attorneys, investigators, social workers and other staff members *not* employed by, but *on contract with*, the provider), and 3) any other expenditures attendant to mandated representation. These spending figures are for all expenditures, regardless of revenue source, and thus reflect a combination of funding from both state and local sources. Figure 10 presents the total spending for assigned counsel and institutional providers in the *fifty-seven* upstate counties, thus *including* the *Hurrell-Harring* counties. The spending figures in Figure 10 also include spending for providers that exclusively engage in Family Court representation.

**Figure 10: Total Spending in Institutional and Assigned Counsel Providers, Fifty-Seven Upstate Counties, 2012-2019**

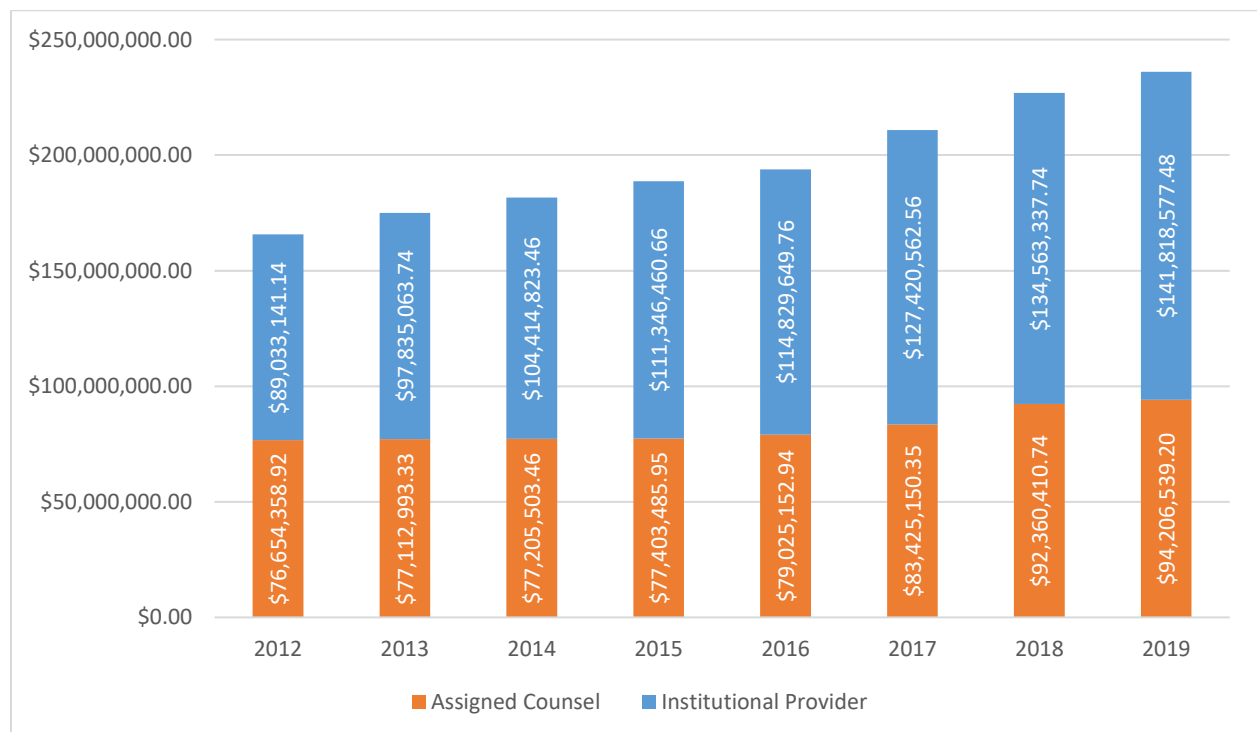
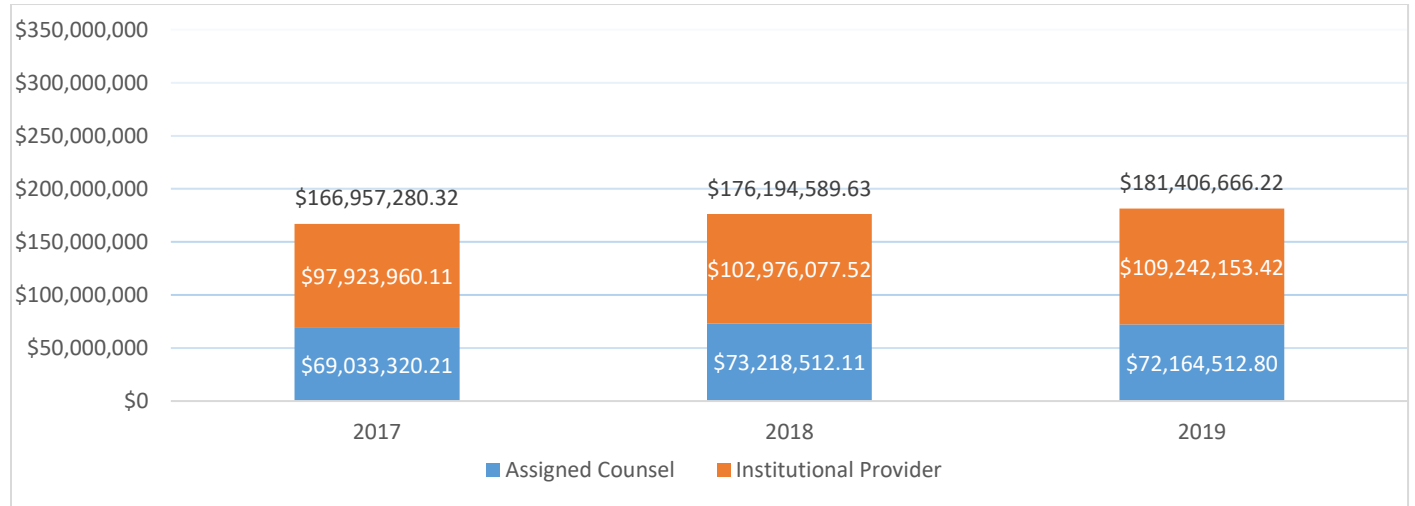
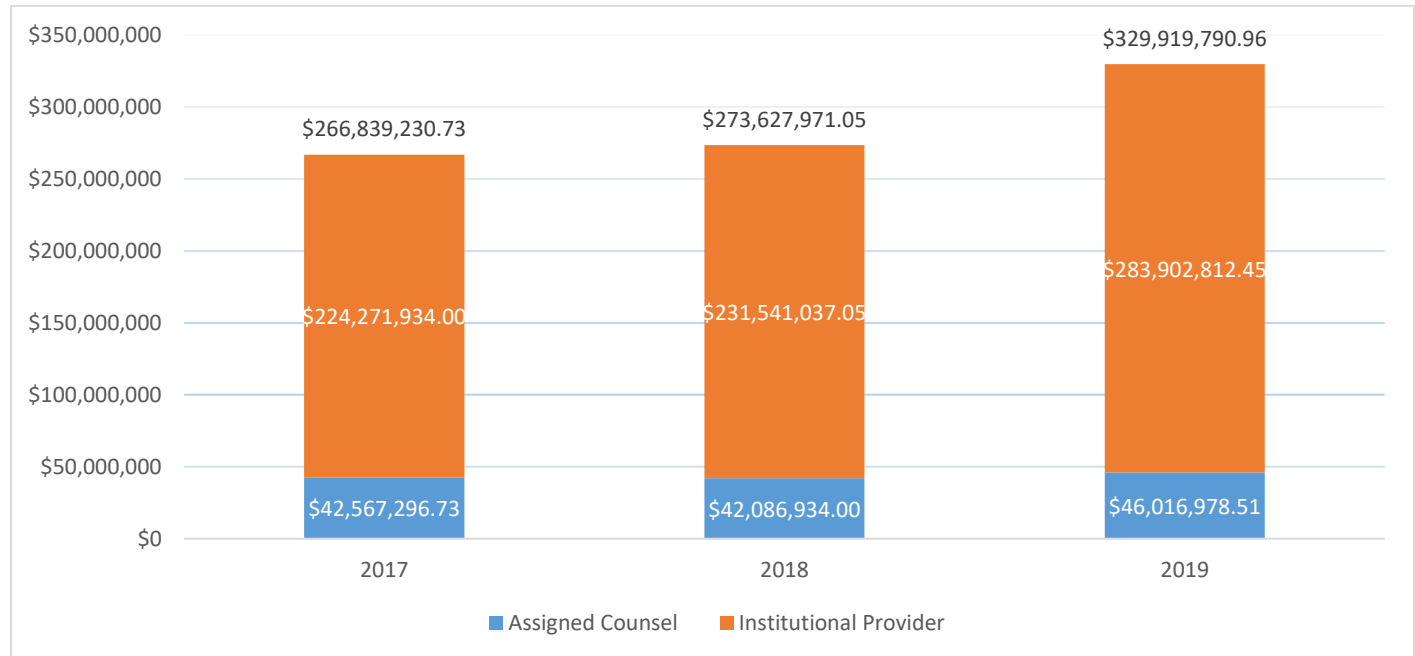


Figure 11 presents the total spending in the fifty-two upstate counties for assigned counsel and institutional providers from 2017 to 2019; Figure 12 does the same for New York City.

*Figure 11: Total Spending in Assigned Counsel and Institutional Providers in Fifty-Two Upstate Counties, 2017-2019*



*Figure 12: Total Spending in Assigned Counsel and Institutional Providers in New York City, 2017-2019*



**Expenditures highlights:**

- **Total spending in the fifty-seven upstate counties** (including the *Hurrell-Harring* counties and providers exclusively engaging in Family Court representation) **consistently increased** from 2012 to 2019 for both assigned counsel programs and institutional providers (Figure 10).

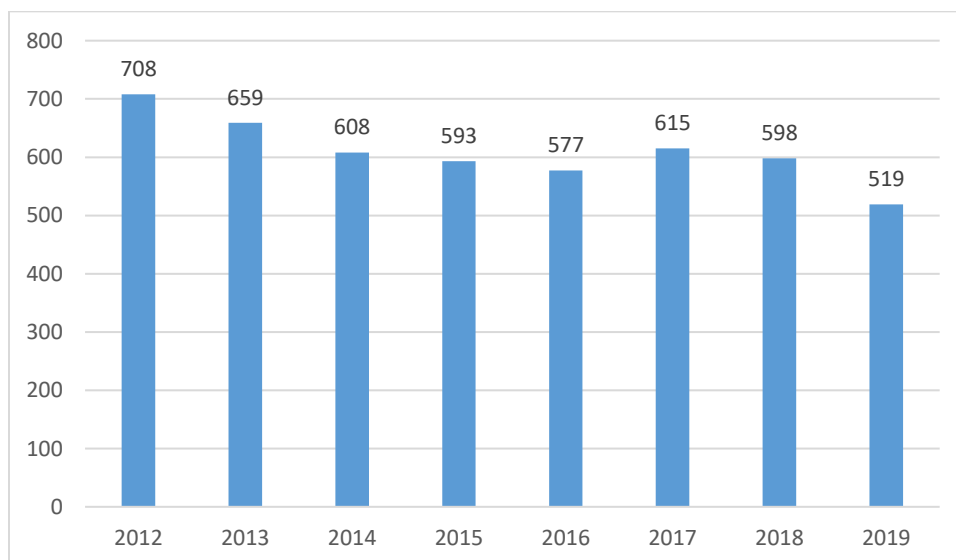
- **Total spending in the *fifty-two* upstate counties consistently increased** from about \$167 million for all providers in 2017, to about \$176 million in 2018, and about \$181.5 million in 2019 (Figure 11).
- **Total spending in New York City increased substantially** from about \$267 million for all providers in 2017 to almost \$330 million in 2019 (Figure 12).
- **The majority of the total spending is done by institutional providers.**

#### IV. Weighted numbers

In this section, two types of weighted numbers are presented to reflect the extent to which criminal defense providers are moving towards, or away from, compliance with caseload standards. Figure 13 shows the average number of weighted cases per attorney in the fifty-two upstate counties. The term ‘weighted cases’ refers to an adjustment that is applied to the caseload numbers of individual providers. By this measurement, misdemeanors and violations are weighted at ‘1’, while felony cases are weighted at 2.67 in reflection of their greater seriousness and the heavier demands they impose on attorney workload. Family Court cases are also weighted at 2.67, while appeals are weighted at 16.

This weighting measurement has been used by ILS based upon its use by defense providers around the country for some decades. In New York however, it has been superseded for criminal cases by the new weighting measurement described in ILS’ 2016 report *A Determination of Caseload Standards pursuant to § IV of the Hurrell-Harring v. The State of New York Settlement*. We expect to have sufficient data to assess provider compliance with these more recent caseload standards by 2021. Lacking such data at present, we utilized the older weighting scheme described in the above to create Figures 13 and 14.<sup>12</sup>

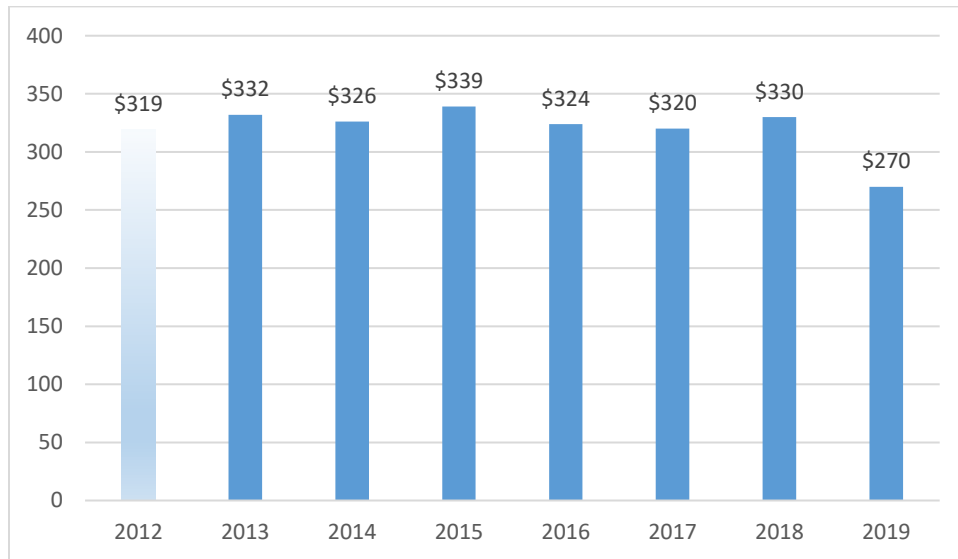
Figure 13: Weighted Cases Per Attorney in Institutional Providers in Fifty-Two Upstate Counties, 2012-2019



<sup>12</sup> Please note that prior to this year, an inadvertent mistake occurred in the calculation of the weighted numbers and that therefore, the data in the Figures 13 and 14 have been readjusted.

For *assigned counsel programs*, due to their different organizational structure, we present the average amount of US dollars spent per weighted case. Figure 14 presents the average amount spent per weighted case across all assigned counsel programs in the fifty-two upstate counties. Caseloads were weighted following the same method applied to Figure 13.

Figure 14: Average Spending Per Weighted Case in Assigned Counsel Programs in Fifty-Two Upstate Counties, 2012-2019



**Weighted numbers highlights:**

- For institutional providers in the fifty-two upstate counties, **the weighted caseloads per attorney** were generally **decreasing** from 2012 to 2016, though in 2017 they increased again. **They decreased in 2018 and even more significantly in 2019**, with 598 weighted cases per attorney in 2018 to 519 in 2019 (Figure 13). This suggests **substantial caseload relief** for attorneys in the fifty-two upstate counties since the implementation of the statewide expansion of the *Hurrell-Harring* reforms.
- For assigned counsel programs in the fifty-two upstate counties, **the average spending per weighted case** remained relatively stable from 2013 to 2018 (Figure 14). The year **2019** shows an average spending of \$270 per case, which is a **decrease of \$60 per weighted case** compared to the year prior. **However, this decrease in average spending per case is largely due to the significant increase in the number of Family Court cases handled by upstate assigned counsel programs in 2019.** The number of Family Court cases these providers handled increased from 42,439 in 2018 to 60,001 in 2019; **an increase of 41.4%**. This increase impacts the average spending per weighted cases in two ways. First, because Family Court cases are weighed the same as felonies, an increase in Family Court cases has a notable impact on average spending per weighted case. Second, the infusion of state funding is for criminal cases only and as a result, assigned counsel attorneys are able to spend more time and resources on these cases,



but not their Family Court cases, which has not seen a commensurate increase in state funding. Thus, in 2019, when the overall composition of assigned counsel program cases flipped from mostly criminal cases to mostly Family Court cases (Figure 4), the average spending per case decreased.

## **Conclusion**

The data presented in this report resulted in two weighted metrics which assess whether criminal defense providers are moving toward, or away from, compliance with caseload standards in the fifty-two upstate counties and New York City.

First, for institutional providers, weighted caseloads per attorney were calculated. For the upstate counties, the trend over 2012 to 2019 demonstrated that for the years 2012 to 2016, the weighted caseloads were generally decreasing, though in 2017 they increased again. They decreased in 2018 (to 598 cases) and even more significantly in 2019 (to 519 cases). This suggests substantial caseload relief for attorneys in the fifty-two upstate counties since the implementation of the statewide expansion of the *Hurrell-Harring* reforms. This is due to the significant increase in attorney staff positions, from 506 in 2012 to 662 in 2019 (Figure 8). There has also been a significant increase in the number of non-attorney staff positions at institutional providers in these counties. This additional support from non-attorneys, including investigators, social workers, and administrative support staff, relieves attorney workloads indirectly, though still meaningfully.

Second, for assigned counsel programs, the average amount of spending per case was calculated. For the upstate counties, the trend demonstrated that before 2019 the average spending per case remained relatively stable. However, in 2019, average spending decreased by \$60 per case. This decrease in average spending per case is largely due to the significant increase in the number of Family Court cases handled by upstate assigned counsel programs in 2019. While there has been an infusion of state funding for criminal cases, there has been no such infusion for Family Court cases. The numbers presented here suggest a need for additional funding for mandated parental representation in New York State to fully achieve the goal of caseload relief.

# **APPENDIX**

**Complete Data for All Providers 2019**

County	Agency	Caseload numbers					Staffing			Weighted numbers		
		Homicides	Felonies	Misdemeanors and violations	Family Court	Appellate	Attorney staff	Non-attorney staff	Total spending in USD	Total weighted cases	Weighted cases per attorney	Spending per weighted case in USD
<b>Albany</b>	Assigned Counsel	3	123	64	1581	36	0.5	0	1,307,448.00	5198	N/A	252
	Conflict Defender	1	315	413	664	0	9	2	1,234,700.60	3030	337	408
	Public Defender	0	2257	6579	0	16	31	10	2,984,529.67	12861	415	232
<b>Allegany</b>	Assigned Counsel	0	42	30	109	3	1	1	416,434.00	481	N/A	865
	Allegany-Cattaraugus Legal Aid	0	47	71	297	0	2	0	235,000.00	989	495	238
	Public Defender	3	251	601	456	0	5	3	898,760.00	2497	499	360
<b>Broome</b>	Assigned Counsel	4	440	896	0	32	0	0	1,278,848.00	2593	N/A	493
	Public Defender	5	1745	5938	3	4	16	17	1,703,551.37	10683	668	159
<b>Cattaraugus</b>	Assigned Counsel	0	319	549	648	0	1	0	778,168.00	3131	N/A	249
	Public Defender	1	573	1888	2674	0	6.5	8	1,698,985.52	10560	1625	161
	Regional Appellate Program	0	3	0	0	4	0.69	0	43,750.00	72	104	608

County	Agency	Caseload numbers					Staffing			Weighted numbers		
		Homicides	Felonies	Misdemeanors and violations	Family Court	Appellate	Attorney staff	Non-attorney staff	Total spending in USD	Total weighted cases	Weighted cases per attorney	Spending per weighted case in USD
<b>Cayuga</b>	Assigned Counsel	3	159	1217	684	30	0	2	1,135,105.00	3956	N/A	287
<b>Chautauqua</b>	Assigned Counsel	2	184	300	741	4	0	0	790,620.29	2839	N/A	278
	Public Defender	0	1426	5010	1970	3	15	14	3,165,791.47	14125	942	224
<b>Chemung</b>	Assigned Counsel	0	98	176	251	10	0	0	534,573.86	1268	N/A	422
	Public Advocate	0	147	515	592	0	4	2	541,201.66	2488	622	218
	Public Defender	0	494	1956	393	0	6	4	728,246.29	4324	721	168
<b>Chenango</b>	Assigned Counsel	0	37	72	148	0	0	0	387,236.72	566	N/A	684
	Public Defender	0	176	633	321	0	4	3	392,495.08	1960	490	200
<b>Clinton</b>	Assigned Counsel	2	830	2271	969	14	10	0	2,059,020.00	7304	N/A	282
	Public Defender	0	339	1601	0	0	6	5	1,000,933.00	2506	418	399
<b>Columbia</b>	Assigned Counsel	0	0	0	258	4	2	1	551,336.01	753	N/A	732

County	Agency	Caseload numbers					Staffing			Weighted numbers		
		Homicides	Felonies	Misdemeanors and violations	Family Court	Appellate	Attorney staff	Non-attorney staff	Total spending in USD	Total weighted cases	Weighted cases per attorney	Spending per weighted case in USD
<b>Columbia</b>	Conflict Defender	1	26	56	4	0	0.5	0	63,521.00	139	278	458
	1st Alternate Conflict Defender	0	16	10	2	0	0.5	0	66,197.00	58	116	1140
	2nd Alternate Conflict Defender	0	43	78	5	0	0.5	0	64,109.63	206	412	311
	Public Defender	0	328	1619	495	2	5	5	1,171,014.80	3848	770	304
<b>Cortland</b>	Assigned Counsel	0	167	594	588	0	0.5	2	750,351.00	2610	N/A	288
	Public Defender	0	252	944	537	0	6	4	791,031.00	3051	508	259
	Rural Law Center	0	5	3	7	3	0.233	0.1	31,806.00	83	356	383
<b>Delaware</b>	Assigned Counsel	1	204	540	245	0	0	0	826,762.33	1742	N/A	475
	Public Defender	0	26	70	7	0	4	2	147,156.72	158	40	931
<b>Dutchess</b>	Assigned Counsel	0	169	176	3244	33	1	0	1,658,908.23	9817	N/A	169
	Public Defender	5	1277	5480	2694	15	26	22	6,432,658.98	16339	628	394

County	Agency	Caseload numbers					Staffing			Weighted numbers		
		Homicides	Felonies	Misdemeanors and violations	Family Court	Appellate	Attorney staff	Non-attorney staff	Total spending in USD	Total weighted cases	Weighted cases per attorney	Spending per weighted case in USD
<b>Erie</b>	Erie County Bar Association	48	4833	10286	25334	5	0	23.6	10,734,363.00	91040	N/A	118
	Legal Aid Bureau of Buffalo	31	2193	8920	21	146	36.88	18.86	6,223,765.06	17250	468	361
<b>Essex</b>	Assigned Counsel	2	64	68	666	7	0	0	570,016.00	2134	N/A	267
	Public Defender	0	160	773	0	0	4	2	506,678.73	1200	300	422
<b>Franklin</b>	Assigned Counsel	0	80	232	226	13	0	1	430,819.52	1257	N/A	343
	Conflict Defender	0	65	163	109	0	1	1	168,947.63	628	628	269
	Public Defender	0	220	629	244	0	2	3	514,687.13	1868	934	276
<b>Fulton</b>	Assigned Counsel	0	108	119	463	0	0	0	411,811.71	1644	N/A	251
	Public Defender	0	190	797	563	0	5.284	1	817,697.60	2808	531	291
	Rural Law Center	0	8	0	3	7	0.2	0.08	25,445.00	141	707	180
<b>Genesee</b>	Assigned Counsel	1	160	275	443	1	0	0	399,124.06	1904	N/A	210

County	Agency	Caseload numbers					Staffing			Weighted numbers		
		Homicides	Felonies	Misdemeanors and violations	Family Court	Appellate	Attorney staff	Non-attorney staff	Total spending in USD	Total weighted cases	Weighted cases per attorney	Spending per weighted case in USD
<b>Genesee</b>	Public Defender	0	445	1167	675	0	8.5	5	1,315,356.00	4157	489	316
	Regional Appellate Program	1	25	8	0	29	1.53	0	100,000.00	541	354	185
<b>Greene</b>	Assigned Counsel	0	67	101	194	1	0	0	229,600.66	814	N/A	282
	Public Defender	0	300	1026	437	1	4	2	1,087,368.74	3010	752	361
<b>Hamilton</b>	Assigned Counsel	0	6	36	27	2	1	0	174,078.19	156	N/A	1115
<b>Herkimer</b>	Assigned Counsel	0	375	1046	343	4	0	0	460,323.19	3027	N/A	152
<b>Jefferson</b>	Assigned Counsel	0	236	334	816	19	0	0	764,986.28	3447	N/A	222
	Public Defender	1	661	2283	676	0	8	2.5	1,061,571.49	5855	732	181
<b>Lewis</b>	Assigned Counsel	0	119	461	296	1	0	0	30,861.00	1585	N/A	19
	Conflict Defender	0	15	36	154	0	1.5	1	71,400.00	487	325	147
	Lewis Defenders	0	119	461	296	0	4.35	2	314,452.00	1569	361	200

County	Agency	Caseload numbers					Staffing			Weighted numbers		
		Homicides	Felonies	Misdemeanors and violations	Family Court	Appellate	Attorney staff	Non-attorney staff	Total spending in USD	Total weighted cases	Weighted cases per attorney	Spending per weighted case in USD
<b>Livingston</b>	Assigned Counsel	0	24	40	35	6	1	1	156,751.44	294	N/A	534
	Conflict Defender	0	71	132	146	0	3.5	1	428,345.48	711	203	602
	Public Defender	0	344	941	543	0	8	3	1,061,880.00	3309	414	321
	Regional Appellate Program	0	0	0	0	13	0.27	0	26,000.00	208	770	125
<b>Madison</b>	Assigned Counsel	0	65	114	1114	1	0	0	448,441.00	3278	N/A	137
	Public Defender	0	332	1342	0	0	3	5	893,088.84	2228	743	401
<b>Monroe</b>	Assigned Counsel	38	1955	1943	2009	56	1	4	3,876,219.29	13524	N/A	287
	Conflict Defender	0	37	650	1805	56	13	3	1,759,825.99	6464	497	272
	Public Defender	13	4624	14491	5682	181	71	22.6	10,636,582.04	44939	633	237
<b>Montgomery</b>	Assigned Counsel	0	36	80	228	3	0	0	204,833.72	833	N/A	246
	Public Defender	3	292	842	229	0	3.5	2	603,950.18	2241	640	269



County	Agency	Caseload numbers					Staffing			Weighted numbers		
		Homicides	Felonies	Misdemeanors and violations	Family Court	Appellate	Attorney staff	Non-attorney staff	Total spending in USD	Total weighted cases	Weighted cases per attorney	Spending per weighted case in USD
<b>Nassau</b>	Assigned Counsel	25	2525	2675	1301	2	0	5	7,562,186.00	12989	N/A	582
	Legal Aid Society of Nassau County	0	2783	8539	2161	80	50	15	7,665,199.00	23019	460	333
<b>New York City</b>	Appellate Advocates	82	595	45	0	918	47.8	18.8	8,012,264.14	16541	346	484
	Assigned Counsel Plan 1st Department	100	1747	35198	0	0	2	1	28,156,780.00	40129	N/A	702
	Assigned Counsel Plan 2nd Department	112	1157	38137	0	0	1	2	17,860,198.51	41525	N/A	430
	Brooklyn Defender Services	34	4418	17527	424	0	131	88	34,623,107.00	30546	233	1133
	Center for Appellate Litigation	0	648	107	0	469	40.1	12.7	7,932,885.00	9341	233	849
	Legal Aid Society	122	18912	80710	0	613	673	405	160,859,185.00	141339	210	1138
	Neighborhood Defender Service of Harlem	10	1054	4068	556	0	45.5	23	9,650,481.00	8393	184	1150
	New York County Defender Services	9	2065	7334	114	1	55	38	14,105,270.21	13192	240	1069
	Office of the Appellate Defender	27	255	13	0	174	21	8	3,365,704.82	3550	169	948

County	Agency	Caseload numbers					Staffing			Weighted numbers		
		Homicides	Felonies	Misdemeanors and violations	Family Court	Appellate	Attorney staff	Non-attorney staff	Total spending in USD	Total weighted cases	Weighted cases per attorney	Spending per weighted case in USD
<b>New York City</b>	Queens Defenders	18	2854	13978	93	0	47	39	15,024,735.13	21895	466	686
	The Bronx Defenders	32	2305	13967	0	0	161.95	80.1	30,329,180.15	20207	125	1501
<b>Niagara</b>	Assigned Counsel	0	58	76	271	4	0	1.5	326,716.62	1018	N/A	321
	Conflict Defender	0	193	412	1165	6	3.5	1.5	743,135.15	4134	1181	180
	Public Defender	0	930	4184	1450	22	14	7	2,357,132.00	10891	778	216
<b>Oneida</b>	Assigned Counsel	1	149	442	2518	7	0.34	0.36	1,014,925.26	7678	N/A	132
	Public Defender	6	1292	6729	5	27	22	10.5	3,990,898.16	10640	484	375
<b>Orange</b>	Assigned Counsel	0	893	1522	731	61	0	0	2,497,526.32	6834	N/A	365
	Legal Aid Society of Orange County	0	1442	4024	902	0	20	7	3,547,902.00	10282	514	345
<b>Orleans</b>	Assigned Counsel	1	64	83	314	0	1	0	350,163.74	1095	N/A	320
	Public Defender	2	309	577	0	0	2	1.25	441,196.07	1407	704	313

County	Agency	Caseload numbers					Staffing			Weighted numbers		
		Homicides	Felonies	Misdemeanors and violations	Family Court	Appellate	Attorney staff	Non-attorney staff	Total spending in USD	Total weighted cases	Weighted cases per attorney	Spending per weighted case in USD
	Regional Appellate Program	0	3	0	0	5	0.51	0	25,500.00	88	173	290
<b>Oswego</b>	Assigned Counsel	5	1144	4129	2812	10	0	2	2,407,106.00	14865	N/A	162
<b>Otsego</b>	Assigned Counsel	6	153	201	149	0	0	0	560,000.00	1023	N/A	547
	Public Defender	2	132	751	318	0	7	1	478,632.14	1958	280	244
	Rural Law Center	0	0	0	10	0	0.16	0.07	22,263.00	27	167	834
<b>Putnam</b>	Assigned Counsel	0	62	113	156	2	0	0	494,986.41	727	N/A	681
	Putnam County Legal Aid Society	0	240	633	395	0	7	5	1,012,891.00	2328	333	435
<b>Rensselaer</b>	Assigned Counsel	0	14	37	345	1	0	0	262,625.62	1012	N/A	260
	Conflict Defender	1	141	300	554	0	5.25	1.57	530,696.76	2158	411	246
	Public Defender	5	1339	2763	1028	12	12.712	5.944	1,822,755.68	9288	731	196
<b>Rockland</b>	Assigned Counsel	3	181	149	744	13	0	0	1,572,087.00	2835	N/A	555

County	Agency	Caseload numbers					Staffing			Weighted numbers		
		Homicides	Felonies	Misdemeanors and violations	Family Court	Appellate	Attorney staff	Non-attorney staff	Total spending in USD	Total weighted cases	Weighted cases per attorney	Spending per weighted case in USD
<b>Rockland</b>	Public Defender	4	966	3352	0	22	15.925	12.325	4,653,178.00	6294	395	739
<b>St Lawrence</b>	Assigned Counsel	0	227	315	629	4	1	1	1,630,022.70	2665	N/A	612
	Conflict Defender	0	151	347	693	0	4	2	575,340.86	2600	650	221
	Public Defender	0	441	1075	771	0	7	4	845,199.36	4311	616	196
	Rural Law Center	2	43	0	16	39	1	0.43	136,765.00	787	787	174
<b>Saratoga</b>	Assigned Counsel	0	92	40	72	0	0	0	272,208.30	478	N/A	570
	Conflict Defender	0	41	240	261	0	1.5	0.5	337,085.42	1046	698	322
	Public Defender	1	885	2596	1043	0	8	3	1,262,978.98	7746	968	163
	Rural Law Center	0	20	0	3	25	0.47	0.2	63,611.00	461	982	138
<b>Schenectady</b>	Assigned Counsel	0	193	169	1017	30	0	0	1,052,314.00	3880	N/A	271
	Conflict Defender	0	255	912	904	0	6.8	1.8	1,128,762.00	4007	589	282

County	Agency	Caseload numbers					Staffing			Weighted numbers		
		Homicides	Felonies	Misdemeanors and violations	Family Court	Appellate	Attorney staff	Non-attorney staff	Total spending in USD	Total weighted cases	Weighted cases per attorney	Spending per weighted case in USD
<b>Schenectady</b>	Public Defender	0	752	2610	1042	0	13	7	2,548,053.00	7400	569	344
<b>Schoharie</b>	Assigned Counsel	1	200	504	768	0	0	0	732,146.14	3091	N/A	237
<b>Seneca</b>	Assigned Counsel	0	76	82	232	8	15	0	442,161.28	1032	N/A	428
	Public Defender	0	325	537	214	0	2	1	529,210.81	1976	988	268
<b>Steuben</b>	Assigned Counsel	0	131	296	575	18	0	1	725,840.41	2469	N/A	294
	Conflict Defender	3	250	134	0	0	2	1	143,711.72	810	405	178
	Public Defender	2	513	1246	758	0	6	4	1,328,940.61	4645	774	286
<b>Sullivan</b>	Assigned Counsel	1	180	45	0	16	0	0	371,967.43	784	N/A	474
	Sullivan County Conflict Legal Aid Bureau	0	361	922	376	0	5	1	595,449.55	2890	578	206
	Sullivan Legal Aid Panel	3	398	2176	380	0	6	1	917,149.00	4261	710	215
<b>Tioga</b>	Assigned Counsel	0	56	79	174	2	0	0	311,797.55	725	N/A	430

County	Agency	Caseload numbers					Staffing			Weighted numbers		
		Homicides	Felonies	Misdemeanors and violations	Family Court	Appellate	Attorney staff	Non-attorney staff	Total spending in USD	Total weighted cases	Weighted cases per attorney	Spending per weighted case in USD
<b>Tioga</b>	Public Defender	3	151	603	198	0	3.5	2	501,601.15	1543	441	325
<b>Tompkins</b>	Assigned Counsel	0	273	1726	683	8	1	3	2,401,240.89	4407	N/A	545
<b>Ulster</b>	Assigned Counsel	0	56	93	874	18	0	0	1,136,406.00	2864	N/A	397
	Public Defender	3	528	3390	451	0	9	4	4,926,905.36	6012	668	820
<b>Warren</b>	Assigned Counsel	0	189	624	458	1	0	1.5	843,758.00	2367	N/A	356
	Public Defender	0	513	1872	351	0	7	2	1,044,975.51	4179	597	250
	Rural Law Center	0	11	0	6	10	0.28	0.12	38,167.00	205	734	186
<b>Wayne</b>	Assigned Counsel	0	96	212	0	5	0	0	304,452.81	548	N/A	555
	Public Defender	0	433	1536	0	16	6	6	1,393,851.07	2948	491	473
<b>Westchester</b>	Assigned Counsel	21	879	11036	3137	75	1.5	7	13,130,687.00	23015	N/A	571
	Legal Aid Society of Westchester County	6	3621	698	0	3	40.5	22.8	11,721,219.00	10430	258	1124

County	Agency	Caseload numbers					Staffing			Weighted numbers		
		Homicides	Felonies	Misdemeanors and violations	Family Court	Appellate	Attorney staff	Non-attorney staff	Total spending in USD	Total weighted cases	Weighted cases per attorney	Spending per weighted case in USD
<b>Wyoming</b>	Assigned Counsel	0	70	63	217	6	0	0	157,274.24	925	N/A	170
	Public Defender	1	293	549	343	17	3.97	1.515	604,590.16	2522	635	240
<b>Yates</b>	Assigned Counsel	0	33	37	164	7	1	0	236,872.58	675	N/A	351
	Conflict Defender	0	9	25	72	0	<i>0.5</i>	<i>0.5</i>	41,632.20	241	483	173
	Public Defender	0	40	317	112	0	<i>1.5</i>	<i>1</i>	253,094.00	723	482	350
<b>TOTAL</b>	<b>137 providers</b>	<b>823</b>	<b>94,555</b>	<b>380,027</b>	<b>99,874</b>	<b>3,522</b>	<b>1,887.70</b>	<b>1,084.72</b>	<b>511,326,457.20</b>			

<sup>i</sup> Please note that numbers in *italics* are from 2018 due to missing data in 2019. For nine providers, there were one or two missing data points and for an additional four providers, there were three or more missing data points in 2019. These missing data points were substituted with 2018 data.