Early Intervention by Counsel: A Multi-Site Evaluation of the Presence of Counsel at a Defendants First Appearance in Court

We propose to study the impact of programs for providing counsel to defendants at first appearance in court on (1) case outcomes and (2) criminal justice operations and costs. Research reveals that, despite case law and legislation, the provision of counsel at first appearance varies widely across the nation. Lack of representation at this critical point has implications for the quality of justice, since key decisions are set in motion at first appearance – bail, pleas, convictions, and sentencing. Further, the absence of counsel may be result in unnecessarily restrictive bail conditions and detention, imposing costs on defendants and their families, but also on already strained local criminal justice and social services systems.

In early 2014, the New York Office of Indigent Legal Services awarded grants to locally-designed programs to expand access to counsel. We propose to conduct process evaluations, outcome evaluations, and cost-benefit analyses of these initiatives in six upstate New York counties. These counties vary on key dimensions: type of program and demography, and represent the variation on these and other factors found across the nation. We will gather information on the implementation process, informing practitioners of the challenges and opportunities that arise in varying settings. We will collect and analyze case data (approximately 600 cases per site) at three points: before implementation, during implementation, and after routinization, to determine how counsel affects case outcomes. Finally, we will gather information about costs and benefits, including system costs such as incarceration burden and court time, to assess impacts on county budgets.

This project builds on a partnership between SUNY Albany and the Office of Indigent Legal Services that began as a long-term collaboration between the PI and Co-PI. It is endorsed by the NLADA, NACDL, and the Honorable Jonathan Lippman, Chief Judge of New York. It is supported by David Carroll (6th Amendment Center) and Cherise Fanno Burdeen (Prettrial Justice Institute) and an Advisory Board composed of experts, practitioners, and public officials first appearance.
The project will take place over two years. The findings will be disseminated to defender organizations, judicial associations, state and local government associations, and researchers, through a combination of articles in refereed journals, white papers on specific aspects of timely provision of counsel, submission of summary documents to organizations with interested constituencies, and media releases.