What is Holistic Representation?

Holistic representation is difficult to define. Indeed the term itself is controversial with advocates sometimes preferring comprehensive representation, community-oriented defense, problem-solving lawyering or integrated service representation.

The Bronx Defenders offer four pillars as a type of definition:

Four pillars are at the core of holistic defense:

**Seamless access to services that meet legal and social support needs**

*Holistic defense begins with a commitment to addressing clients’ most pressing legal and social support needs. Because the universe of these needs will vary from community to community, a holistic defender office must begin by identifying the full range of client needs.*

**Dynamic, interdisciplinary communication**

*The interdisciplinary team alone is not what drives the success of holistic defense — it is the team’s culture of open, frequent, and meaningful communication.*

**Advocates with an interdisciplinary skill set**

*A holistic defender goes beyond the zealous advocacy of the committed public defender with an enhanced set of skills that are both client-centered and interdisciplinary.*

**A robust understanding of, and connection to, the community served**

*Holistic defense recognizes that an advocate who is better able to relate to their client, by having spent time in their neighborhood and with members of their community, will be more likely to provide authentic and effective representation.*

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1 Malia Brink serves as Counsel for Indigent Defense to the ABA Standing Committee on Legal Aid and Indigent Defendants. She can be reached at malia.brink@americanbar.org.

The one thing all advocates can agree on is that this style of defense redefines the lawyer’s approach in a criminal case to look beyond the sentence for the crime to the overall needs of the client and the community. The various definitions call for interdisciplinary approaches: defense lawyers working together not only with investigators and paralegals, but also social workers, social service providers, legal aid advocates and others.

**Centering on the Client**

However you define holistic defense, it puts the needs and desires of the client at the center of the representation. Those need and desires may be consistent with the traditional assessment of the best possible outcome in a criminal case, but they also may not. For example, the single most important thing to a client may not be length of probation or jail time, but ability to keep or regain custody of a foster child, or ability to remain in Section 8 housing, or ability to avoid deportation. For one client, the ability to get probation over jail time may not be nearly as important as pleading guilty to a charge that may allow him/her to maintain a professional license. In such cases, it is knowledge of these other areas of law: family law, housing, immigration or professional discipline that may be of greater importance than criminal law or procedure.

Concepts of client-centeredness exist in many other professional fields, such as medicine and psychology. In medicine, where it is most commonly called patient centered care, it requires doctors to, among other things:

- Respect patient preferences
- Coordinate and integrate care
- Prioritize physical comfort
- Consider and offer access to emotional support
- Involve the patient’s family and friends

Regardless of the arena, the concept centers around developing a trust relationship with the client that allows a deeper understanding of the client’s needs and priorities.

**ABA Policy on Holistic Public Defense**

The [ABA Criminal Justice Standards for the Defense Function](https://www.americanbar.org/content/dam/abaouncil/committees/aba-criminal-justice-standards/defense_function/standard_2-0103.pdf), which were revised in 2017, place tremendous emphasis on the trust relationship with the client:

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Standard 4-3.1 states:

**Standard 4-3.1 Establishing and Maintaining An Effective Client Relationship**

(a) Immediately upon appointment or retention, defense counsel should work to establish a relationship of trust and confidence with each client. Defense counsel should explain, at an appropriate time, the necessity for frank and honest discussion of all facts known to the client in order to provide an effective defense. Defense counsel should explain that the attorney-client privilege protects the confidentiality of communications with counsel except in exceptional and well-defined circumstances, and explain what the client can do to help preserve confidentiality.

(b) At an early stage, counsel should discuss with the client the objectives of the representation and through what stages of a criminal matter the defense counsel will continue to represent the accused. An engagement letter as described in Standard 4-3.5 should also be provided.

(c) Counsel should consider whether the client appears to have a mental impairment or other disability that could adversely affect the representation. Even if a client appears to have such a condition, this does not diminish defense counsel’s obligations to the client, including maintaining a normal attorney-client relationship in so far as possible. In such an instance, defense counsel should also consider whether a mental examination or other protective measures are in the client’s best interest.

(d) In communicating with a client, defense counsel should use language and means that the client is able to understand, which may require special attention when the client is a minor, elderly, or suffering from a mental impairment or other disability.

(e) Defense counsel should ensure that space is available and adequate for confidential client consultations.

(f) Defense counsel should actively work to maintain an effective and regular relationship with all clients. The obligation to maintain an effective client relationship is not diminished by the fact that the client is in custody.
The ABA Standing Committee on Legal Aid and Indigent Defendants is considering proposing updating the ABA Ten Principles of a Public Defense Delivery System to include a Principle on the Comprehensive Representation of Clients. A draft of this update states:

Public Defense Providers should assist clients with civil and non-legal problems arising from or relating to their representation.⁴ Public Defense Providers can offer direct assistance with such issues or establish collaborations with civil legal services organizations, social services providers, and other lawyers and non-lawyer professionals.

**Structure for Providing Holistic Public Defense**

One question not often addressed in discussions of holistic representation is whether a particular structure of public defense provider helps to ensure holistic representation. Is it easier to provide holistic defense in a full-time public defender office vs. using a court-appointed counsel programs? Does the size of the public defense program matter? Does seeking to provide holistic defense favor putting public defense and legal aid providers in a single building, a single organizational entity? Does holistic defense require a more specialized approach to public defense, in which offices or divisions within offices are organized, at least in part, based not on seriousness of charge (misdemeanor/felony/homicide) or the courts they serve, but problems they are best equipped to help clients address (homelessness, veterans issues, substance abuse).

The public defense providers participating in today’s program represent a number of different organizations options:

- **Texas Rio Grande Legal Aid** is predominantly a provider of civil legal assistance to low-income individuals, but also provides public defense services in several more rural counties in southern Texas.

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⁴ In *Padilla v. Kentucky*, 559 U.S. 356 (2010), the U.S. Supreme Court held that, in order to provide effective assistance of counsel, an attorney must provide advice on the potential immigration consequences of a client’s criminal charge. Following Padilla, a number of courts have held that advice on other potential civil consequences of a criminal case is also required. *See, e.g.*, *Bauder v. Department of Corrections*, 619 F.3d 1272, 1275 (11th Cir. 2010) (holding that the requirement of advice on non-criminal consequences extended beyond immigration to include civil commitment). Understanding a client’s non-criminal legal issues, may be critical to understanding relevant arguments regarding sentencing, including the appropriateness of diversion or other programs available through the criminal case.
• **Think Dignity** is a small specialized organization that focuses on providing services, both legal and social services, to the homeless population in San Diego.

• Both Professor Dyer and Ms. Strassburger worked at the [Bronx Defenders](#), a large urban public defender office that defenses roughly 27,000 low-income residents. In addition to criminal cases, the Bronx Defenders represents individuals in immigration court and family court.

Other models exist across the country:

The [Independent Juvenile Defender Program](#) is a court-appointed counsel program for juveniles charged with delinquency that practices holistic defense.

[Arch City Defenders](#) is a small organization that provides holistic criminal defense services to those who do not qualify for public defense but also cannot afford private counsel. In addition, Arch City Defenders engages in advocacy and civil rights impact litigation on behalf of poor communities.

Holistic defense is undoubtedly changing how public defenders practice. It may also be time to consider whether it should change the very structure of our public defense providers.
The Holistic Defense Toolkit

The Center for Holistic Defense
A Project of The Bronx Defenders
Table of Contents

1. Holistic Defense Defined
2. The Four Pillars of Holistic Defense
3. The Holistic Defense Office Self-Assessment Tool
4. Explanation of Services Offered by The Center for Holistic Defense
What Is Holistic Defense?

Holistic defense combines aggressive legal advocacy with a broader recognition that for most poor people arrested and charged with a crime, the criminal case is not the only issue with which they struggle. The key insight of holistic defense is that to be truly effective advocates for our clients, we as defenders must broaden the scope of our work to include both the collateral consequences of criminal justice involvement as well as the underlying issues, both legal and non-legal, that have played a part in driving our clients into the criminal justice system in the first place.

As public defenders we are first-hand witnesses to the revolving door that is our criminal justice system and we experience daily the futility of equating a successful legal defense with the achievement of justice. As a result of our formalistic legal training and the narrow roles we are assigned in the spectacle of our criminal justice system, we feel unprepared, unsupported and, as a consequence, thoroughly unable to address the underlying issues in the lives of our clients. While we know that the practice of effective, high-caliber lawyering is necessary if we are ever to secure justice for our clients, our experience teaches us that zealous lawyering alone is insufficient to achieve the vision of justice that motivates so many of us to do this work.

Thus the question becomes whether it is possible to re-imagine the scope of our work in order to become true and lasting agents for change and transformation in the lives of our clients. Holistic defense is a response to this challenge, offering a path out of the depressing thicket in which most traditional public defenders find themselves sooner or later.

Practicing holistic defense also leads to better legal outcomes for our clients. Simply put, case dispositions are better where defense lawyers who have a more comprehensive understanding of their clients. Similarly, clients who are in the process of addressing some of their underlying life issues generally fare better either when plea-bargaining or at trial. Case outcomes are also better (and defense counsel more likely to render effective assistance of counsel) when clients are fully informed of the collateral consequences of their criminal case and therefore are in a better position to make a truly informed choice about how to proceed. Clients of holistic defenders tend to come away from their experience with increased confidence in the criminal justice system. Finally, by stabilizing lives the practice of holistic defense reduces the likelihood of future criminal justice contact.

Realizing this vision means working to create public defender offices that not only have in-house civil advocates but also social workers and others who all work as equal members of the
defense team. Of course, holistic defense is not an either/or proposition and, in fact, will most often be practiced along a spectrum. That is, some offices might be more or less holistic in different ways. Additionally, the specifics of the practice must be tailored to meet the particular needs of communities in which an office is located.
THE FOUR PILLARS OF HOLISTIC DEFENSE

While recognizing that holistic defense is practiced along a spectrum, the following core principles, or pillars, underlie and form the foundation of any successful holistic defense practice:

1. Seamless access to services that meet clients’ legal and social support needs.

   Holistic defense begins with a commitment to addressing clients’ most pressing legal and social support needs. Because the universe of these needs will vary from community to community, a holistic defender office must begin by identifying the full range of client needs. This can be accomplished in part by assessing the needs of the community from which their current and future clients come. For example, some communities struggle with immigration issues whereas others with family law or housing issues. Far from being a one-size-fits-all approach, holistic defense aims to address those issues that most commonly contribute to its clients’ involvement in the criminal justice system. Holistic defense also seeks to address the effects of criminal justice involvement -- sometimes called collateral consequences, although far too often anything but “collateral”.

   Beyond simply offering these services, whether in-house, through a series of partnerships with social service agencies, or through a combination of both, holistic defense requires “seamlessness” in the way clients are represented. For a holistic defender, helping a client to access immigration representation, time with a social worker, or assistance with a public assistance application becomes as easy as walking over to another advocate. There is no complex intake or eligibility process to be repeated when guiding a client to other services or advocates, thereby relieving the client of the burden of having to retell her story while enduring yet another exhausting intake process. If there is administrative complexity, it is borne by the holistic defender, not by the client in need of help.

2. Dynamic, interdisciplinary communication.

   The holistic defense client will likely have several advocates: a team of criminal defense and civil lawyers, as well as social workers or other social service advocates. What is fundamental to the practice of holistic defense is not so much that there is an interdisciplinary team, but that the team’s culture is one of open, frequent, and meaningful communication. Communication in holistic defense is characterized less by hierarchy and referrals and more by a dynamic and interdisciplinary exchange of ideas and information. Holistic defenders are well-informed not just about their clients’ criminal cases but also about their clients’ progress in their work with their other advocates. Regardless of whether the issue being handled is motion practice in a drug sale case, assistance with a public housing application, or getting treatment for a long-time drug problem, the advocates are always well-informed as to all the other moving
parts of a client’s relationship with the office. Just as importantly, each of those advocates – the social worker and the civil legal advocate – are in independent communication with each other – and not just communicating through the criminal defense lawyer. The result is a team of people all of whom are well-informed about a client’s needs and progress. The client, in turn, sees himself as being represented by a team of dedicated advocates all of whom are in communication with each other, rather than by a single advocate who grasps only part of the big picture that is the client’s life.

3. Advocates with an interdisciplinary skill set.

The bedrock of a holistic defender office is a passionate staff committed to providing the highest-quality representation. But beyond the zealous advocacy of the committed public defender, a holistic defender must be willing to develop and enhance a specific set of skills that is both client-centered and interdisciplinary. While perhaps a first step, this means more than criminal defense lawyers learning about what it is that social workers do. Rather, holistic defense encourages criminal defense lawyers to represent their clients in ways that actually support the social work needs of their clients and, in turn, encourages social workers to work with their clients in ways that support positive legal outcomes for their clients. For example, lawyers may learn how to identify mental illness and social workers may be trained in screening clients for potential immigration issues. In this way, each member of the staff of a holistic defender office ends up with a skill set fundamentally different than that of their colleagues in more traditional settings.

4. A robust understanding of, and connection to, the community served.

At its core, holistic defense entails cultivating a robust understanding of, and connection to, the community served. This practice derives from the realization that the advocate who is better able to relate to her client because she has spent time in his neighborhood and with members of his community will be more likely to provide authentic and effective representation. The lawyer who can leverage this community understanding will be more likely to achieve better legal outcomes. Similarly, the advocate who can speak from experience to a judge in a civil matter or to a counselor or administrator of a social service agency about the client’s neighborhood or school will be a more persuasive and effective advocate. On a broader level, community engagement helps the holistic defender office to earn the respect and trust of the community which, among its many benefits, helps build a community-based network of support services for clients, their families, and neighborhoods. Furthermore, enhanced community engagement sheds light on client needs, which guide decisions about how best to allocate resources.
Office Self-Assessment Tool

Designed around the Four Pillars of holistic defense, this self-assessment tool will help to reveal an office’s strengths and challenges, and in so doing will provide some guidance for successfully navigating the transition to a more holistic defense practice:

I. Seamless access to services that meet client legal and social support needs.

<table>
<thead>
<tr>
<th>The public defender represents its clients on their criminal defense cases.</th>
<th>The public defender represents its clients on their criminal defense cases and addresses other legal and social support needs exclusively through referrals to other services. These referrals each require separate intake and eligibility screening processes.</th>
<th>The public defender represents its clients on their criminal defense cases and addresses other legal and social support needs through referrals to other services, perhaps some in-house, self-contained units. Most referrals require separate intake and eligibility screening processes.</th>
<th>The public defender is organized into interdisciplinary teams of advocates who represent clients on not only their criminal defense cases but on a host of other critical legal and social support needs. Access to all services is seamless from the client perspective.</th>
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II. Dynamic, interdisciplinary communication.

| The criminal defense lawyer is the only advocate working with a client. | The criminal defense lawyer represents a client and refers the client to other advocates as necessary, sharing the reason for referral. The information flows | The criminal defense lawyer represents a client and refers the client to other advocates as necessary, sharing the reason for referral. The information flows | The criminal defense lawyer represents a client and refers the client to other advocates as necessary, sharing the reason for referral. The information flows |
only from the criminal lawyer to the other advocates. and the other advocates share information back and forth. and the other advocates share information back and forth, and the advocates communicate with each other independently.

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### III. Advocates with an interdisciplinary skill set.

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<tr>
<th>Uni-disciplinary: Public defenders are criminal defense lawyers with traditional legal training.</th>
<th>Multi-disciplinary: Public defenders are a mix of advocates from different disciplines, each with traditional training in his respective field.</th>
<th>Cross-disciplinary: Public defenders are a mix of advocates from different disciplines with an understanding of each other’s work and how it fits into the advocacy of clients.</th>
<th>Inter-disciplinary: Public defenders are a mix of advocates from different disciplines who incorporate skills from outside their own disciplines to advance client advocacy.</th>
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### IV. Robust understanding of and connection to the community served.

<table>
<thead>
<tr>
<th>Public defenders neither work in nor interact with the client community.</th>
<th>Public defenders are not based in the client community but participate in activities in the community.</th>
<th>Public defenders are based in the client community and participate in discrete and periodic projects and events in the community.</th>
<th>Public defenders are based in and perceived as a resource by the client community. They have regular and permanent systems for working and communicating with the community.</th>
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The Center for Holistic Defense is committed to supporting public defender offices as they seek to transform the practice of public defense by adopting a more holistic model of advocacy. To request any of the following services, please call the Project Director at (718) 838-7857 or email alexs@bronxdefenders.org.

The Center provides a range of services:

1. **Site Visits.** The Center arranges site visits at The Bronx Defenders, allowing interested public defenders and others to gain a first-hand view of what holistic defense looks like on the ground.

2. **Training and Professional Development.** Expert practitioners from The Bronx Defenders will lead training sessions at your office for management or staff about a specific aspect of holistic defense.

3. **Technical Assistance.** More involved than simply a single training session, The Center offers technical assistance that currently consists of six months of hands-on in-depth training and support to three offices chosen in response to a nationally publicized Request for Proposals. While the deadline to apply for our inaugural round of in-depth technical assistance has passed, we anticipate being able to offer additional opportunities in the future.

4. **Online access to experts.** The institutional and individual expertise of The Bronx Defenders is available to all who seek to adopt a more holistic model of practice. We encourage any interested member of the indigent defense community – from staff attorneys to students, office heads to activists, social workers to investigators – to e-mail us with any questions you may have about holistic defense, in theory or in practice, and we will do our best to provide you with the answer.
Online Resources Available on Our Website

The Center for Holistic Defense is dedicated to providing concrete and practical resources to public defender organizations and systems who are interested in adopting a more holistic model of practice. A critical tool in this effort is our online library of topic-specific resources that, taken together, provide a comprehensive and detailed roadmap to realizing a more holistic practice.

Written specifically for this website and aimed directly at public defender office heads and senior management, these resources provide practical, accessible, and flexible information about precisely what holistic defense is as well as step-by-step guidance in how to transform an office into one that practices holistically. Incorporating print, downloadable, and multimedia elements, these resources provide not just the theory behind holistic defense, but more importantly, the nuts and bolts answers to practical questions of how best an office can begin to transition to a more holistic practice. These resources are illustrated with various examples of what different aspects of holistic defense look like on the ground and in action.

All of the online resources are organized such that they can be used comprehensively and sequentially, to get a complete overview of holistic defense, or as quick references when a specific question arises about a particular aspect of holistic defense or its implementation. The resources are all clearly organized and cross-referenced for easy navigation. It is our sincere hope that this online library, as well as the larger website, will serve as more than just a resource center but rather will become an online community of public defender office heads, managers, social workers, investigators, staff attorneys, community advocates, law students and others all of whom are united in a shared commitment to holistic defense.

To register and access these Resources, please visit our website, www.holisticdefense.org, and complete the registration form.
ARTICLES

THE EFFECTS OF HOLISTIC DEFENSE ON CRIMINAL JUSTICE OUTCOMES

James M. Anderson, Maya Buenaventura & Paul Heaton

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Debates over mass incarceration emphasize policing, bail, and sentencing reform, but give little attention to indigent defense. This omission seems surprising, given that interactions with government-provided counsel critically shape the experience of the vast majority of criminal defendants. This neglect in part reflects our lack of evidence-based knowledge regarding indigent defense, making it difficult to identify effective reforms.

One approach that continues to gain support is holistic defense, in which public defenders work in interdisciplinary teams to address both the immediate case and the underlying life circumstances — such as drug addiction, mental illness, or family or housing instability — that contribute to client contact with the criminal justice system. Holistic defense contrasts with the traditional public defense model that emphasizes criminal representation and courtroom advocacy. Proponents contend holistic defense improves case outcomes and reduces recidivism by better addressing clients’ underlying needs, while critics argue that diverting resources and attention from criminal advocacy weakens results. Although the holistic approach is widely embraced, there is no systematic evidence demonstrating the relative merits of the holistic approach.

This Article offers the first large-scale, rigorous evaluation of the impact of holistic defense on criminal justice outcomes. In the Bronx, New York City, a holistic defense provider (the Bronx Defenders) and a traditional defender (the Legal Aid Society) operate side-by-side within the same court system, with case assignment determined quasi-randomly based on court shift timing. Using administrative data covering over half a million cases and a quasi-experimental research design, we estimate the causal effect of holistic defense on case outcomes and future offending. Holistic defense does not affect conviction rates, but it reduces the likelihood of a custodial sentence by 16% and expected sentence length by 24%. Over the ten-year study period, holistic defense in the Bronx resulted in nearly 1.1
million fewer days of custodial punishment. Holistic defense has neither a positive nor an adverse effect on criminal justice contacts one year postarraignment and beyond.

While holistic defense does not dramatically reduce recidivism, as some proponents have claimed, strengthening indigent defense apparently offers considerable potential to reduce incarceration without harming public safety. Accordingly, this promising model deserves future research — beyond the criminal justice system and in other jurisdictions — and a more prominent place in conversations about how to address mass incarceration.

INTRODUCTION

The vast majority of U.S. criminal defendants receive government-provided counsel, so methods for organizing, staffing, and appointing indigent defense counsel have far-reaching effects on the criminal justice system. One recent promising development in indigent defense is the growing recognition that an indigent client may be best served by a team of professionals that addresses a range of the client’s needs rather than simply a heroic solitary lawyer who represents a defendant solely at criminal trial. This notion is embodied by the holistic defense model.

According to its proponents, the key insight of holistic defense is that to be truly effective advocates for their clients, defenders must adopt a broader understanding of the scope of their work with their clients. Defenders must address both the enmeshed, or collateral, legal consequences of criminal justice involvement (such as loss of employment, public housing, custody of one’s children, and immigration status), as well as underlying nonlegal issues that often play a role in driving clients into the criminal justice system in the first place. To this end, holistic defender offices are staffed not only by criminal defense lawyers and related support staff (investigators and paralegals) but also by civil, family, and immigration lawyers as well as social workers and nonlawyer advocates, all working collectively and on an equal footing with criminal defense lawyers. This holistic model contrasts with the traditional public defense model, which focuses almost exclusively on criminal representation.

Proponents of holistic defense contend that it improves case outcomes and reduces recidivism by better addressing clients’ underlying


needs and reasons for criminal justice involvement. In addition, holistic defense can anticipate and avoid potential collateral consequences of criminal justice involvement, such as loss of employment and housing, eliminating risk factors for future crime. Skeptics, in contrast, argue that diverting resources and attention from criminal advocacy may lead to worse case outcomes. Despite the fact that holistic representation has been embraced in many jurisdictions, there is virtually no systematic evidence demonstrating whether such representation delivers on its promises of better case outcomes or lower recidivism. A persistent problem has been isolating the contribution of holistic representation from the myriad of other factors operating in communities and the courts that shape what happens to indigent defendants once they enter the system.

In this Article, we provide the first rigorous, large-scale empirical evaluation of the holistic approach to indigent defense, adding to the nascent literature identifying “what works” in indigent criminal defense. In the Bronx, two institutional providers of indigent defense — the Bronx Defenders and the Legal Aid Society of New York (“Legal Aid”) — exist side-by-side within the same court system, supplemented by individual criminal defense attorneys. The Bronx Defenders has been operating under a holistic defense model since its inception in 1997. Legal Aid also recognizes the importance of addressing collateral issues and clients’ nonlegal needs, and recently has adopted elements of the holistic defense model. However, as one of the nation’s oldest and largest indigent legal services providers, Legal Aid used a more traditional model throughout much of the study’s observation period and, due to certain features of its organizational structure, continues to represent a comparatively traditional approach to criminal defense. Finally, individual criminal defense attorneys are appointed in cases with conflicts of interest. They represent the most traditional approach to criminal defense and typically have neither the resources nor the expertise to provide the range of services that the defender organizations can. Clients are assigned to the two defender associations through a rotating

8 See LEGAL AID SOC’Y, http://www.legalaidnyc.org/ [https://perma.cc/RN8M-FC4D]( stating that Legal Aid handles 300,000 cases per year and has been operating for over 140 years).
shift-assignment system that furnishes a natural experiment enabling rigorous measurement of the effect of the holistic defense approach.

Using administrative data covering over half of a million cases and a quasi-experimental research design, we estimate the causal effect of holistic representation on case outcomes and future offending in the Bronx.9 Holistic representation does not affect conviction rates, but it does reduce the likelihood of a custodial sentence by 16% and the expected sentence length by 24%. Over the ten-year study period, holistic representation in the Bronx has reduced custodial punishment sentences by nearly 1.1 million days, saving state and local taxpayers an estimated $165 million on inmate housing costs alone. Holistic defense also increases the likelihood of pretrial release, and while this mechanically results in elevated pretrial arrest and nonappearance, as of one year postarraignment and beyond, holistic representation has no measurable effect on future criminal justice contacts, with estimates sufficiently precise so as to preclude modest positive or negative effects. These results suggest holistic representation does not dramatically reduce recidivism, but it does appear to offer considerable potential to reduce incarceration without adversely impacting public safety.

To better understand indigent defense in the Bronx, the holistic defense model, and how holistic defense works in practice, we also conducted semi-structured interviews with criminal justice stakeholders in the Bronx, including the Bronx Defenders, attorneys and social workers from Legal Aid, appointed private counsel, judges, and external service providers. Both the Bronx Defenders and Legal Aid describe their representation as “holistic,” and the interviews suggest some degree of convergence in their goals and staffing models in recent years. Nevertheless, the interviews also revealed differences in their approaches to providing defense. Criminal defense attorneys at both organizations make referrals to civil attorneys when noncriminal issues such as risk of deportation or potential loss of public housing arise; however, the Bronx Defenders continuously assesses referral structure and referral success and models, trains, and evaluates interdisciplinary communication between advocates.10 The Defenders also organizes its office in interdisciplinary teams with leaders who, along with practice-area supervisors, monitor whether team members are communicating effectively and are identifying needs beyond their independent practice area.11 Thus, the Defenders appears to embrace practices likely to facilitate the flow of information across different members of the defense team.

Although the precise explanation for the outcome differences across the two defender organizations remains uncertain, one explanation that

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9 Our quantitative methodology is detailed in Part III, infra pp. 850–62.
11 See id. at 992–93.
seems consistent with both the qualitative and quantitative data is that the holistic approach may enable the criminal justice system to solve an information problem. Incarceration of some defendants may be necessary to protect public safety, but for other individuals it serves no corrective purpose and merely represents wasted resources. Given the large caseloads and assembly-line processing of criminal defendants in the Bronx — as in many, if not most, jurisdictions in the United States — prosecutors and judges have difficulty identifying those defendants who could be treated leniently without creating future risk. Moreover, these prosecutors and judges tend to discount information from defense attorneys who have incentives to claim that every defendant represents a special case that justifies lenient treatment. Holistic defense, then, may function as a superior information-gathering mechanism, helping defense attorneys to identify persuasive mitigating features of their cases and then convey those features convincingly to prosecutors, judges, and juries.

More broadly, this study suggests that indigent defense has received too little attention in the broader discussion of criminal justice reform in the United States. Although interest groups and policymakers from all points along the ideological spectrum have expressed considerable concern about mass incarceration and the associated human and fiscal costs, much of the reform agenda has focused on areas such as policing, sentencing reform, and pretrial detention. Perhaps one reason indigent defense has achieved less prominence in the debate is policymakers’ perception that providing better-quality representation might lead to acquittals of guilty defendants, undermining one of the core purposes of the criminal justice system. However, this study demonstrates that strengthening indigent defense can instead offer a means to reduce unnecessary and unproductive punishment that does not further society’s goal of ensuring public safety. Given the promise of the holistic defense model, further research to assess its mechanisms of impact, scalability to other jurisdictions, and effects on outcomes outside of the criminal justice system is warranted.

In Part I of this Article, we provide background information on the holistic defense model and review the limited prior empirical research on holistic defense. In Part II, we discuss how closely the service models used by the Bronx Defenders, Legal Aid, and individual appointed counsel adhere to holistic defense principles, and we compare these indigent defense providers’ models. In Part III, we describe our quantitative data sources and methodology. In Part IV, we describe the results of our quantitative analysis, that is, the causal effect of the holistic representation implemented by the Bronx Defenders on case outcomes and future offending. In Part V, we discuss potential implications of our findings for criminal justice policy and practice. In the conclusion, we propose next steps for future holistic defense research.
I. BACKGROUND ON HOLISTIC DEFENSE

A. The Holistic Defense Model

The holistic defense model emerged in the 1990s as a new paradigm for indigent defense. Although the term “holistic defense” has been defined in a variety of ways and affixed to a range of different defender organizations, a few common elements emerge across the different definitions. Holistic defense as a philosophy views the criminal defense attorney as having a responsibility not only to provide representation in the current criminal case, but also to attempt to address the antecedent circumstances that lead clients to come into contact with the criminal justice system in the first place. Holistic defenders view their role as helping to address a broader range of client needs than the typical criminal defense attorney — certainly providing legal expertise in a criminal proceeding, but also assisting with other issues that can render clients vulnerable to future contact with the justice system. A holistic defender might help clients enroll in drug treatment, access mental health services, maintain employment, preserve housing, or file immigration applications. This approach contrasts with a more traditional indigent defense approach, which emphasizes the role of the defender as a legal and courtroom advocate who has responsibility for obtaining the best outcome for a client in a particular case, subject to ethical and other constraints.

Early adopters of the holistic model, such as the Neighborhood Defender Service of Harlem (NDS) and the Bronx Defenders, implemented a number of innovations in order to better align their day-to-day operations with the holistic philosophy. First, in order to address nonlegal needs of clients, these organizations require a different mix of staff than a traditional defenders’ office. Holistic organizations tend to hire fewer criminal attorneys as a percentage of total staff and more civil attorneys and other professional personnel, such as social workers or mental health professionals.

Second, because their focus is on addressing a range of interlocking needs, holistic defender organizations are multidisciplinary. This approach can be manifest in a variety of ways: For example, a holistic defender typically assigns clients to a cross-disciplinary team of staff members (including criminal attorneys, civil attorneys, and social workers) who independently interact with the client, in contrast with a single attorney who draws upon ancillary services from investigators or social workers but who is the link between the office and the client. The mul-

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12 See id. at 962.
A third difference concerns prioritization. The holistic paradigm attempts to optimize over a wider range of client outcomes, and in some cases these outcomes may be in conflict with one another. For example, a client held in pretrial detention might have a winnable case but face the loss of a job or housing if he remains in detention long enough for a hearing.\textsuperscript{14} Securing an acquittal might inflict more harm on the client in terms of overall quality of life than a quick guilty plea. As another example, a client might be given an opportunity to attend inpatient drug treatment in lieu of a conviction, but doing so would leave her with no way to care for a minor child, whereas accepting a conviction and fine would ensure continuity of child care, her biggest priority. The holistic model puts client priorities front and center, which means that these defenders may be more willing to sacrifice better outcomes in the criminal case if doing so would serve some other client interest.

While initially the term “holistic defense” was primarily used to describe entire defender organizations that subscribed to the model described above, recently the term “holistic representation” has been more widely applied, including to units within organizations or, in some cases, even individual attorneys. Today, holistic representation is often used to describe indigent defenders who share the basic goals of providing legal representation that considers a broader range of client needs, with particular emphasis on collateral consequences. Many, if not most, defender organizations today would view themselves as practicing some version of holistic defense, although a comparatively small number have implemented the staffing, training, and organizational changes described above.

\textbf{B. Prior Research on Holistic Defense}

The academic literature that discusses holistic defense is relatively small.\textsuperscript{15} Writing separately, Kyung Lee,\textsuperscript{16} Michael Pinard,\textsuperscript{17} J. McGregor

\begin{flushleft} \textsuperscript{14} See Paul Heaton et al., \textit{The Downstream Consequences of Misdemeanor Pretrial Detention}, 69 STAN. L. REV. 711, 713 & n.4, 781 (2017). \\
\textsuperscript{17} Michael Pinard, \textit{Broadening the Holistic Mindset: Incorporating Collateral Consequences and Reentry into Criminal Defense Lawyering}, 31 FORDHAM URB. L. J. 1067 (2004). \end{flushleft}
Smyth, and Robin Steinberg provide baseline descriptions of the model and detail real-world examples of holistic defense, noting the potential of holistic defense to address collateral consequences of arrests and socioeconomic issues associated with recidivism. Pinard, Lee, and Brooks Holland present critiques of the model, citing potentially problematic aspects of holistic defense including resource constraints, ethical dilemmas such as possible disagreements with clients regarding prioritization of liberty over other interests, and potential for conflicts of interest. While Pinard and Lee suggest that the holistic defense model may improve criminal representation in spite of potential barriers and ethical concerns, Holland argues that the holistic model should be adopted with caution and that holistic advocacy should not be prioritized above traditional trial practice. Steinberg, who founded the Bronx Defenders, addresses various criticisms of the model, and offers a characterization of the model as consisting of four “pillars” that has been influential in shaping discourse surrounding holistic defense. Finally, Sarah Buchanan and Roger Nooe develop a model of the role of social work as part of holistic public defense and discuss some of the operational challenges in Knoxville, Tennessee.

Beyond this conceptual work, there have been relatively few evaluations of holistic defense programs, and as of yet, there has been no large-scale, rigorous evaluation of the impact of holistic representation on criminal justice outcomes. Michele Sviridoff and her coauthors offered a first evaluation, comparing outcomes of a small sample of NDS clients arrested in Manhattan between July 1, 1990, and November 30,

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18 Smyth, supra note 5.
19 Steinberg, supra note 10.
20 Holland, supra note 6, at 642–44; Pinard, supra note 17, at 1089–91; Lee, supra note 16, at 405–08, 428.
22 Holland, supra note 6, at 648–50.
23 Pinard, supra note 17, at 1095; Lee, supra note 16, at 432.
24 Holland, supra note 6, at 641–42, 646, 651–52.
25 See Steinberg, supra note 10, at 986–1002; see also, e.g., MONT. CODE ANN. § 47-1-126 (2017) (establishing a holistic defense pilot project and stating that the project must be based on the four pillars of holistic defense); Frederique et al., supra note 15, at 1236; Cynthia G. Lee et al., The Measure of Good Lawyering: Evaluating Holistic Defense in Practice, 78 ALB. L. REV. 1215, 1218–19 (2015); Holistic Defense, HARRIS COUNTY PUB. DEFENDER’S OFF., http://harriscountypublicdefender.org/holistic-defense-2/ [https://perma.cc/P8DE-FGDQ].
27 Lee et al., supra note 25, at 1232, 1235–37 (suggesting frameworks for process evaluations, impact evaluations, and cost-benefit analyses of holistic defense programs). With respect to impact evaluations, Lee et al. recommend examining short-term outcomes such as “rates of pretrial release, time spent in pretrial detention, conviction and dismissal rates, sentence types and durations, and usage of alternatives to incarceration” as well as long-term outcomes such as “rates of re-arrest, new convictions, probation violations, appeals, and petitions for postconviction relief.” Id. at 1236.
1990, with all individuals who were arrested in Manhattan during the same period.\textsuperscript{28} In a follow-up study, Susan Sadd and Randolph Grinc compared NDS clients to non-NDS clients similar in race, gender, age, and various criminal history metrics.\textsuperscript{29} NDS clients had average sentences 100 days shorter than the control group; however, the study found no statistically significant differences in days in pretrial detention, release on recognizance rates, conviction rates, or dismissals.\textsuperscript{30}

More recent studies have typically involved limited samples and do not control for other factors, beyond representation type, that might affect case outcomes. For example, Cait Clarke and James Neuhard surveyed a variety of holistic defender organizations and presented statistics suggesting that individual defendant outcomes improved and overall incarceration costs decreased.\textsuperscript{31} Informal evaluations of the Rhode Island Public Defender Office’s Defender Community Advocacy Program (DCAP) also concluded that the program saved taxpayers millions of dollars in prison costs.\textsuperscript{32} Brooke Hisle, Corey Shdaimah, and Natalie Finegar conducted a process evaluation of the Neighborhood Defenders Program (NDP) in Baltimore and concluded from focus groups that clients believed the program assisted them with “social and economic concerns experienced outside [their] legal case[s],” but the authors did not present an outcomes analysis.\textsuperscript{33} Most recently, Dana DeHart and coauthors examined the impact of holistic defense on legal outcomes in an unnamed southeastern judicial circuit.\textsuperscript{34} Comparing cases before and after program implementation, and controlling for defendant demographics and some case characteristics, holistic representation was associated with an increased likelihood that defendants would be held on bond, convicted, or incarcerated.\textsuperscript{35}

\begin{itemize}
\item \textsuperscript{28} Michele Sviridoff et al., Vera Inst. of Justice, Developing and Implementing a Community-Based Defense Service: Pilot Operations of the Neighborhood Defender Service of Harlem 63–76 (1991).
\item \textsuperscript{29} Susan Sadd & Randolph Grinc, Vera Inst. of Justice, The Neighborhood Defender Service of Harlem: Research Results from the First Two Years 10 (1993).
\item \textsuperscript{30} Id. at 13–18.
\item \textsuperscript{31} Cait Clarke & James Neuhard, Making the Case: Therapeutic Jurisprudence and Problem Solving Practices Positively Impact Clients, Justice Systems and Communities They Serve, 17 St. Thomas L. Rev. 781 (2005).
\item \textsuperscript{32} See, e.g., Melanca Clark & Emily Savner, Brennan Ctr. for Justice, Community Oriented Defense: Stronger Public Defenders 24 (2010).
\item \textsuperscript{33} Brooke Hisle et al., Neighborhood Defenders Program: An Evaluation of Maryland’s Holistic Representation Program, 2 J. Forensic Soc. Work 122, 139 (2012).
\item \textsuperscript{34} Dana DeHart et al., Improving the Efficacy of Administrative Data for Evaluation of Holistic Defense, 43 J. Soc. Serv. Res. 169, 169 (2017).
\item \textsuperscript{35} Id. at 174–77.
\end{itemize}
Susan McCarter used a randomized control trial design to measure the effects of wraparound juvenile forensic social work services and holistic defense on recidivism and other outcomes in an unnamed large southeastern city. She found that the services significantly improved youth functioning though no change was noted for recidivism or motions for review. While the study is suggestive of the benefits of a holistic approach, the study was limited to juveniles and it is not clear the role that other aspects of holistic defense (apart from the wraparound services) played in the outcome.

To summarize, existing research on holistic defense has provided conceptual underpinnings for the model, but most fail to empirically establish the real-world effects of this approach in practice. Existing studies are limited in scope, do not adequately address the possibility that observed outcomes might represent influences other than the type of representation, and come to conflicting conclusions regarding the efficacy of the approach. This lack of a strong evidence base is notable given the growing acceptance of the holistic paradigm in indigent-defense circles. In a criminal justice system that is increasingly embracing evidence-based practice, the move toward holistic representation is occurring without much evidence.

The present study seeks to address this shortcoming, offering a methodologically strong evaluation of the criminal justice impacts of a holistic defense program as practiced in a large urban jurisdiction over a considerable period of time. It extends a small but influential body of literature that seeks to apply rigorous methods of causal analysis to understand the effect of legal-service models on case outcomes. Examples of studies in this vein include work by David Abrams and Albert Yoon; Radha Iyengar; James Anderson and Paul Heaton; Douglas

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37 Id. at 255–57.
38 Also concerned with this shortcoming, the National Center for State Courts is currently conducting a multisite evaluation of holistic defense programs. Indigent Defense Research, Nat’l Inst. of JUST., https://www.nij.gov/topics/courts/indigent-defense/Pages/research.aspx [https://perma.cc/5HL6-99MZ].
41 Anderson & Heaton, supra note 2, at 154 (taking advantage of a natural experiment in Philadelphia to compare outcomes of defendants represented by appointed private counsel as opposed to public defenders).
Colbert, Ray Paternoster, and Shawn Bushway;42 and D. James Greiner, Cassandra Pattanayak, and Jonathan Hennessy.43 A common finding across studies that use methodologically stronger research designs, such as quasi-experiments or randomized controlled trials, is that the attorney can exert substantial influence on case outcomes, separate from the legally relevant features of the case. A fairly unique feature of the present study is our ability to follow defendants for a substantial period of time following the resolution of the case, enabling us to assess impacts on not only the immediate proceeding, but also defendants’ future path of criminal justice system contact.


Proponents of holistic defense argue that it is likely to improve outcomes in both the immediate case and in the future, while critics believe the approach suffers from important weaknesses. The limited empirical work to date on this topic is inconclusive. On a theoretical level, there are various possibilities for how holistic representation might operate in practice. Across these different possible models, there are varying predictions for what one would expect to observe empirically when analyzing the effect of holistic representation on criminal justice outcomes. Thus, understanding these models can offer insights into how one might interpret the empirical results below.

One possibility, which we might term a “no difference” model, is that in actual practice the approach is not substantively different from traditional representation. Such a situation might arise if there are practical or resource limitations that impede the full realization of the model — for example, if it is too difficult to get budgetary authority to meaningfully increase the share of nonattorneys in the office — or if traditional defenders are able to address collateral concerns in comparable ways within the context of the more traditional attorney-client relationship. Under this model, we would not expect to see measurable differences in outcomes across defender organizations that practice holistic representation versus those that do not.

A second possibility, which we might term a “better trial advocacy” model, is one in which the holistic approach allows for superior courtroom representation — for example, by enabling attorneys to build better trust relationships with clients — but proves insufficient to address

42 Douglas L. Colbert et al., Do Attorneys Really Matter? The Empirical and Legal Case for the Right of Counsel at Bail, 23 CARDOZO L. REV. 1719, 1720 (2002) (discussing a study that found that defendants represented at bail hearings were 2.5 times as likely to be released on their own recognizance than were unrepresented defendants in Baltimore, Maryland).

43 D. James Greiner et al., The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future, 126 HARV. L. REV. 901, 908 (2013) (examining the effects of traditional versus limited representation on outcomes of clients facing eviction from their housing units using a randomized controlled trial).
clients’ underlying entrenched problems. Such a situation might also occur if the business-as-usual model largely applies, except that the holistic office attracts different types of attorneys than a traditional office, and these attorneys are more adept at trial advocacy. Under this model, we would expect the better courtroom advocacy to translate to superior case outcomes from the perspective of the client, such as increased pretrial release or lower conviction rates or sentences, but no enduring reduction in the likelihood of future contact with the criminal justice system. If better trial advocacy leads to fewer or shorter sentences, we might also expect a temporary increase in criminal activity in the short run due to a reverse incapacitation effect.

A third possibility — and the one highlighted by critics of holistic defense — is a “distraction” model. Under this model, holistic representation diverts resources and attention from trial advocacy, but the additional support services offered to clients prove to not be rehabilitative. In this scenario, we might expect to observe higher rates of pretrial detention (resulting in a net decrease in pretrial crime through incapacitation), higher conviction rates, and/or more frequent or longer sentences. Future crime is diminished in the short term as clients receive more punishment and are incapacitated.

A fourth possibility is that the additional services provided through holistic defense are helpful in addressing underlying circumstances that lead to criminal justice contacts, but that these services are provided at the expense of advocacy in the criminal case. This could occur if, for example, the need to hire additional support personnel but maintain budget neutrality leads to fewer criminal attorneys with higher caseloads, and these larger caseloads negatively impact advocacy. Under this “tradeoff” model, one would expect reductions in pretrial crime — as defendants are less likely to be released and/or the rehabilitative services begin to take hold — more frequent convictions or longer sentences, and lower postadjudication crime through both incapacitation and rehabilitation.

A related but distinct possibility is a “better support only” model, where the proffered supports are effective at rehabilitation, but there is a neutral impact on trial advocacy. This could occur either because courts and prosecutors fail to recognize the beneficial nature of holistic defense, or because they do recognize that clients have been rehabilitated, but this is offset by diminished advocacy in other aspects, for example due to higher criminal attorney caseloads. This model offers somewhat similar empirical predictions to the preceding one, except that it predicts no effects on pretrial release and no change in conviction rates or sentences.

A final possibility is that the holistic approach functions as designed and as proponents have articulated, meaning that it enables attorneys to achieve more favorable outcomes in criminal cases, and it simultaneously serves to mitigate factors in defendants’ lives that contribute to
contacts with the criminal justice system. This “full success” model offers ambiguous predictions regarding pretrial crime — better advocacy would increase pretrial release, which would tend to increase pretrial crime due to reverse incapacitation, but depending on how quickly the effects of the support services (for example, drug treatment or housing stabilization) were realized, some offsetting effects might also occur pretrial. With full success, conviction rates or sentences should decrease, which in the short run could lead to reverse incapacitation, which might again be offset by the mitigation work of the holistic defender. In the longer run, after any reverse incapacitation effects have run their course, the model would predict lower crime.

Table 1 summarizes the six models described above, along with their predictions regarding expected impacts across a range of criminal justice outcomes. Because no two models offer precisely the same predictions regarding criminal justice outcomes, examining the pattern of results in the analysis that follows can offer insights into which of these models seems most likely to apply to holistic defense, at least as practiced in the Bronx.
Table 1: Alternative Conceptions of How Holistic Defense Might Operate in Practice

<table>
<thead>
<tr>
<th>Model</th>
<th>Pretrial release</th>
<th>Pretrial crime given release</th>
<th>Net pretrial crime</th>
<th>Conviction rate/ sentence severity</th>
<th>Short-run future crime</th>
<th>Long-run future crime</th>
</tr>
</thead>
<tbody>
<tr>
<td>No difference</td>
<td>°</td>
<td>°</td>
<td>°</td>
<td>°</td>
<td>°</td>
<td>°</td>
</tr>
<tr>
<td>Better trial advocacy</td>
<td>+</td>
<td>°</td>
<td>+</td>
<td>-</td>
<td>+</td>
<td>°</td>
</tr>
<tr>
<td>Distraction</td>
<td>-</td>
<td>°</td>
<td>-</td>
<td>+</td>
<td>-</td>
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<tr>
<td>Tradeoff</td>
<td>-</td>
<td>°/-</td>
<td>-</td>
<td>+</td>
<td>-</td>
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</tr>
<tr>
<td>Better support only</td>
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<td>°/-</td>
<td>°/-</td>
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<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Full success</td>
<td>+</td>
<td>°/-</td>
<td>+/°/-</td>
<td>-</td>
<td>+/°/-</td>
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</tr>
</tbody>
</table>

II. HOLISTIC DEFENSE AS PRACTICED IN THE BRONX

A. Local Indigent Defense Providers

In this section, we briefly discuss the structure of indigent defense in the Bronx to provide context for our examination of the holistic defense model. Legal Aid and the Bronx Defenders are the two institutional providers of indigent defense services in the Bronx. Legal Aid, the city’s largest defense provider, began representing indigent criminal defendants across New York City’s boroughs in 1879.44 In 1994, Legal Aid went on strike and Mayor Rudolph Giuliani issued requests for proposals for other public defense agencies.45 As a result, the city entered contracts with several new public defense providers, including the Bronx Defenders.46

Legal Aid has three major practice areas: Civil, Criminal, and Juvenile Rights.47 The Civil Practice addresses a wide variety of legal issues facing low-income families and individuals, including “housing,

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45 Id. at 24.
46 Id.
benefits, disability, domestic violence, family issues, health, employment, immigration, HIV/AIDS, prisoners’ rights and elderlaw. The Criminal Practice provides representation in criminal trials, appeals, and parole revocation defense hearings. The Juvenile Rights Practice represents children in child protective proceedings, juvenile delinquency proceedings, supervision proceedings, and appellate cases. Legal Aid operates through a network of twenty-five offices in neighborhood- and courthouse-based locations across all five boroughs of New York City. Legal Aid’s Civil and Criminal Practices share a neighborhood office in the Bronx, and the Juvenile Rights Practice’s neighborhood office is nearby.

The Bronx Defenders, founded in 1997, provides criminal defense, family defense, civil legal services, immigration representation, social work support, and advocacy to indigent individuals in the Bronx. The Bronx Defenders’ advocates include criminal defense attorneys, family defense attorneys, civil generalist attorneys, immigration attorneys, impact litigation attorneys, social workers, benefits specialists, investigators, community organizers, team administrators, civil legal advocates, immigration advocates, reentry advocates, and parent advocates. All of these different advocates work out of the same office.

When a conflict exists that prevents Legal Aid and the Bronx Defenders from representing an indigent defendant in the Bronx, a private court-appointed attorney is assigned to the defendant pursuant to Article 18B of the County Law, the Assigned Counsel Plan. These attorneys are often referred to as “18B attorneys.”

B. Service Models Used by the Bronx Defenders, Legal Aid, and 18B Attorneys

To better understand how the various indigent defense providers in the Bronx operate, and in particular the key differences between the Bronx Defenders and Legal Aid, we conducted phone interviews from

48 Id.
49 Id.
50 Id.
51 Id.
53 Tabachnick, supra note 7.
55 Id.
56 See Contact Us, BRONX DEFENDERS, https://www.bronxdefenders.org/contact/ [https://perma.cc/WQ65-CVGF].
58 For more details about the case assignment process, see section IIIA, infra pp. 851–53.
August 2017 to November 2017 with nine attorneys from the Bronx Defenders, seven attorneys and one social worker from Legal Aid, four private attorneys who serve as appointed counsel, three Bronx Criminal Court judges, two Bronx Criminal Court clerks, three representatives from other nonprofits that work within the Bronx criminal justice system, and two former criminal defense attorneys who practiced in the Bronx.59 Topics covered in the interviews included the case assignment process, service models employed by each organization, collaboration between civil and criminal advocates, the importance of providing non-criminal defense services to criminal defense clients, community impacts, and success metrics. We also reviewed publicly available documents that provide insights into the staffing, budgets, and other operations of the various defense providers.

Robin Steinberg, the founder of the Bronx Defenders, defined four pillars of holistic defense:

1. seamless access to legal and nonlegal services that meet client needs;
2. dynamic, interdisciplinary communication;
3. advocates with an interdisciplinary skill set; and
4. a robust understanding of, and connection to, the community served.60

Legal commentators and indigent defense service providers cite Steinberg’s four pillars as the foundational principles of the holistic defense model.61 While the Bronx Defenders are well known for adopting and developing the holistic defense model, the Legal Aid attorneys we interviewed also characterized Legal Aid’s model as holistic.62 Legal Aid attorneys did not mention Steinberg’s four pillars or provide any other specific list elements that they believe comprise “holistic defense,” but their description of Legal Aid’s practice paralleled the four pillars to some extent, and two Legal Aid interviewees used the word “holistic” to describe the Legal Aid model.63 However, advocates for Legal Aid and the Bronx Defenders have differing opinions on how similar their models are in practice. In this subsection, we discuss how closely the service models used by the Bronx Defenders, Legal Aid, and private counsel adhere to holistic defense principles by comparing these providers’ service models.

59 The Bronx County District Attorney’s Office did not respond to our interview requests.
60 Steinberg, supra note 10, at 963–64.
61 See sources cited supra note 25.
62 Telephone Interview with Attorney #2, Legal Aid Soc’y (Aug. 10, 2017).
63 See id.; Telephone Interview with Attorney #3, Legal Aid Soc’y (Aug. 21, 2017).
1. Seamless access to legal and nonlegal services that meet client needs. — Criminal defense attorneys at both Legal Aid and the Bronx Defenders noted that they begin identifying client needs at arraignment. With respect to legal needs, the Bronx Defenders employs a checklist at arraignment to identify consequences of criminal justice involvement for a client’s employment, housing, mental health, children, immigration status, student loans, public benefits, and other aspects of their life. Legal Aid has an immigration checklist to ensure the criminal defense attorney at arraignment identifies any immigration issues that might arise. Although Legal Aid does not have an arraignment checklist for nonimmigration collateral issues, criminal defense attorneys from Legal Aid noted that they interview clients about life circumstances that might be impacted by their criminal case — for example, the client’s housing situation — at arraignment.

Some issues identified at arraignment require immediate involvement. For example, immigration referrals tend to be immediate because many clients face deportation after an arrest. Criminal defense attorneys at both organizations noted that they also continue to identify legal and nonlegal client needs throughout the duration of the criminal case. For example, one Bronx Defender cited the example of a client working as a security guard who received a letter several weeks into his case saying that his security guard license might be suspended. In this example, the criminal defense attorney made a referral a few weeks after the arrest because the need was not apparent at arraignment. Another Bronx Defender attorney also noted that clients sometimes return to the organization after their criminal case concludes, seeking assistance with other legal needs.

Although 18B counsel reported that they do what they can to address the impacts of criminal justice involvement on their clients’ immigration status, housing, employment, and other life outcomes, their ability to address these collateral consequences is very limited. As one 18B attorney remarked, 18B counsel get paid only for handling cases in criminal court. If a defendant is faced with noncriminal legal matters, there is little an 18B attorney can do, other than tell the client to try to hire a civil attorney or seek help from an institutional provider (that is, Legal Aid or the Bronx Defenders).

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64 Steinberg, supra note 10, at 988.
65 Telephone Interview with Attorney #6, Legal Aid Soc’y (Sept. 6, 2017).
66 Id.; Telephone Interview with Attorney #7, Legal Aid Soc’y (Sept. 7, 2017).
67 Telephone Interview with Attorney #9, Bronx Defs. (Nov. 2, 2017).
68 Id.
69 Id.
70 Telephone Interview with Attorney #4, Bronx Defs. (Oct. 2, 2017).
71 Telephone Interview with 18B Attorney #4 (Nov. 1, 2017).
72 Id.
in family court or civil court. When an 18B attorney needs the assistance of experts, investigators, or interpreters in the criminal case, these services may be requested through an ex parte application to the court and the judge must also approve the use of the services. This process is commonly referred to as “vouchering.”

Attorneys from the Bronx Defenders have also noted that if a client has nonlegal needs their organization cannot address, the Bronx Defenders can quickly connect the client with churches, food pantries, shelters, and other service providers with which the organization maintains strong relationships. Community members do not have to be inside the criminal justice system for the Bronx Defenders to help them get food stamps, healthcare, and better access to employment and housing. Similarly, Legal Aid has established relationships with providers of non-defensive services, such as Esperanza, which connects clients aged nineteen and younger with counseling services, GED programs, educational services, and home visits.

With respect to providing clients with seamless access to services that address their legal and nonlegal needs, we identified two primary differences between the Bronx Defenders and Legal Aid. First, the team structure at the Bronx Defenders allows for easier referrals and more consistent monitoring of referral success. At the Bronx Defenders, teams of advocates from different practice areas physically sit together. These teams include criminal defense, family defense, civil generalist, immigration, and impact litigation attorneys as well as social workers, investigators, team administrators, civil legal advocates, parent advocates, and immigration advocates. Criminal defense attorneys report

73 Id.
74 See Telephone Interview with 18B Attorney #1 (Aug. 28, 2017).
75 See id.
76 Id.; Telephone Interview with 18B Attorney #2 (Sept. 26, 2017); Telephone Interview with Criminal Court Judge #3 (Sept. 13, 2017).
77 Steinberg, supra note 10, at 969.
78 Telephone Interview with Attorney #4, Bronx Defs., supra note 70.
79 Telephone Interview with Attorney #5, Legal Aid Soc’y (Aug. 30, 2017).
80 Telephone Interview with Attorney #2, Bronx Defs. (Aug. 10, 2017).
81 Each team typically has between five and seven criminal defense attorneys. Telephone Interview with Attorney #6, Bronx Defs. (Oct. 5, 2017).
82 “Parent Advocates assist and support parents who have open Family Court cases and are at risk of having, or who have had, their children removed and placed into foster care. They provide a strong voice for parents, and advocate for clients with the Administration for Children’s Services (ACS) and other social service agencies.” Parent Advocate, BRONX DEFENDERS, https://www.bronxdefenders.org/who-we-are/how-we-work/parent-advocate/ [https://perma.cc/VG3K-DF8M].
83 Telephone Interview with Attorney #2, Bronx Defs., supra note 80.
that physical proximity to other attorneys and advocates facilitates referrals.84 Teams have one or more team leaders, and advocates outside of the criminal defense practice and nonattorneys (for example, social workers and parent advocates) may serve as team leaders.85 Team leaders, along with practice-area supervisors, monitor whether team members are communicating effectively and whether team members are identifying needs beyond their independent practice areas.86 Team leaders collect reports on the referrals that each team member makes.87

Although Legal Aid’s civil attorneys and criminal defense attorneys do not sit in teams, criminal defense attorneys work closely with Legal Aid’s noncriminal practice areas to address immigration, housing, employment, education, and other life issues that arise as a result of arrests and convictions.88 Civil and criminal defense attorneys in the Bronx Office of Legal Aid are located in the same building, and Legal Aid attorneys noted that being located in the same building allows for frequent in-person communication between Civil Practice and Criminal Practice attorneys.89

A practical consequence of the Bronx Defenders’ team structure is that criminal defense attorneys at the Bronx Defenders have consistent access to civil attorneys, even if civil attorneys on their team have an independent caseload.90 Criminal defense attorneys at the Bronx Defenders reported that advocates in other practice areas are almost always receptive to referrals, even when their independent caseload is already inundated.91 Advocates noted that sitting together in teams helps advocates with independent caseloads triage their cases. Because of physical proximity, advocates can talk about outcomes across all domains and communicate urgent tasks that need to be completed in each advocate’s practice area.92 In addition, attorneys at the Bronx Defenders noted that because team leaders and practice-area supervisors are tasked with monitoring effectiveness and ease of referrals, and because

84 Telephone Interview with Attorney #6, Bronx Defs., supra note 81.
85 Id.
86 Id.
87 Id.
88 Telephone Interview with Attorney #2, Legal Aid Soc’y, supra note 62.
89 See Telephone Interview with Attorney #6, Legal Aid Soc’y, supra note 65.
90 At the Bronx Defenders and Legal Aid, civil attorneys have caseloads independent of referrals they receive from criminal defense attorneys within their organization. See Telephone Interview with Attorney #3, Bronx Defs. (Oct. 2, 2017); Telephone Interview with Attorney #1, Legal Aid Soc’y (Aug. 8, 2017). For example, the family defense practice at the Bronx Defenders is on duty at family court and receives its own clients through this intake stream. Telephone Interview with Attorney #3, Bronx Defs., supra.
91 Telephone Interview with Attorney #9, Bronx Defs., supra note 67.
92 Id.
the organization in general focuses on making referrals as seamless as possible, teams can quickly respond to any barriers to referrals.93 Although criminal defense attorneys at Legal Aid reported that civil attorneys are generally accessible, one criminal defense attorney at Legal Aid noted that occasionally, civil attorneys are busy with their independent caseloads and this might affect their ability to immediately address a criminal defense client’s issues.94 The interviewee noted that it might be better if there were some preferential access for criminal clients with collateral needs.95 Another Legal Aid attorney reported that with respect to family court and housing issues, interactions may be less seamless and take a little more work, especially because ethical conflicts of interest sometimes arise.96

The second notable difference between the Bronx Defenders and Legal Aid is that the Bronx Defenders uses social workers more frequently.97 These social workers conduct psychosocial assessments, recommend treatment for clients experiencing substance abuse disorders or mental health problems, and collect mitigating information to contextualize the behavior that led to criminal justice involvement.98 Attorneys at the Bronx Defenders and Legal Aid note that connecting clients with appropriate treatment sometimes allows them to reach creative plea deals and dispositions. For example, an assistant district attorney may accept a defendant’s spending twelve weeks in anger management in place of jail or probation,99 or if a defendant does well in a treatment program, the judge might consider a nonincarceration disposition.100 According to Indigent Defense Organization Oversight Committee (IDOOC) reports, the Bronx Defenders uses social workers in a much higher proportion of its misdemeanor and felony cases. In fiscal years 2012 to 2013 and 2010 to 2011, Legal Aid used social workers in 1.8% and 0.8% of its misdemeanor cases and in 5.2% and 5.6% of its felony

93 Id.
94 Telephone Interview with Attorney #6, Legal Aid Soc’y, supra note 65.
95 Id.
96 Telephone Interview with Attorney #7, Legal Aid Soc’y, supra note 66. An example of such a conflict would be when Legal Aid represents children in family court and their parents end up in criminal court on another matter. Id.
98 Steinberg, supra note 10, at 988.
99 Telephone Interview with Attorney #8, Bronx Defs. (Oct. 27, 2017).
100 Telephone Interview with Social Worker, Legal Aid Soc’y (Aug. 29, 2017).
cases.\textsuperscript{101} During these respective fiscal years, the Bronx Defenders used social workers in 20\% and 25\% of its misdemeanor cases and in 35\% and 35\% of its felony cases.\textsuperscript{102} The IDOOC also reports that the Bronx Defenders typically has a lower attorney-to-social worker ratio. Legal Aid’s attorney-to-social worker ratio in the Bronx office was 9.7-to-1 in fiscal years 2010 to 2011.\textsuperscript{103} During that same period, the Bronx Defenders’ attorney-to-social worker ratio was 5-to-1.\textsuperscript{104} The greater proportion and use of social workers at the Bronx Defenders suggest that, as compared to Legal Aid, the Bronx Defenders might be able to more easily connect clients with treatment for underlying issues, and that the organization has more manpower to collect and communicate mitigating information, which may contribute to less punitive sentencing.

2. Interdisciplinary communication. — Attorneys at the Bronx Defenders and Legal Aid reported that criminal defense attorneys and civil attorneys within their respective offices communicate frequently. Attorneys at the Bronx Defenders noted that their office is physically designed to encourage advocates to go to a variety of the office’s legal and nonlegal experts for advice and assistance.\textsuperscript{105} The office has an open floor plan, and advocates sit with their teams, meaning that criminal defense advocates, civil advocates, social workers, and parent advocates are consistently in very close physical proximity.\textsuperscript{106} Attorneys from the Bronx Defenders report that daily interactions with advocates from other practice areas change the kinds of referrals advocates make and improve communication among advocates.\textsuperscript{107} For example, one criminal attorney at the Bronx Defenders noted that speaking with non-criminal defense advocates can trigger ideas for what noncriminal needs a client might have and can shape strategy with respect to a criminal case.\textsuperscript{108} In Bronx Defenders attorneys’ views, case strategy under this approach is more collaborative than under the traditional model, in which one advocate directs another advocate to help with a specific

\textsuperscript{101} 2012–2013 IDOOC REPORT, supra note 97, at 10; 2010–2011 IDOOC REPORT, supra note 97, at 12. Note that these percentages reflect Legal Aid’s use of social workers in felony and misdemeanor cases across the Bronx County and New York County trial offices.

\textsuperscript{102} 2012–2013 IDOOC REPORT, supra note 97, at 17; 2010–2011 IDOOC REPORT, supra note 97, at 17.

\textsuperscript{103} 2010–2011 IDOOC REPORT, supra note 97, at 12.

\textsuperscript{104} Id. at 17. The Bronx Defenders reported that in fiscal year 2012 to 2013 its ratio temporarily increased to 9-to-1 due to increased attorney hiring, but indicated that the ratio was expected to decrease again in the future after additional social workers were hired. 2012–2013 IDOOC REPORT, supra note 97, at 17.

\textsuperscript{105} Steinberg, supra note 10, at 992; Telephone Interview with Attorney #7, Bronx Defs. (Oct. 27, 2017).

\textsuperscript{106} Steinberg, supra note 10, at 992.

\textsuperscript{107} See, e.g., Telephone Interview with Attorney #6, Bronx Defs., supra note 81.

\textsuperscript{108} Id.
task. At Legal Aid, criminal defense attorneys and civil attorneys do not sit in teams; while Bronx Defenders attorneys sit together as a team and have daily face-to-face interactions that allow them to triage cases continuously and develop integrated case strategies, Legal Aid attorneys are not physically positioned in a way that encourages the same frequency of communication between criminal and civil advocates. However, in the Bronx office of Legal Aid, criminal defense attorneys sit in the same building as civil attorneys and on the same floor as social workers, facilitating regular communication. Attorneys at the Bronx Defenders and Legal Aid also noted that in addition to in-person communications, there are frequent email and phone communications between civil and criminal advocates. At Legal Aid, communication by text message is also common. Both organizations have case-management systems that allow all advocates working on a case to review information about all aspects of the case.

One difference with respect to interdisciplinary communication is that the Bronx Defenders evaluates communication between team members. During regular team meetings, the Bronx Defenders will discuss examples of effective interdisciplinary communication. In addition, as noted above, teams have one or more team leaders who, along with practice-area supervisors, monitor whether team members are communicating effectively and identifying needs beyond their independent practice area.

Another difference between the Bronx Defenders and Legal Aid is that civil, criminal, and nonlegal advocates at the Bronx Defenders routinely meet with clients as a team early in the case to allow a client to make well-informed decisions and set priorities. After this initial meeting, clients and teams communicate in a variety of ways tailored to

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109 Id.

110 In the Bronx office of Legal Aid, civil and criminal attorneys are in the same building, but not on the same floor. Telephone Interview with Attorney #7, Legal Aid Soc’y, supra note 66. At the Bronx Defenders, civil and criminal attorneys sit side-by-side. See Telephone Interview with Attorney #9, Bronx Defs., supra note 67 (explaining that a key feature of Bronx Defenders teams is that they physically sit together in rows of cubicles, which leads to face-to-face conversations about referrals).

111 Telephone Interview with Attorney #7, Legal Aid Soc’y, supra note 66.

112 See, e.g., Steinberg, supra note 10, at 992; Telephone Interview with Attorney #6, Bronx Defs., supra note 81; Telephone Interview with Attorney #8, Bronx Defs., supra note 99; Telephone Interview with Attorney #6, Legal Aid Soc’y, supra note 65; Telephone Interview with Attorney #7, Legal Aid Soc’y, supra note 66.

113 Steinberg, supra note 10, at 992; Telephone Interview with Attorney #6, Legal Aid Soc’y, supra note 65; Telephone Interview with Attorney #7, Legal Aid Soc’y, supra note 66.

114 Telephone Interview with Attorney #2, Bronx Defs., supra note 80; Telephone Interview with Attorney #5, Legal Aid Soc’y, supra note 79.

115 Steinberg, supra note 10, at 992.

116 Telephone Interview with Attorney #6, Bronx Defs., supra note 81.

117 Telephone Interview with Attorney #5, Bronx Defs. (Oct. 3, 2017).
Meetings between Legal Aid criminal attorneys, civil attorneys, and criminal defense clients occur as needed, early in the case or later as collateral issues arise. Sometimes a criminal defense attorney at Legal Aid is able to obtain one-time, clear-cut advice on a collateral issue from an immigration attorney or other civil attorney. In cases like this, the criminal attorney might then provide the advice to the client without setting up a meeting between the civil attorney and the client. However, if a client faces a complex issue, then the civil attorney, criminal defense attorney, and client might all meet as a group.

3. Advocates with an interdisciplinary skill set. — Both the Bronx Defenders and Legal Aid provide interdisciplinary training and shadowing opportunities for new attorneys. New advocates at the Bronx Defenders receive an introduction to all practice areas and training on how to collaborate with other advocates on issues outside the advocate’s practice area. Criminal defense attorneys at the Bronx Defenders spend time shadowing advocates from other practice areas and receive continuous interdisciplinary training through weekly or biweekly trainings. New criminal defense attorneys at Legal Aid also receive interdisciplinary training on topics such as immigration, housing, and employment. Criminal defense attorneys at Legal Aid have often had the opportunity to gain experience in the organization’s noncriminal legal disciplines, whether by working in other practice areas or cooperating closely with noncriminal attorneys. Legal Aid also has a continuing legal education program, with a training offered every two to three months. Many trainings address the collateral consequences of criminal cases, such as the rapidly changing immigration law landscape.

In contrast to attorneys at the Bronx Defenders and Legal Aid, 18B attorneys have limited formal training opportunities with respect to collateral consequences, and this training is not mandatory. One 18B attorney noted that the 18B administrator provides optional training on
collateral consequences once a year. However, none of the 18B attorneys interviewed discussed attending trainings on collateral issues.

4. A robust understanding of, and connection to, the community served. — The Bronx Defenders and Legal Aid both undertake criminal justice reform efforts, know-your-rights campaigns, and community intake to better understand and connect with the communities they serve. The Bronx Defenders’ community organizing component works with clients and residents of the Bronx on policing and criminal justice reform campaigns and has achieved reform of civil forfeiture and policing policies. The Bronx Defenders has also undertaken impact litigation related to stop and frisk, policing of nonaggressive panhandling, property forfeiture, and delays in criminal trials due to underfunding. In addition, the Bronx Defenders regularly conducts know-your-rights trainings, including trainings to assist community youth in navigating interactions with law enforcement. To provide information about these trainings and other services, it hosts block parties with games for children and tables set up by community service providers. The Bronx Defenders has a community intake center that allows any community member to walk into the office to ask questions and seek services, such as help with immigration or housing. One attorney from the criminal defense practice noted that a lot of clients she meets for the first time at arraignment have had prior contact with the Bronx Defenders. Many were assisted with noncriminal issues through community intake and already had a positive impression of the Bronx Defenders.

Legal Aid also undertakes efforts to better understand and serve the community. Legal Aid’s Community Justice Unit travels to the communities that Legal Aid serves to conduct know-your-rights events and resource fairs. In addition, community members can come into Legal Aid’s offices and ask legal questions of the criminal and civil units during business hours. Legal Aid attorneys volunteer within the community, coaching high school mock trial, speaking with students about

130 Telephone Interview with 18B Attorney #4, supra note 71.
131 Telephone Interview with Attorney #9, Bronx Defs., supra note 67.
132 Telephone Interview with Attorney #1, Bronx Defs. (Sept. 5, 2017).
133 Telephone Interview with Attorney #9, Bronx Defs., supra note 67.
134 Telephone Interview with Attorney #2, Bronx Defs., supra note 80.
135 Telephone Interview with Attorney #1, Bronx Defs., supra note 132; Telephone Interview with Attorney #8, Bronx Defs., supra note 99.
136 Telephone Interview with Attorney #8, Bronx Defs., supra note 99.
137 Id.
138 Telephone Interview with Attorney #7, Legal Aid Soc’y, supra note 66.
139 Telephone Interview with Attorney #6, Legal Aid Soc’y, supra note 65; Telephone Interview with Attorney #7, Legal Aid Soc’y, supra note 66.
jobs in criminal justice, and teaching courses at community and city colleges.\textsuperscript{140}

In addition to work in the community, Legal Aid has several units and projects that have brought about reform in the Bronx and across New York City. Litigation filed by the Criminal Practice’s Special Litigation Unit led to the requirement that New Yorkers be arraigned within twenty-four hours of arrest.\textsuperscript{141} The unit’s impact litigation also played a significant role in the “reform of the draconian Rockefeller Drug Laws.”\textsuperscript{142} In 2015, this same unit filed a federal class action to challenge arrests for trespass of residents and legitimate visitors in public housing developments.\textsuperscript{143}

One difference between the Bronx Defenders and Legal Aid with respect to connection to the community is that the Bronx Defenders continuously seeks formal community feedback. In order to get feedback directly from the community, the Bronx Defenders conducts client satisfaction surveys, organizes focus groups, and listens to anecdotal feedback from clients.\textsuperscript{144} Through surveys, focus groups, and informal feedback, the Bronx Defenders seeks client input on criminal representation and the community’s unmet legal needs.\textsuperscript{145} Advocates at the Bronx Defenders note that client feedback has driven the Bronx Defenders’ service model.\textsuperscript{146} For example, the Family Defense Practice arose in response to the needs of parents who lost custody of their children during criminal cases and returned for assistance navigating family court.\textsuperscript{147}

\section*{C. Potential Convergence of Service Models over Time}

Attorneys who practiced at Legal Aid before the Bronx Defenders was founded reported that Legal Aid has always addressed clients’ legal and nonlegal needs.\textsuperscript{148} These attorneys noted that during their entire tenure with Legal Aid, criminal defense attorneys worked with social

\textsuperscript{140} Telephone Interview with Attorney \#5, Legal Aid Soc’y, \textit{supra} note 79; Telephone Interview with Attorney \#6, Legal Aid Soc’y, \textit{supra} note 65.
\textsuperscript{142} LEGAL AID SOC’Y, \textit{supra} note 141.
\textsuperscript{143} \textit{Id.}
\textsuperscript{144} Telephone Interview with Attorney \#1, Bronx Defs., \textit{supra} note 132; Telephone Interview with Attorney \#6, Bronx Defs., \textit{supra} note 81; Telephone Interview with Attorney \#8, Bronx Defs., \textit{supra} note 99.
\textsuperscript{145} \textit{See, e.g.}, Telephone Interview with Attorney \#6, Bronx Defs., \textit{supra} note 81.
\textsuperscript{146} Telephone Interview with Attorney \#1, Bronx Defs., \textit{supra} note 132.
\textsuperscript{147} Telephone Interview with Attorney \#5, Bronx Defs., \textit{supra} note 117.
\textsuperscript{148} Telephone Interview with 18B Attorney \#2, \textit{supra} note 76; Telephone Interview with Attorney \#1, Legal Aid Soc’y, \textit{supra} note 90.
workers and civil attorneys to assist clients with a variety of noncriminal defense–related issues such as benefits and housing.\footnote{Telephone Interview with 18B Attorney #2, supra note 76; Telephone Interview with Attorney #1, Legal Aid Soc’y, supra note 90.} However, one Legal Aid attorney also indicated that approximately five years ago, Legal Aid’s civil attorneys were relocated to the same building as their criminal defense attorneys.\footnote{Telephone Interview with Attorney #7, Legal Aid Soc’y, supra note 66.} The consolidation into a single physical location likely improved the ability of criminal defense advocates and other advocates to share information and collaborate on multidisciplinary strategies.

Advocates outside of Legal Aid perceive Legal Aid’s model as becoming more holistic over time. An 18B attorney in the Bronx who previously worked at Legal Aid noted that although Legal Aid has long assisted clients with a variety of noncriminal defense–related issues, it appears to be increasingly connecting clients with other services to address those issues.\footnote{Telephone Interview with 18B Attorney #2, supra note 76.} The attorney hypothesized that these increasing connections to community services and programs are a result of the greater online presence of community service providers, which makes it easier for attorneys to learn about and connect clients with services.\footnote{Id.}

A nonprofit representative who works with Legal Aid and the Bronx Defenders on alternative sentencing options and connections to community programs reported that, in past years, the nonprofit’s relationship with the Bronx Defenders was stronger because of its more “holistic approach.”\footnote{Telephone Interview with Representative #1, Nonprofit that Works Within the Criminal Justice System (Sept. 11, 2017).} The representative noted that around four or five years ago, he observed a cultural change in Legal Aid that has resulted in the nonprofit working with Legal Aid in much the same way as it works with the Bronx Defenders.\footnote{Id.} He reports that current Legal Aid attorneys routinely seek alternative sentencing options and make many referrals to the nonprofit.\footnote{Id.} The representative is not sure why the change in culture came about, but hypothesized that it might be the result of recent criminal justice reform trends.\footnote{Id.}

Attorneys at the Bronx Defenders observe that there has been a greater effort by heads of practice areas at Legal Aid to coordinate and collaborate on their cases and a greater attempt by criminal defense at-
tors to seek the assistance of noncriminal attorneys and social workers. One attorney at the Bronx Defenders also noted that the Attorney-in-Charge of the Criminal Defense Practice at Legal Aid, in particular, has been focusing on training Legal Aid’s criminal defense attorneys in noncriminal issues. One Bronx Defenders attorney also noted that in the last few years, Legal Aid has become much more visible in terms of community presence, community organizing, and large-scale criminal justice reform efforts. However, attorneys at the Bronx Defenders do not consider Legal Aid’s service model to be fully “holistic” because civil and criminal attorneys do not sit together in teams and, from the Bronx Defenders’ perspective, have at times not approached cases with unified strategies or policies across divisions.

Convergence may also have been facilitated by an important infusion of additional resources. In 2009, the New York legislature passed a law requiring the establishment of case caps for indigent defense attorneys in New York City, coupled with the infusion of new funding. An administrative order required all defender organizations to adhere to uniform caseload standards by 2014. These workload standards were advisory between enactment and March 31, 2014, but became binding after that. Funding to reduce caseloads was provided through the New York Office of Court Administration. By 2015, an additional $55.6 million had been allocated to the city’s institutional defenders, representing a 35.2% increase in the funds available to them. If Legal Aid lawyers’ caseloads indeed decreased, the added time afforded per case may have permitted greater attention to the collateral consequences of each case.

Moreover, there was growing recognition at Legal Aid of the critical role of social workers. In 2009, at Legal Aid’s Bronx trial office, the

157 Telephone Interview with Attorney #1, Bronx Defs., supra note 132; Telephone Interview with Attorney #2, Bronx Defs., supra note 80; Telephone Interview with Attorney #3, Bronx Defs., supra note 90; Telephone Interview with Attorney #6, Bronx Defs., supra note 81.
158 Telephone Interview with Attorney #3, Bronx Defs., supra note 90.
159 Telephone Interview with Attorney #2, Bronx Defs., supra note 80.
160 Telephone Interview with Attorney #1, Bronx Defs., supra note 132; Telephone Interview with Attorney #2, Bronx Defs., supra note 80; Telephone Interview with Attorney #3, Bronx Defs., supra note 90.
162 INDIGENT DEF ORG. OVERSIGHT COMM., GENERAL REQUIREMENTS FOR ALL ORGANIZED PROVIDERS OF DEFENSE SERVICES TO INDIGENT DEFENDANTS § V.B.2(a) (2011), http://www.courts.state.ny.us/courts/ad1/Committees&Programs/IndigentDefOrgOversightComm/general%20_requirements.pdf [https://perma.cc/XB4C-qZHU]; see also N.Y. COMP. CODES R. & REGS. tit. 22, § 127.7 (2010). We are indebted to Andrew Davies for bringing this to our attention.
163 N.Y. COMP. CODES R. & REGS. tit. 22, § 127.7(b).
164 See id. § 127.7(b).
165 MELOSA LABRIOLA ET AL., INDIGENT DEFENSE REFORMS IN BROOKLYN, NEW YORK: AN ANALYSIS OF MANDATORY CASE CAPS AND ATTORNEY WORKLOAD 1 (2015).
attorney-to-social worker ratio was just 12.4-to-1.\textsuperscript{166} A report found that Legal Aid used social workers in just 1\% of misdemeanor cases and 3\% of felony cases.\textsuperscript{167} By 2011, the ratio had improved to 9.7-to-1 in the Bronx,\textsuperscript{168} and by 2013, it had improved to 8.5-to-1.\textsuperscript{169} These data also suggest that the practice models were converging.

\section*{D. Perceptions from Other Criminal Justice Participants}

We interviewed three criminal court judges in Bronx County who discussed their observations of the criminal defense models employed by the Bronx Defenders and Legal Aid. One judge believed that advocates from the Bronx Defenders have elevated the level of defense practice in the Bronx by pushing other public defenders to be more cerebral and look at cases in a more holistic fashion.\textsuperscript{170} Nevertheless, from his limited perspective, he said he could not opine about whether holistic defense in particular is “working” in terms of overall client outcomes.\textsuperscript{171} When the Bronx Defenders are assigned to arraignments, the judge explained, they do a “marvelous” job, but the calendar moves more slowly because their attorneys take so much time to interview thoroughly every client.\textsuperscript{172} In comparison, Legal Aid attorneys tend to be more experienced and handle cases more quickly and efficiently.\textsuperscript{173} Legal Aid’s ability to handle cases quickly and efficiently does not compromise the quality of the criminal defense they provide, according to the judge.\textsuperscript{174} Indeed, the judge concluded that, from his observations, there is no meaningful difference between the quality of representation by Legal Aid and the Bronx Defenders.\textsuperscript{175}

A second judge stated that advocates from the Bronx Defenders tend to be very smart and energetic about trying to get the best possible outcomes for their clients.\textsuperscript{176} If the judge had to name one weakness, it would be that defending the criminal case is not always their primary

\begin{thebibliography}{99}
\bibitem{167} \textit{Id}.
\bibitem{170} Telephone Interview with Criminal Court Judge \#3, \textit{supra} note 76.
\bibitem{171} \textit{Id}.
\bibitem{172} \textit{Id}. This anecdotal impression is confirmed in the empirical analysis below. \textit{See infra} Table 2, p. 863.
\bibitem{173} Telephone Interview with Criminal Court Judge \#3, \textit{supra} note 76.
\bibitem{174} \textit{Id}.
\bibitem{175} \textit{Id}.
\bibitem{176} Telephone Interview with Criminal Court Judge \#1 (Aug. 24, 2017).
\end{thebibliography}
The judge noted that criminal defense attorneys can get caught up in other facets of a client’s life and lose sight of getting a good outcome in the criminal case. According to the judge, if a criminal defense attorney fails to be a criminal defense attorney first and foremost, “all is lost.” The judge opined that Legal Aid typically has more senior lawyers who are more practical but less energetic than the Bronx Defenders.

A third judge we interviewed believed strongly in the idea of holistic defense. In particular, he emphasized the prominent role that social workers play in the holistic model, mentioning how helpful they are in addressing issues like substance abuse, mental illness, and housing instability among young people. Both the Bronx Defenders and Legal Aid used social workers effectively in his experience. As between the two institutions, he has not observed a difference in quality of overall criminal representation or nonlegal services.

We also interviewed other individuals who are or have been involved in providing service to criminal justice–involved individuals in the Bronx. One interviewee from a nonprofit that works within the criminal justice system felt that both the Bronx Defenders and Legal Aid were client focused. Since each organization has internal units to address noncriminal consequences of criminal cases in areas like employment, immigration, and housing, the interviewee explained, the quality and breadth of representation depends on the individual attorney, not the organization.

Another interviewee from a criminal justice–related nonprofit acknowledged being more likely to refer clients to the Bronx Defenders if the client had immigration or child custody issues. The interviewee commended Legal Aid’s skilled criminal defense but believed that the Bronx Defenders model is better equipped to handle noncriminal consequences of criminal matters like losing welfare or housing.

A former criminal defense attorney who practiced in the Bronx described Legal Aid as having better institutional memory than the Bronx

177 Id.
178 Id.
179 Id.
180 Id.
181 Telephone Interview with Criminal Court Judge #2 (Aug. 28, 2017).
182 Id.
183 Id.
184 Id.
185 Telephone Interview with Representative #2, Nonprofit that Works Within the Criminal Justice System (Sept. 18, 2017).
186 Id.
187 Telephone Interview with Representative #3, Nonprofit that Works Within the Criminal Justice System (Sept. 27, 2017).
188 Id.
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Defenders. When co-counseling cases with Legal Aid attorneys, the interviewee discovered that Legal Aid had an extensive database of motions, lines of cross-examination, and other templates for a wide range of scenarios. The Bronx Defenders’ written motion- and trial-practice resources did not appear to this interviewee to be as well-developed.

E. Summary

In summary, criminal defense attorneys at the Bronx Defenders and Legal Aid address clients’ legal and nonlegal needs through referrals to civil attorneys and social workers within their organizations and through relationships with community nonprofits. Although criminal defense attorneys at Legal Aid report that civil attorneys are generally responsive to the needs of their clients, the team structure and continuous evaluation of interdisciplinary referrals and communication at the Bronx Defenders allow for more robust collaboration between civil and criminal attorneys. In addition, the greater proportion and use of social workers at the Bronx Defenders suggest that, as compared to Legal Aid, the Bronx Defenders can more easily connect clients with treatment for underlying issues. Indeed, both organizations agree that connecting clients with appropriate treatment sometimes allows for nonincarceration plea deals and dispositions. Greater proportion and use of social workers also means that the Bronx Defenders has more manpower to collect and communicate mitigating information that may lead to less punitive sentencing. Both defender organizations appear to have considerable advantages vis-à-vis private appointed counsel in their ability to access support for their clients outside of criminal representation.

Attorneys have difficulty securing nonlegal services to address their clients’ noncriminal issues due to resource constraints and the requirement that the attorney request such services from the presiding judge.

With respect to serving and maintaining connections to the community, both the Bronx Defenders and Legal Aid undertake criminal justice reform efforts, know-your-rights campaigns, and community intake. However, unlike Legal Aid, the Bronx Defenders also seeks formal community feedback through the use of client-satisfaction surveys and focus groups.

Although interviews with advocates from the Bronx Defenders and Legal Aid revealed differences in how advocates collect information about and address noncriminal issues, judges and other third-party interviewees generally have not observed a meaningful difference in the quality of criminal defense representation provided by these organizations. Moreover, Legal Aid attorneys characterize their own approach

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190 Id.
191 Id.
as being holistic. These views may in part reflect a convergence across the two organizations over time, as the Legal Aid Society has taken steps to enhance the interdisciplinary training of its attorneys and increase the physical proximity of its civil and criminal attorneys in the Bronx.

With reference to the different models of outcomes that holistic defense might achieve in practice discussed in section I.C, the interview responses are generally consistent with one of two views. Bronx Defenders and some other interviewees espoused a “full success” view while Legal Aid attorneys, several judges, and some service providers advanced the “no difference” view. Although one interviewee raised the possibility that focusing on concerns outside of the criminal case might adversely impact representation,192 in general there was little suggestion from the interviewees that the holistic approach as practiced in the Bronx might lead to worse criminal justice outcomes than a more traditional approach.

III. EMPIRICAL METHODOLOGY: MEASURING THE EFFECTS OF HOLISTIC DEFENSE

While our interviews revealed some similarities between the service models of the holistic and traditional defenders, there are also important differences in their philosophies and practices. Ultimately, the extent to which these differences in approach translate into outcomes in the criminal justice system is an empirical question, one to which we now turn.

To measure the effects of holistic representation, ideally, an observer would want a means of comparing what happens to a defendant or pool of defendants receiving holistic representation with what would have happened to those same individuals had they received traditional representation. Any difference in outcomes would represent the causal effect of holistic representation. In reality, of course, it is impossible to observe the same defendant represented in the same case by both types of counsel. As a result, we are forced to infer the effect of representation by instead comparing outcomes across defendants with and without holistic representation, and, to the extent possible, controlling for underlying differences between the two defendant populations other than counsel type. Because many factors other than counsel type differ across those with and without holistic representation, including potentially unobservable factors such as the degree of cooperation of the defendant, strength of the evidence in the case, and so forth, cleanly measuring the effect of representation free of other confounding factors is challenging. From a research standpoint, the ideal situation would be one in which counsel are randomly assigned, as random assignment would ensure that, on average, pools of defendants assigned to one type of counsel versus another should be comparable on other characteristics. However,

192 Telephone Interview with Criminal Court Judge #1, supra note 176.
as a practical matter, random assignment is often impossible in the field due to logistical or ethical concerns. In the present study, we attempt to exploit features of the counsel assignment system in the Bronx that mimic random assignment in that they cause similarly situated defendants or pools of defendants to differ in whether they are assigned holistic versus traditional defenders. In particular, we take advantage of the Bronx Criminal Courts’ system of assigning counsel based on rotating arraignment shifts, where different defender organizations handle arraignments on different days of the week.

A. The Case Assignment Process in Bronx Criminal Court

In New York City, the arraignment is typically the first judicial proceeding in a criminal case and generally occurs within twenty-four hours of arrest.193 A judge, defense counsel, and assistant district attorney participate, the defendant is formally notified of the charges, and a bail determination is made.194 Prior to the arraignment, the pretrial services agency interviews the defendant and collects information about the defendant’s employment and salary.195 This information is available to the judge at arraignment, who can then make a determination about indigency status.196

Legal Aid and the Bronx Defenders receive most of their cases at arraignment.197 On weekdays, there are three eight-hour arraignment shifts that cover the full twenty-four-hour period, with arraignment occurring in two courtrooms during the day and one courtroom in mornings and evenings.198 Typically, on Saturdays, Sundays, and holidays, one courtroom operates one shift from 9:00 a.m. to 5:00 p.m. and another from 5:00 p.m. to 1:00 a.m.199 The court averages around eighty to ninety arraignments a day, but there is a fair bit of day-to-day variability

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193 See Telephone Interview with Attorney #1, Legal Aid Soc’y, supra note 90; Telephone Interview with Criminal Court Clerk #1 (Sept. 19, 2017).
196 Id.
197 Telephone Interview with Attorney #6, Bronx Defs., supra note 81; Telephone Interview with Attorney #2, Legal Aid Soc’y, supra note 62.
198 Telephone Interview with Criminal Court Clerk #1, supra note 193.
199 Id. One exception is that the court may open two courtrooms on Saturdays and Sundays if individuals have been sitting in jail for more than twenty-four hours. Id. This decision is made at the end of the week, typically on Fridays, and different agencies come together to determine if a second weekend courtroom should be opened. Id.
driven by arrest patterns. More arraignments tend to occur later in the week because of arrests for DWIs and other weekend conduct.

Either Legal Aid or the Bronx Defenders will be the primary organization assigned to each arraignment shift, and defendants appearing for arraignments during the shift get assigned to the primary organization absent special circumstances. Currently, the Bronx Defenders is assigned to Sunday day and night; Monday day and night; Tuesday day; and Wednesday day. However, the arraignment shift schedule has changed over the years as the Bronx Defenders has grown and the Office of Court Administration and the City have sought to balance out the distribution of cases among the defender organizations.

There are occasional departures from the default assignment system. If the primary organization has a conflict, the defendant will be assigned to the secondary organization (that is, the Bronx Defenders when Legal Aid is primary and Legal Aid when the Bronx Defenders is primary) or 18B counsel. If there are two codefendants, the primary organization takes one and the secondary the other, absent conflicts. But, if Legal Aid, the Bronx Defenders, or an 18B attorney has previously represented a particular codefendant, then they will take that codefendant.

If there are three or more defendants, attorneys from the 18B panel will be assigned to the extra defendants, and as a general rule the 18B attorneys are appointed whenever conflicts prevent the primary and secondary organizations from providing representation. 18B counsel are also assigned when the defendant discharges his attorney or an attorney discharges the defendant, which can happen at any point during a

\[\text{200 Id.}\]

\[\text{201 Id.}\]

\[\text{202 Telephone Interview with Attorney #1, Bronx Defs., supra note 132; Telephone Interview with Attorney #2, Bronx Defs., supra note 80; Telephone Interview with Attorney #2, Legal Aid Soc’y, supra note 62; Telephone Interview with Attorney #3, Legal Aid Soc’y, supra note 63; Telephone Interview with Criminal Court Clerk #1, supra note 193.}\]

\[\text{203 Telephone Interview with Criminal Court Clerk #2 (Dec. 4, 2017).}\]

\[\text{204 Telephone Interview with Criminal Court Clerk #1, supra note 193. For example, Legal Aid might represent a child in family court. Id. If the parent is arrested and comes in on an arraignment shift during which Legal Aid is the primary organization, then Legal Aid would hand off the parent to the Bronx Defenders. Id.}\]

\[\text{205 Telephone Interview with Criminal Court Clerk #1, supra note 193.}\]

\[\text{206 Id. Generally, the primary organization decides which codefendants it will take and which to hand off. Id.}\]

\[\text{207 See id.}\]

\[\text{208 Telephone Interview with 18B Attorney #3 (Sept. 29, 2017); Telephone Interview with Criminal Court Judge #2, supra note 181.}\]
case. 18B counsel might also be appointed in unique or emergency situations like a hospital arraignment.

Legal Aid and the Bronx Defenders practice vertical representation, meaning that the attorney whom a defendant meets at arraignment is almost always the defendant’s attorney for the duration of the case. An 18B attorney whom a defendant meets at arraignment will also likely be the defendant’s attorney for the duration of the case.

Appendix Table 1 provides basic summary information about case assignment in the Bronx, demonstrating two important patterns regarding case assignment. First, and unsurprisingly, defendants are much more likely to be assigned to a defender organization when it is covering the shift during which they are arraigned. Second, however, it is fairly common for defendants arraigned on shifts covered by the Bronx Defenders to ultimately be represented by Legal Aid. This occurs because Legal Aid is a much larger defender organization and many defendants have had prior contacts with the criminal courts. When one organization has prior ties representing a client, this triggers an exception to the normal assignment mechanism.

Because of how the assignments are made, whether a particular defendant is assigned to the Bronx Defenders or Legal Aid largely depends on which day he or she is arraigned and/or to which courtroom he or she is assigned, factors that are unlikely to be directly related to case outcomes. Below we outline a more formal statistical framework that reflects this intuition.

209 Telephone Interview with 18B Attorney #1, supra note 208. The general sentiment among 18B attorneys interviewed by RAND was that, because they get assigned to clients who have discharged their attorneys or have been discharged by their attorneys, 18B attorneys tend to have clients who are difficult to get along with and/or have difficult cases. See, e.g., Telephone Interview with 18B Attorney #2, supra note 76.

210 Telephone Interview with 18B Attorney #3, supra note 208.

211 Telephone Interview with Attorney #2, Bronx Defs., supra note 80; Telephone Interview with Attorney #2, Legal Aid Soc’y, supra note 62.

212 See Telephone Interview with 18B Attorney #3, supra note 208.


214 See Telephone Interview with Attorney #2, Bronx Defs., supra note 80.
B. Data Sources

The primary case-level data used in the analysis below were obtained from the New York Division of Criminal Justice Services (DCJS) and the New York City Office of Court Administration (OCA). We requested an extract of all records from the DCJS Computerized Criminal History (CCH) database involving individuals arraigned within Bronx County between 2000 and the present supplemented with Bronx arraignment data from OCA.\textsuperscript{215} The CCH database includes all fingerprintable arrests that occur within the state of New York and is the data source used to generate rap sheets following arrest for arraignments in the state.\textsuperscript{216} DCJS provided data covering over 2.8 million individual arrests involving nearly 400,000 distinct individuals.

In the analysis below, the unit of observation is a defendant/case pairing, and we initially restrict attention to cases where there was an arraignment between 2000 and 2014 and an initial disposition by October 2016,\textsuperscript{217} leaving a pool of 940,546 observations.\textsuperscript{218} We exclude the roughly 5% of Bronx criminal defendants who were not indigent and were represented by hired private counsel, as well as the <1% of cases where the DCJS file had missing data on counsel type. We then cross-checked the DCJS data with annual Bronx Defender caseload statistics published by the New York Court’s Indigent Defense Organization Oversight Committee\textsuperscript{219} as a data quality check. Comparison of the two sources suggest that from 2008 through the third quarter of 2012, the DCJS data under-recorded the number of cases assigned to the Bronx

\textsuperscript{215} The final data file included arraignments through October 17, 2016.

\textsuperscript{216} N.Y. State Div. of Criminal Justice Servs., Computerized Criminal History System Overview (on file with the Harvard Law School Library). Criminal citations, commonly referred to as Desk Appearance Tickets (DAT), generally require fingerprinting and are thus included in the CCH. See N.Y. CRIM. PROC. LAW § 160.10(1) (McKinney Supp. 2018).

\textsuperscript{217} The data indicate that over 97% of cases resolve within 655 days — the shortest available follow-up period for any observation in the dataset — and that over 99% of cases resolve within three years.

\textsuperscript{218} We compared the annual counts of cases in the DCJS data to the published caseload statistics for the Bronx in the annual reports of the Criminal Courts of the City of New York, N.Y.C. Criminal Court, Annual Reports, NYCOURTS.GOV, https://www.nycourts.gov/COURTS/nyc/criminal/annual-reports.shtml [https://perma.cc/ZBqZ-KNFQ], and observed close, but not perfect, agreement. Our annual felony case counts were generally within 1% of the published felony county count, but misdemeanor counts were typically around 90% of the published count, likely due to the exclusion from the CCH database of unclassified misdemeanors (for example DWI, criminal littering), which do not require fingerprinting. See N.Y. State Div. of Criminal Justice Servs., supra note 216.

Defenders, so we omit those years in the analysis that follows. We also omit 4,556 cases (<1% of remaining sample) arraigned on a handful of days where there were unusually few arraignments recorded, reasoning that the court may have departed from the normal assignment process on such days. The final analytic sample includes 587,487 individual defendant/case pairings initiated in the Bronx between 2000–2007 and 2012–2014.

Figure 1 reports average characteristics for the overall sample and shows the percent difference in each characteristic across individuals ultimately represented by the Legal Aid Society as compared to those represented by the Bronx Defenders, along with whiskers denoting a 95% confidence interval for the difference. For example, the 2.37% reported next to “Male” means that Legal Aid clients are 2.37% more likely to be male than Bronx Defenders clients. More detailed statistics underlying the figure can be found in Appendix Table 2.

Defendants in the sample are predominantly male, are overrepresentative of Black and Hispanic defendants, and have a somewhat higher average age than observed in some other contexts. Nearly a third of defendants face felony charges, and nearly one in ten have been charged with a violent felony. Many defendants have experienced multiple contacts with the criminal justice system, with a typical defendant recording prior felony and misdemeanor arrests.

Figure 1 also demonstrates some notable differences across defendants represented by the two defender organizations. Bronx Defenders clients were more likely to face felony charges as well as violent and weapons charges; they were less likely to face drug charges. Clearly, any outcome comparison between holistic and traditional defender clients that failed to account for such charging differences would provide a misleading view of the effects of holistic representation. While charges are observable and can therefore be controlled for in an empirical analysis, the population differences shown in Figure 1 raise the possibility that there may be other, unobserved differences across defendants — for example, in case complexity — that might make it difficult to empirically isolate outcome differences due to holistic representation from other factors.

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220 We obtain similar results to those reported below if we include the entire sample, which may reflect some of the robustness properties of our empirical approach to misclassification. See infra note 226.

221 For example, there were only three arraignments recorded on September 11, 2001 (World Trade Center attacks), and unusually low numbers of arraignments on October 29–31, 2012 (Superstorm Sandy), so cases arraigned on those dates are omitted from the analysis.

As omnibus measures of case complexity, for each defendant we predicted the probability of conviction and the expected sentence length. To derive the predicted conviction rate, we estimated a probit model where the outcome was a dummy variable for conviction and the explanatory variables were 269 variables capturing demographics (age, gender, race, ethnicity), case characteristics (top charge, number of charges, arrest location), and prior criminal history. Using estimates from this probit model, we predicted the probability of conviction for each individual in the sample. Then, at the bottom of Figure 1, we compare the average prediction for those represented by the Bronx

223 Appendix Figure 1 shows the distribution of predicted values from this model. Predicted conviction probabilities range from around .2 to nearly 1, with appreciable numbers of defendants falling across the entire range, suggesting that the model meaningfully differentiates defendants, as would be expected given the large number of predictors, including key variables such as offense and charge count that have legal relevance in determining outcomes.
CLIENTS OF THE TRADITIONAL DEFENDER FACE HIGHER PREDICTED CONVICTION RATES BUT LOWER PREDICTED SENTENCE LENGTHS, LIKELY DUE TO THEIR OVERREPRESENTATION OF Drug CASES, WHICH TEND TO BE HARDER TO DISPROVE DUE TO THE AVAILABILITY OF PHYSICAL EVIDENCE BUT WHICH ALSO TEND TO CARRY SHORTER SENTENCES. THE PRACTICALLY AND STATISTICIALLY SIGNIFICANT DIFFERENCES IN PREDICTED SENTENCE LENGTH SUGGEST IMPORTANT NONCOMPARABILITIES BETWEEN THE CLIENTS OF THE TWO TYPES OF PUBLIC DEFENDERS.

Several important limitations of the data used for this analysis affect the interpretation of the results that follow. Although we have reliable sentencing data, we do not know the actual custody status of any particular defendant postadjudication, and so our analyses that look at posttrial crime will include both defendants still being held in state custody and those who were never convicted or who were released. A second limitation is that we do not observe the immigration status of defendants. Not only is ability to remain in the United States a plausible outcome of interest — as many defendants might pursue legal strategies based on potential immigration consequences — but it also shapes who is observable in the crime data postadjudication. Finally, our data include only measures of what happens in the criminal justice system, while the holistic model is designed to affect a wider range of outcomes such as family stability, housing, and economic outcomes. The analysis is thus limited to one particular set of outcomes across a much larger set of outcomes that one would ideally evaluate in understanding the overall impact of holistic defense.

C. Natural Experiment

To better account for possible nonrandom sorting of clients to defender organizations, we seek to identify a factor that affects which type of defender represents a particular client, but is otherwise unrelated to the quality of the case or other indicia of guilt or innocence. As discussed above, we exploit changes in shift assignments, which varied the organization assigned as primary for defendants arraigned on particular days of the week in an idiosyncratic manner. Figure 2 depicts the shift assignments over the sample period considered in this study.

In the first half of the 2000s, the Bronx Defenders’ shift assignments were centered on Mondays and Tuesdays, with the holistic defender covering all Monday and Tuesday shifts by 2001. In 2005, the Bronx Defenders began taking Sunday shifts, although it was temporarily moved to Thursday and Friday shifts at the end of 2005 before reverting to the prior arrangement in 2006. Beginning in 2012, the Defenders

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224 The Poisson model generated predictions that also could widely differentiate defendants.
added Wednesday and Thursday shifts and began covering all Sunday and Monday shifts. Figure 2 demonstrates that, with the exception of Saturday shifts, which have always been covered by the Legal Aid Society, the Bronx Defenders have received shift assignments on all days of the week at various points in time, and the determination of when they cover particular days has been idiosyncratic. This rotating shift-assignment pattern permits identification of the effects of holistic representation even when we control for day-of-week effects (to account for the likelihood that crimes committed on particular days of the week, such as weekends, can be qualitatively different from those committed on other days of the week, such as weekdays).

Figure 2: Evolution of Shift Assignments for the Bronx Defenders and Legal Aid Society

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<thead>
<tr>
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<td>2014</td>
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</tbody>
</table>

Figure 3 illustrates the value of controlling for day-of-week effects, comparing defendants arraigned on dates where the holistic defender was assigned to one or more shifts to defendants arraigned on dates where only the traditional defender was taking cases. Appendix Table 3 provides more detailed statistics underlying Figure 3. Given that crime patterns vary over the course of the week and over time and that Figure 2 reveals systematic differences in the likelihood of holistic representation both across days of the week and over time, the comparisons in Figure 3 are conditional on arraignment month and day of week.

Appendix Table 3 demonstrates that shift assignments have a large influence on eventual representation, with only a small number of defendants getting the holistic defenders on off-shift days (likely due to
prior representation), but more than a third of defendants obtaining holistic representation on on-shift days. For a few characteristics, such as ethnicity or the presence of drug charges, we observe statistically significant differences across the two groups of defendants. For most characteristics, however, there is no measurable difference, and in all cases the disparity between groups is practically small. A Kolmogorov-Smirnov test of the null hypothesis that the p-values shown in Figure 3 are distributed uniformly — as would be expected if the shifts were randomly assigned — yields a p-value of .041.

Figure 3: Comparison of Defendants Arraigned on Dates When the Bronx Defenders Was and Was Not Taking Cases

<table>
<thead>
<tr>
<th>Defendant demographics</th>
<th>Adjusted % difference — arraigned on non-BxD vs. BxD days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>-0.42%</td>
</tr>
<tr>
<td>Age (years)</td>
<td>-0.54%</td>
</tr>
<tr>
<td>Black</td>
<td>-1.18%</td>
</tr>
<tr>
<td>Hispanic</td>
<td>-1.41%</td>
</tr>
<tr>
<td>Current charge</td>
<td></td>
</tr>
<tr>
<td>Attempted Felony</td>
<td>1.20%</td>
</tr>
<tr>
<td>Number of counts</td>
<td></td>
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<tr>
<td>Top charge — drug</td>
<td></td>
</tr>
<tr>
<td>Violent offense</td>
<td></td>
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<tr>
<td>Violent felony</td>
<td></td>
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<tr>
<td>Includes firearm charge</td>
<td></td>
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<tr>
<td>Includes weapon charge</td>
<td></td>
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<tr>
<td>Includes drug charge</td>
<td></td>
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<tr>
<td>Prior arrests for</td>
<td></td>
</tr>
<tr>
<td>Felonies</td>
<td></td>
</tr>
<tr>
<td>Misdemeanors</td>
<td></td>
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<tr>
<td>Drug offenses</td>
<td></td>
</tr>
<tr>
<td>Violent felonies</td>
<td></td>
</tr>
<tr>
<td>Weapons offenses</td>
<td></td>
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<tr>
<td>Crimes against minors</td>
<td></td>
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<tr>
<td>Predicted conviction rate</td>
<td></td>
</tr>
<tr>
<td>Predicted sentence length (days)</td>
<td></td>
</tr>
</tbody>
</table>

Note: Whiskers denote 95% confidence intervals for each difference.

Given that there appears to be some possibility of residual imbalance in certain characteristics of defendants depending on the day they were arraigned, how confident should we be in the natural experiment? We see several reasons to expect that it is still likely to yield good causal estimates of the effect of holistic defense. First, none of the statistically significant differences shown in Appendix Table 3 appears large enough that one would expect, based on these differences, that there would be
an appreciable divergence in outcomes across the two pools of defendants. Examining predicted conviction rate and sentence length, two of the omnibus measures of case difficulty presented at the bottom of Appendix Table 3, provides more direct evidence in favor of this argument. These measures were generated taking into account a wide spectrum of defendant characteristics and asking what the expected outcomes for each defendant would be based upon the totality of those characteristics. Neither metric is statistically nor practically different between the two pools of defendants. This suggests that, despite the minor differences shown for some characteristics in Figure 3, the likely outcomes of the two pools of defendants would be very similar absent any sort of difference in the quality of their representation. Second, for the natural experiment to yield causal estimates appropriately, we require that the shift assignments be random not in some absolute sense, but rather conditional on other variables for which we control. We can directly observe many of the most important determinants of case outcomes (for example, prior criminal history and current charge) and directly control for these determinants in the analysis, lessening the potential for the natural experiment to fail. Put differently, the differences shown in Figure 3 are actually not likely to contaminate estimates of the outcomes, because we can directly control for such differences in the analysis. More problematic would be a situation in which both (a) there are unobserved (and therefore uncontrollable) differences across the two groups, and (b) these differences are large enough in practical terms to affect the outcomes under consideration appreciably. Figure 3 suggests that even if (a) might hold, (b) likely does not, because observed differences are practically small.

To measure the effects of holistic representation using the natural experiment, we estimate a linear instrumental variables (IV) regression model via two-stage least squares (2SLS) where the unit of observation is a defendant in a particular case. Here, the outcome of interest is a criminal justice outcome, such as whether the defendant was convicted or how long the sentence given was. The primary explanatory variable of interest is an indicator for whether a particular defendant was represented by the holistic defender (Bronx Defenders). Defendants repre-

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225 See Joshua D. Angrist & Jörn-Steffen Pischke, Mostly Harmless Econometrics 113–218 (2009), for a more detailed description of IV models and 2SLS. While the binary nature of the endogenous variables and some outcomes might suggest the use of nonlinear models, in this case, because of the desirability of controlling for many time-fixed effects and fixed effects capturing the wide range of different charge patterns seen in the data, estimation using nonlinear models was not feasible. Section 4.6.3 of Mostly Harmless Econometrics highlights some of the advantages of the linear IV approach. Id. at 197–205.
THE EFFECTS OF HOLISTIC DEFENSE

sent by the traditional defender (Legal Aid Society) serve as the omitted comparison group. Because some indigent defendants are ultimately assigned to appointed counsel, we also include an indicator for representation by appointed counsel as an additional, separate control, although comparing the representation of public defenders with that of private appointed counsel is not a primary focus of the study.

Given the concerns described above about the potential for nonrandom sorting across defendants, it seems plausible to imagine that case assignment might be correlated with unobserved factors that affect criminal justice outcomes, such as the difficulty of the case. To address this concern, we instrument for the holistic defense indicator using a set of two indicators: one signifying whether the case was arraigned on days when the holistic defender was assigned to all courtroom shifts, and another signifying whether the case was arraigned on days where the holistic defender was assigned to some but not all shifts (with the omitted comparison group being days in which the holistic defender was not taking primary assignments). We also instrument for private appointed counsel representation using the daily count of new arraignments, reasoning that day-to-day case volume is largely random, but on days with an unusually high volume of cases, the public defenders and court personnel might be more inclined to try to shift cases toward appointed attorneys as a means of balancing public defender caseloads. Appendix Figure 2 provides evidence in favor of this supposition, showing that appointed counsel tend to receive a higher fraction of cases when there are large numbers of arraignments on a particular day.

The IV regressions also control for a series of other factors that may influence case outcomes and that may also be correlated with representation type. These include defendant age at the time of the arrest, gender, race, and ethnicity; the number of arrest charges and detailed top

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226 The use of an IV model could also help to address certain types of misclassification where the true organizational affiliation of the defender is misrecorded by the court. In other words, it removes biases that might arise due to some types of clerical errors.

227 Thus, the overall estimation strategy involves estimating three equations: a main equation for the effects of holistic representation and two equations for the endogenous variables, holistic representation and appointed counsel representation, each of which has three instruments (partial shift indicator, full shift indicator, and daily case count).

228 An alternative possibility is that these differences are solely driven by codefendant cases, which would be less ideal from a research design standpoint. Although we lack data on the frequency of codefendant cases in the Bronx, data from the 2014 National Incident-Based Reporting System reveal that only 3879 (3.26%) of the 119,124 recorded crime incidents occurring in large cities (>500,000 population) involved three or more co-offenders who were arrested. See National Incident-Based Reporting System, 2014: Extract Files (ICPSR 36421), NAT’L ARCHIVE CRIM. JUST. DATA (Oct. 3, 2018), https://www.icpsr.umich.edu/icpsrweb/NACJD/studies/36421/summary [https://perma.cc/B3RK-zAPV]. Given that 16% of defendants in our sample are represented by appointed counsel, it seems unlikely that appointed counsel assignments are driven primarily by codefendant cases.
charge (1211 different categories); prior arrests and convictions for misdemeanors, felonies, weapons offenses, drug offenses, violent felonies, and offenses involving children; arrest location; holiday (Christmas, Thanksgiving, Independence Day, Memorial Day, Labor Day, or New Year’s Day) offenses; and fixed effects for arraignment day of week, day of month, and month of year. Conceptually, then, the regressions compare outcomes across two defendants with the same demographics, current charges, and prior criminal history who vary in the type of representation they receive due to the fact that they were arraigned on dates where different defender organizations were scheduled to take cases. The main requirement for these estimates to measure the causal effect of holistic representation is that, after controlling for the factors listed above, there be no systematic differences in case quality, culpability, or other unmeasured case characteristics between those arraigned during Defender shifts as compared to those arraigned during Legal Aid shifts.229 While this assumption is not directly testable, there is little reason to suppose that such systematic differences should exist, and Appendix Table 3 suggests that the two groups are highly similar on observable dimensions.

IV. HOLISTIC DEFENSE SIGNIFICANTLY IMPACTS CLIENT OUTCOMES

A. Pretrial Outcomes and Case Processing

We first consider whether holistic defense affects outcomes prior to case resolution. Table 2 reports the IV estimates of the effect of holistic defense on speed of case resolution and pretrial crime obtained using the statistical model described above. The first-stage estimates (Appendix Table 4) indicate a strong relationship between shift timing and holistic representation.

229 See Luc Behaghel et al., Robustness of the Encouragement Design in a Two-Treatment Randomized Control Trial 3–4 (Inst. for the Study of Labor, Discussion Paper No. 7447, 2013), http://ftp.iza.org/dp7447.pdf [https://perma.cc/W86D-XCM3] (describing other technical assumptions that must be met in order for 2SLS estimation to deliver causal estimates in a setting such as this — assumptions that are likely satisfied in the present situation).
Table 2: Effects of Holistic Defense on Pretrial Arrest, Failure to Appear, and Case Processing

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Mean for clients with traditional defender</th>
<th>Estimated effect of holistic representation</th>
<th>Change in outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case resolved at arraignment</td>
<td>.308</td>
<td>-.012 (0.011)</td>
<td>-3.8%</td>
</tr>
<tr>
<td>Log (case length)</td>
<td>2.70</td>
<td>.085* (0.037)</td>
<td>8.9%</td>
</tr>
<tr>
<td>Bail and Pretrial Release</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Release on recognizance</td>
<td>.713</td>
<td>.023** (0.008)</td>
<td>3.2%</td>
</tr>
<tr>
<td>Detained</td>
<td>.225</td>
<td>-.019** (0.007)</td>
<td>-8.6%</td>
</tr>
<tr>
<td>Bail amount (conditional)</td>
<td>$3504</td>
<td>-216 (314)</td>
<td>N.S.</td>
</tr>
<tr>
<td>FTA and Pretrial Arrest</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bench warrant issued</td>
<td>.214</td>
<td>.013* (0.006)</td>
<td>5.9%</td>
</tr>
<tr>
<td>Any pre-adjudication arrest</td>
<td>.148</td>
<td>.019** (0.005)</td>
<td>12.7%</td>
</tr>
<tr>
<td>Number of pre-adjudication arrests</td>
<td>.252</td>
<td>.038** (0.013)</td>
<td>15.1%</td>
</tr>
<tr>
<td>Misdemeanors</td>
<td>.161</td>
<td>.023** (0.009)</td>
<td>14.2%</td>
</tr>
<tr>
<td>Felonies</td>
<td>.091</td>
<td>.013* (0.006)</td>
<td>16.7%</td>
</tr>
<tr>
<td>Violent felonies</td>
<td>.026</td>
<td>.003 (0.003)</td>
<td>N.S.</td>
</tr>
</tbody>
</table>

Note: This table reports coefficient estimates from linear 2SLS regressions of the listed outcome on indicators for whether a defendant was represented by the holistic defender or private appointed counsel, with the omitted comparison group being defendants represented by the traditional public defender. The regressions instrument for these endogenous indicators using an indicator for arraignment on a date when the holistic defender was taking some but not all shifts, an indicator for arraignment on a date when the holistic defender was taking all shifts, and the daily number of arraignments involving new (<48 hours since arrest) cases. The unit of observation is a defendant in a case. For case resolution at arraignment, case length, failure to appear (FTA), and pretrial arrest, the sample size is 587,156. For release on recognizance and pretrial detention, the sample is limited to defendants who did not resolve their case at first appearance, resulting in a sample size of 428,315. The conditional bail amount analysis further limits the sample. Including only those defendants who had a nonzero bail set and trimming the top 0.5% of observations (bail >$1,000,000) yields a sample size of 123,598. The regressions also control for defendant age at the time of the arrest, gender, race, and ethnicity; the number of arrest charges and detailed top charge (1211 different categories); prior arrests and convictions for misdemeanors, felonies, weapons
offenses, drug offenses, violent felonies, and offenses involving children; arrest location; holiday (Christmas, Thanksgiving, Independence Day, Memorial Day, Labor Day, or New Year’s Day) offenses; and fixed effects for arraignment day of week, day of month, and month of year. Standard errors clustered on arraignment day are reported in parentheses. * denotes statistically significant difference, p<.05, ** denotes statistically significant difference, p<.01. N.S. = not statistically significant.

The top rows of Table 2 consider two outcomes related to case processing: whether the case resolves at the initial arraignment (in which case pretrial detention is not a possibility) and how long the case takes to reach an initial disposition. Resolutions at arraignment are fairly commonplace and often involve either immediate guilty pleas or adjournments in contemplation of dismissal (which is generally viewed as a positive outcome from the perspective of the defendant), so an immediate resolution is neither obviously good nor obviously bad; in any case, the estimates suggest the frequency of this outcome is not affected by holistic representation. Holistic representation was, however, associated with a 9% increase in the amount of time it takes to resolve a case. Although the precise explanation for this longer case adjudication time is unclear, one possibility is that holistic defenders strategically delay case resolution for some clients in order to allow them to begin drug treatment, secure employment, or engage in other positive actions that might lead to more lenient sentences. Another possibility is that the extensive, checklist-based screening process conducted by the holistic defenders lengthens the case.

We next examine bail and pretrial release for defendants who do not immediately resolve their cases. Holistic representation increases the likelihood that clients are granted release on recognizance by 2.3 percentage points (3.2%) and reduces overall rates of pretrial detention by 8.6%. For those of whom bail is required, holistic defense is associated with lower bail amounts, although this difference is not statistically significant.

Clients with holistic representation were more likely to be arrested during the pretrial period when measuring arrests using either the fraction of clients with a new arrest or the total number of arrests. Pretrial misdemeanor arrests increased by 14.2% and felony arrests increased by 16.7%, although there was no measurable increase in pretrial violent felony arrests. There is nothing in the holistic defense theory of action that would suggest that any support or services provided during the pretrial period should increase defendant contacts with the criminal justice system. Thus, some — and perhaps all — of the measured increase in pretrial arrests and failures to appear is likely attributable to clients’ higher release rate coupled with their longer exposure time before cases are resolved, which would leave them more available time to accrue failures to appear or additional arrests through a reverse incapacitation effect.
B. Immediate Case Outcomes

We next turn to an examination of outcomes in the immediate case. First, we examine whether the charges at final case disposition were downgraded relative to the charges at arrest, where we define downgrades based upon the severity of the offense as defined under New York law. Charge downgrades provide one indicator of representation quality, as charge bargaining is an important tool used by defense attorneys to minimize punishment and sentences for their clients. Table 3 reports that approximately one-half of all defendants obtained charge downgrades and that there was a modest (2.7%) but statistically significant increase in this rate for those represented by the holistic defender.

Although holistic defenders were more successful at obtaining charge downgrades, there was no statistically significant effect on the overall conviction or guilty plea rates. Whatever benefits the holistic model carries for clients, they do not appear to extend to avoiding convictions altogether. However, Table 3 demonstrates that holistic representation has a statistically significant and practically large impact on punishment severity, reducing the likelihood of an individual defendant receiving a jail sentence by 3.9 percentage points (15.5%) and the average length of a custodial sentence (including those of zero days) by 9.5 days (23.5%). These are large effects, implying, for example, that there were roughly 4500 individuals in our sample who avoided jail sentences because they had access to holistic representation.

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230 New York categorizes offenses by severity; there are three classes for misdemeanors (A, B, and unclassified) as well as five classes and two subclasses for felonies (A-I, A-II, B, C, D, and E). Chapter 1: Criminal Justice System for Adults in NYS, N.Y. STATE OFF. OF MENTAL HEALTH, https://www.omh.ny.gov/omhweb/forensic/manual/html/chapter1.htm [https://perma.cc/4FXF-CTZM]. We include those who were acquitted in this analysis and base the charge downgrade indicator on the top charge recorded at the time of case resolution.
Table 3: Effects of Holistic Defense on Case Outcomes

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Mean for clients with traditional defender</th>
<th>Estimated effect of holistic representation</th>
<th>Change in outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charge downgraded</td>
<td>.514</td>
<td>.014* (.007)</td>
<td>2.7%</td>
</tr>
<tr>
<td>Convicted</td>
<td>.744</td>
<td>.003 (.006)</td>
<td>0.4%</td>
</tr>
<tr>
<td>Guilty plea</td>
<td>.736</td>
<td>.005 (.006)</td>
<td>0.6%</td>
</tr>
<tr>
<td>Sentenced to jail</td>
<td>.254</td>
<td>-.039** (.006)</td>
<td>-15.5%</td>
</tr>
<tr>
<td>Sentence length (days)</td>
<td>40.2</td>
<td>-9.47** (3.62)</td>
<td>-23.5%</td>
</tr>
</tbody>
</table>

Note: * denotes statistically significant difference, p<.05, ** denotes statistically significant difference, p<.01. See supra note accompanying Table 2, pp. 863–64.

For sentence length, the point estimate implies that over our ten-year sample period, holistic representation was able to avert nearly 1.1 million days of custodial sentence.231 Prior research suggests that defendants throughout New York serve an average of about two-thirds of the assigned sentence232 and, over the period in question, the daily custodial cost per inmate was about $400 in city facilities233 and $165 in state facilities,234 with about 78.8% of time served occurring in state

231 Such aggregate calculations assume a similar effect of holistic representation for both those facing short sentences and those facing long sentences. As a robustness check, we predicted the expected sentence for each defendant based upon demographics, charge severity, and prior record and then re-estimated the model for the sample of 54,486 defendants with an expected sentence of above six months. For this sample, where the average actual sentence of traditional defender clients in the comparison group is 365 days, holistic representation was estimated to reduce sentence length by 123 days with a standard error of 103. Although not statistically significant due to the much smaller sample, these results indicate that it is not unreasonable to assume a 25% reduction in sentence length due to holistic representation even among those facing longer sentences.


233 See Associated Press, Cost of Inmate in NYC Almost as Much as Ivy League Tuition, N.Y. DAILY NEWS (Sept. 30, 2013, 10:37 AM), http://www.nydailynews.com/new-york/cost-inmate-ivy-league-tuition-article-1.1471630 [https://perma.cc/JY9R-AZHQ]. We calculated the $400 figure by adjusting the $460 figure cited by the Associated Press for inflation. In particular, we used the Consumer Price Index (CPI) to estimate the city facilities’ average custodial cost at the midpoint of our sample time period.

facilities. Combining these numbers with those in Table 3, municipal and state authorities saved an estimated $160 million in inmate housing costs alone during the study period due to holistic representation. Apparently, the staffing and organization of indigent defense services can have large impacts on the downstream costs of incarceration.

Although in theory we could use our research design to compare the effects of public defenders to private appointed counsel, as a practical matter, the estimates we obtain for private appointed counsel are highly imprecise and thus fairly uninformative, so we do not emphasize them in the discussion. For example, the 95% confidence interval for the estimated effect of private appointed counsel representation (as compared to the omitted comparison group of clients with the traditional public defender) on the conviction rate is -.06 to +.37 percentage points. For sentence length, the 95% confidence interval is -212 to +81 days. Therefore, we cannot rule out zero effects or appreciable positive or negative effects of private appointed counsel.

C. Future Criminal Justice System Involvement

An appealing argument for holistic defense that has spurred adoption in several jurisdictions is the notion that by addressing defendants’ underlying problems, it can reduce later contact with the criminal justice system, thus improving public safety and reducing future criminal justice costs. To what extent does holistic defense reduce recidivism? To examine this question, we considered cumulative new arrests within one, two, three, five, and ten years postarraignment. The data include


235 See REMPEL ET AL., supra note 232, at 97, 101 (showing that there are 7813 jail bed years for the 2013 cohort, id. at 97, and stating that the cohort’s prison time amounted to 28,972 state prison bed years, id. at 101, yielding 28,972 / (7813 + 28,972) = 78.8% of total time served that is prison time); see also id. at 74-77 (corroborating the plausibility of the above breakdown).

236 The calculation is -.947 (reduction in jail sentence) times 114,856 (the number of people in the sample represented by the Bronx Defenders, see infra Appendix Table 2, p. 888) times 2/3 (the amount of time actually served) times [.25 (share of time spent in city facilities) times $400 (cost per day in city facilities) + .75 (share of time spent in state facilities) times $165 (cost per day in state facilities)] = $162 million. Given that these are only rough calculations, we rounded down to $160 million to be conservative.

237 The outcome of true interest in a recidivism analysis is actual criminal activity, but no perfect measure of this is available. In this project, we measured recidivism using arrests (as have many past researchers), recognizing this is an imperfect proxy. One commonly used alternative, convictions, seems less ideal here both because the time between criminal activity and conviction can be lengthy, particularly for more serious crimes (which would tend to limit the available follow-up period), and because representation in a prior case can affect future representation, meaning that any measured effects for conviction might confound the effects of multiple cases (and representations). Additionally, from the perspective of public defenders, who seek to limit the harms inflicted upon clients by the criminal justice system, arrests seem a useful metric, as collateral effects for clients flow from the moment of arrest, regardless of whether a conviction ultimately ensues.
arrests anywhere in New York State but exclude arrests in other jurisdictions. We measure recidivism from the time of arraignment rather than the time of case disposition to avoid interpretation issues that would arise given that Bronx Defender cases take longer to resolve. For earlier years, this means that we are measuring recidivism prior to the resolution of the case for some defendants. As the follow-up time increases, the sample size diminishes; however, even for the ten-year sample, there still remain over 380,000 defendant/case pairings.238

Table 4 reports results from the recidivism analysis. New arrests are fairly common in this sample, rising from an average of a bit over one per defendant in the first year postarraignment to over five arrests per defendant ten years out. There is no measurable effect of holistic representation on recidivism as measured by the overall arrest rate at any of the follow-up periods. Moreover, the estimates are sufficiently precise to rule out even modest shifts in either direction. In year one, for example, we can statistically reject increases in recidivism due to holistic representation of more than 7.7%, or decreases of more than 0.5%, and in year ten, we can statistically reject increases in new arrests of more than 3% or decreases of more than 10%.239 The null effects found in year one suggest that any impacts of holistic representation on pretrial arrest are short lived, and defendants with traditional representation quickly catch up in terms of additional police contacts, so ultimately there is no net impact of holistic representation on arrest.

No effect was seen on postarraignment arrests for specific types of offenses either. There is little indication that holistic representation measurably affects misdemeanor arrests, felony arrests, or violent felonies, and the estimates are generally precise enough to exclude practically important changes in these categories of crime. For example, we can statistically reject increases in felony arrests as of year five of greater than 3.1%.

238 If we estimate the one-to-five year impacts solely on the sample that is observed for all ten years, we obtain similar longitudinal patterns of effects as those suggested by the results in Table 4.

239 These results are net of any decreases in arrests that occur through deportations. If one of the two models were more successful at preventing deportations of clients, it would be harder for that model to demonstrate future crime reductions, as more defendants would remain available in the country to be arrested.
Table 4: Effects of Holistic Defense on Future Arrest

<table>
<thead>
<tr>
<th>Years since arraignment</th>
<th>Estimated effect of holistic representation on:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mean number of new arrests</td>
</tr>
<tr>
<td>1 (N=587,487)</td>
<td>1.14 (0.024)</td>
</tr>
<tr>
<td>2 (N=575,888)</td>
<td>1.95 (0.036)</td>
</tr>
<tr>
<td>3 (N=520,561)</td>
<td>2.62 (0.044)</td>
</tr>
<tr>
<td>5 (N=462,639)</td>
<td>3.76 (0.066)</td>
</tr>
<tr>
<td>10 (N=382,181)</td>
<td>5.75 (0.189)</td>
</tr>
</tbody>
</table>

Note: This table reports estimates of the effects of holistic representation on overall crime and crime by offense seriousness across different follow-up periods. Each table entry reports results from a separate IV regression. Follow-up periods are measured relative to the arraignment’s date, and outcomes are cumulative over the entire period in question. For each estimate, the implied percentage change in the outcome (relative to those with traditional representation) is reported below the standard error. * denotes statistically significant difference, p<0.05. See supra note accompanying Table 2, pp. 863–64.

While the fact that holistic representation does not measurably reduce recidivism may seem disappointing at first glance, taken in concert with the results above, these findings suggest that the model may in fact have important benefits. Because holistic representation produces fairly sizable percentage reductions in custodial sentences and sentence length, other things being equal, we might expect to observe greater postarraignment crime from those with holistic representation through a reverse incapacitation effect. For example, using a research design based on the random assignment of sentencing judges, Michael Roach

Moreover, if holistic representation were better at averting deportation for clients, as some have suggested might be the case, this would leave a larger pool of holistically represented defendants available in the population for future arrest, which would tend to increase the number of arrests measured for the holistic population.
and Max Schanzenbach found that a 25% decrease in the sentence length should equate to a roughly 13% increase in recidivism as of three years postadjudication.\footnote{See Michael Roach & Max Schanzenbach, The Effect of Prison Sentence Length on Recidivism: Evidence from Random Judicial Assignment 18 tbl. 1 (Nw. Law & Econ., Research Paper No. 16-08, 2016), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2701549[https://perma.cc/QLZ5-CJF5]. The average total sentence in Roach and Schanzenbach’s sample was 9.02 months, id. at 18, meaning that a 25% reduction in sentence would be equal to a 2.255 month reduction. They reported a -.0147 decrease in the recidivism rate per month of additional sentence, id. at 22, indicating an expected increase in the recidivism rate of .033 percentage points from a 25% reduction in sentence. With an average three-year recidivism rate of .25, id. at 18, these figures yield a .033 / .25 = 13.2% increase in recidivism.} Instead, these defendants were released from prison without increasing recidivism and without compromising public safety. Although these findings could have a number of plausible explanations, one explanation is that the holistic approach better equips defense attorneys to identify clients who are less likely to recidivate and to bring the situations of those clients to the attention of the court. This explanation is consistent with the views expressed in many of our stakeholder interviews.

Appendix Table 5 reports results from two alternative specifications that assess the robustness of these main findings. First, we replicate the analysis performed previously but exclude the number-of-new-cases instrument, relying solely on the case-scheduling instruments, which are most plausibly unrelated to outcomes. Next, we implement a matching analysis. Using the model for predicting conviction probability and sentence length described previously, we obtain a predicted probability of conviction and sentence length for each defendant in the sample. We then include as controls in the IV model a full set of indicators for predicted probability of conviction (measured to the nearest tenth of a percent) and predicted sentence length (measured to the nearest day). This is a form of matching estimator as it in effect compares defendants only to those in the sample who are virtually identical in terms of expected outcomes, but who differ in their representation due to the schedule. As shown in the table, both alternative approaches yield estimates that are similar to the baseline.

These results suggest that strengthening indigent defense might be an underappreciated tool in the larger effort to address problems of mass incarceration in the United States. Opponents of decarceration often express concern that reducing the prison and jail population might lead to higher crime rates, as defendants who would have previously been held in custody are left on the streets. Based on the evidence supplied in the above discussion, holistic representation offers a means to appreciably reduce the use of prison and jail as punishment without fueling future crime.
Is holistic representation more effective for certain types of defendants? To explore this question, we estimated IV regressions analogous to those presented previously but for particular subsets of the population defined by demographics and alleged criminal activity. The results of that analysis are presented in Table 5.

We first consider if impacts differ by whether the defendant was charged with a misdemeanor or a felony. Felony defendants represent about 30% of the overall sample. The first rows of Table 5 indicate that holistic representation reduced the pretrial detention rate by 5 percentage points for felony defendants. This decrease represents a 13% reduction relative to the baseline detention rate of 38.9% for this population. Estimated effects on pretrial detention for misdemeanor defendants were of similar magnitude in percentage terms, as this group is less likely to be detained overall, but were not significantly different from zero. The table also demonstrates that neither group experiences significant changes in conviction rates or future arrest rates. Both types of defendants experience measurable reductions in the likelihood of a jail sentence.242

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242 While the results for sentence length here may at first glance seem at odds with the baseline results, they reflect the fact that expected sentence length for felony defendants is much longer than that for misdemeanor defendants. In essence, these regressions focus only on a narrower subset of criminal justice outcomes than the overall sample, which has the effect of excluding useful identifying information from the analysis.
Table 5: Effects by Charge Severity and Defendant Race, Gender, and Prior Criminal History

<table>
<thead>
<tr>
<th>Subgroup</th>
<th>Detained pretrial</th>
<th>Any pretrial arrest</th>
<th>Convicted</th>
<th>Sentenced to jail</th>
<th>Sentence length (days)</th>
<th>New arrests through year 1</th>
<th>New arrests through year 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current charge severity</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Felony (N=163,546)</td>
<td>-0.050* (0.020)</td>
<td>0.014 (0.015)</td>
<td>-0.038 (0.022)</td>
<td>-0.041* (0.018)</td>
<td>-6.87 (20.3)</td>
<td>-0.005 (0.016)</td>
<td>-0.009 (0.014)</td>
</tr>
<tr>
<td>Misdemeanor (N=411,118)</td>
<td>-0.011 (0.007)</td>
<td>0.011 (0.006)</td>
<td>-0.001 (0.007)</td>
<td>-0.043** (0.007)</td>
<td>0.212 (7.13)</td>
<td>0.007 (0.010)</td>
<td>-0.011 (0.007)</td>
</tr>
<tr>
<td>Prior criminal record</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No priors (N=291,887)</td>
<td>-0.008 (0.006)</td>
<td>0.022** (0.008)</td>
<td>0.012 (0.010)</td>
<td>-0.018** (0.005)</td>
<td>0.033 (4.04)</td>
<td>0.037** (0.011)</td>
<td>-0.006 (0.010)</td>
</tr>
<tr>
<td>Priors (N=282,744)</td>
<td>-0.022 (0.012)</td>
<td>0.013* (0.006)</td>
<td>-0.009 (0.006)</td>
<td>-0.049** (0.010)</td>
<td>-14.8** (5.44)</td>
<td>0.001 (0.010)</td>
<td>-0.008 (0.006)</td>
</tr>
<tr>
<td>Gender</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male (N=475,896)</td>
<td>-0.020** (0.007)</td>
<td>0.018** (0.006)</td>
<td>0.005 (0.006)</td>
<td>-0.039** (0.007)</td>
<td>-9.75* (4.14)</td>
<td>0.015 (0.008)</td>
<td>-0.010 (0.006)</td>
</tr>
<tr>
<td>Female (N=98,748)</td>
<td>-0.009 (0.012)</td>
<td>0.018* (0.009)</td>
<td>-0.008 (0.012)</td>
<td>-0.040** (0.010)</td>
<td>-8.33 (4.43)</td>
<td>0.025 (0.014)</td>
<td>-0.013 (0.014)</td>
</tr>
<tr>
<td>Race</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-black, non-Hispanic (N=314,473)</td>
<td>-0.039 (0.031)</td>
<td>-0.010 (0.022)</td>
<td>-0.016 (0.025)</td>
<td>-0.061* (0.029)</td>
<td>-22.0 (17.3)</td>
<td>0.045 (0.030)</td>
<td>-0.010 (0.033)</td>
</tr>
<tr>
<td>Black (N=265,495)</td>
<td>-0.022* (0.009)</td>
<td>0.021** (0.007)</td>
<td>0.005 (0.008)</td>
<td>-0.043** (0.007)</td>
<td>-6.88 (5.11)</td>
<td>0.011 (0.010)</td>
<td>-0.014 (0.008)</td>
</tr>
<tr>
<td>Hispanic, non-black (N=273,320)</td>
<td>-0.016 (0.009)</td>
<td>0.020** (0.007)</td>
<td>0.002 (0.008)</td>
<td>-0.035** (0.009)</td>
<td>-11.4* (5.32)</td>
<td>0.021 (0.011)</td>
<td>-0.008 (0.008)</td>
</tr>
</tbody>
</table>

Note: This table reports estimates of the effects of holistic representation for particular subpopulations across a subset of outcomes from Tables 2–4. Each table entry reports results from a separate IV regression. * denotes statistically significant difference, p < .05. ** denotes statistically significant difference, p < .01. See supra notes accompanying Tables 2–4, pp. 863–64, 866, 869.

The final rows of Table 5 examine effects by gender and race/ethnicity of the client. Although the majority of defendants are male, the Bronx
Defenders represents a substantial number of female defendants, and most clients are Black or Hispanic. In general, we do not observe statistically or practically meaningful differences in the estimated effects of holistic representation across these various demographic subpopulations, suggesting that the impacts of holistic defense are widely experienced across different types of individuals involved in the criminal justice system. The estimates in Table 5 are not sufficiently precise to support meaningful statements regarding whether holistic representation affects racial disparities in incarceration.

E. Effects by Offense

We next consider whether holistic representation is more or less effective based on the top charge of the defendant. We focus on the six FBI Uniform Crime Reporting Program offense categories for which we observe at least 25,000 defendants in our sample; these six offense categories collectively account for over 75% of the defendants in the entire sample. Table 6 reports results disaggregated by offense type.243

We do not observe statistically significant impacts of holistic representation for those accused of assault, fraud/forgery, or weapons offenses. However, there are substantial impacts for those charged with larceny or drug offenses. For defendants in drug cases, the likelihood of a jail sentence decreases by 25% and the expected sentence length by 63%. For larceny defendants, holistic representation decreases the lengths of sentences by over 70% on average. Given the significant number of drug cases in the sample — nearly a quarter of a million — these large measured impacts of holistic representation are of considerable import.

The pattern across different offenses shown in Table 6 comports with logic and seems consistent with prior research and interviewees’ views regarding how an approach like holistic representation might shape case outcomes. For those accused of drug offenses, engagement with drug-treatment providers and social services to address each individual’s underlying reasons for substance misuse can be a critical step toward reformation, and courts are more likely to extend leniency to those who demonstrate a desire to address their problems through such means. The team-based approach central to the holistic model enables attorneys to enlist the help of outside experts in understanding the extent of a client’s substance involvement and simplifies the process of referring clients to treatment.

Similarly, the wraparound services offered under the holistic model to address concerns such as housing or employment stability may be particularly effective for those accused of larceny, as these are largely

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243 We also examined the effect of holistic representation on the likelihood of a new arrest at one and five years postarraignment, but did not find statistically significant changes for any of the offense types.
offenses that arise due to poverty. Prosecutors and judges may also view themselves as having greater leeway to deal leniently with larceny offenders; this greater degree of discretion may make informed advocacy by the defense attorney particularly impactful. For violent or weapons offenses, it is less obvious how social services might be used to mitigate future risk, and judges and prosecutors may be less willing to offer leniency. Overall, the results in Table 6 indicate that holistic representation has very large impacts for charges that seem the most amenable to social service intervention.

Table 6: Effects by Offense Type

<table>
<thead>
<tr>
<th>Top Charge</th>
<th>Convicted</th>
<th>Sentenced to jail</th>
<th>Sentence length (days)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drug (N=236,037)</td>
<td>.008</td>
<td>-.069**</td>
<td>-29.1**</td>
</tr>
<tr>
<td></td>
<td>(.010)</td>
<td>(.013)</td>
<td>(7.57)</td>
</tr>
<tr>
<td></td>
<td>N.S.</td>
<td>-24.6%</td>
<td>-63.1%</td>
</tr>
<tr>
<td>Fraud/forgery (N=57,792)</td>
<td>-.021</td>
<td>.000</td>
<td>-2.31</td>
</tr>
<tr>
<td></td>
<td>(.021)</td>
<td>(.017)</td>
<td>(2.09)</td>
</tr>
<tr>
<td></td>
<td>N.S.</td>
<td>N.S.</td>
<td>N.S.</td>
</tr>
<tr>
<td>Simple assault (N=55,349)</td>
<td>.013</td>
<td>-.021</td>
<td>5.14</td>
</tr>
<tr>
<td></td>
<td>(.019)</td>
<td>(.012)</td>
<td>(3.51)</td>
</tr>
<tr>
<td></td>
<td>N.S.</td>
<td>N.S.</td>
<td>N.S.</td>
</tr>
<tr>
<td>Aggravated assault (N=30,051)</td>
<td>-.046</td>
<td>-.055</td>
<td>2.86</td>
</tr>
<tr>
<td></td>
<td>(.041)</td>
<td>(.030)</td>
<td>(28.0)</td>
</tr>
<tr>
<td></td>
<td>N.S.</td>
<td>N.S.</td>
<td>N.S.</td>
</tr>
<tr>
<td>Larceny (N=28,987)</td>
<td>-.020</td>
<td>-.042*</td>
<td>-22.0*</td>
</tr>
<tr>
<td></td>
<td>(.019)</td>
<td>(.020)</td>
<td>(8.59)</td>
</tr>
<tr>
<td></td>
<td>N.S.</td>
<td>-11.8%</td>
<td>-71.9%</td>
</tr>
<tr>
<td>Weapon (N=26,977)</td>
<td>.008</td>
<td>-.001</td>
<td>-5.72</td>
</tr>
<tr>
<td></td>
<td>(.019)</td>
<td>(.026)</td>
<td>(14.0)</td>
</tr>
<tr>
<td></td>
<td>N.S.</td>
<td>N.S.</td>
<td>N.S.</td>
</tr>
</tbody>
</table>

Note: This table reports estimates of the effects of holistic representation for defendants facing a top charge belonging to the listed offense type. Each entry reports results from a unique regression. * denotes statistically significant difference, p<.05, ** denotes statistically significant difference, p<.01. N.S. = estimated change not statistically significant. See supra note accompanying Table 2, pp. 863-64; supra note 243. For statistically significant impacts, the percent change relative to the average among those represented by the traditional defender is reported below each entry.

F. Effects over Time

Has the effect of holistic representation remained consistent throughout the study period, or is there evidence of variation over time? To explore that question, we reestimated the baseline model but allowed the effects of holistic representation to vary across three different times.
periods: 2000–2003, 2004–2007, and 2012–2014. There is an important limitation to this analysis, however. Since the particular shift changes used to measure the causal impact of holistic representation are different in each time period, it is possible that some of the differences shown over time reflect how impacts are being measured, rather than true variation in the effect of holistic representation.\textsuperscript{244} We thus view the evidence below as suggestive but not dispositive regarding any intertemporal effects.

Table 7 reports the estimated effects of holistic representation across a range of outcomes. The final column in the table reports results from a statistical test of the hypothesis that there was no change over time in the impact of holistic representation for the given outcome. For most outcomes, there is little evidence of a change over time. One notable exception, however, is custodial sentences, where we observe large reductions due to holistic representation in the earlier years but limited evidence of a reduction in the most recent years, a difference that is statistically significant. The estimated coefficients on sentence length follow a similar pattern, with the largest point estimates observed in early years, although not statistically significant.

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Estimated effect of holistic representation in:</th>
<th>P-value from test of H\textsubscript{0}: early = middle = late</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detained</td>
<td>.012</td>
<td>-.024**</td>
</tr>
<tr>
<td></td>
<td>(.016)</td>
<td>(.009)</td>
</tr>
<tr>
<td>Any pretrial arrest</td>
<td>-.003</td>
<td>.016*</td>
</tr>
<tr>
<td></td>
<td>(.012)</td>
<td>(.008)</td>
</tr>
<tr>
<td>Convicted</td>
<td>-.013</td>
<td>-.009</td>
</tr>
<tr>
<td></td>
<td>(.014)</td>
<td>(.008)</td>
</tr>
<tr>
<td>Custodial sentence</td>
<td>-.056**</td>
<td>-.043**</td>
</tr>
<tr>
<td></td>
<td>(.018)</td>
<td>(.009)</td>
</tr>
<tr>
<td>Sentence length (days)</td>
<td>-12.3</td>
<td>-4.75</td>
</tr>
<tr>
<td></td>
<td>(10.6)</td>
<td>(4.75)</td>
</tr>
<tr>
<td>Any arrest within 1 year</td>
<td>.005</td>
<td>.001</td>
</tr>
<tr>
<td></td>
<td>(.017)</td>
<td>(.009)</td>
</tr>
<tr>
<td>Any arrest within 5 years</td>
<td>.007</td>
<td>-.010</td>
</tr>
<tr>
<td></td>
<td>(.013)</td>
<td>(.006)</td>
</tr>
</tbody>
</table>

Note: This table reports estimates of the effects of holistic representation, where the effects of holistic representation are allowed to vary over time. Each row reports coefficients from a

\textsuperscript{244} We do not see a strong reason to expect different shift changes to yield different answers, but the ground truth remains unknown.
separate regression, and the entire sample is used for each regression. These specifications include six endogenous variables — an indicator for Bronx Defenders representation interacted with an indicator for 2000–2003, a Bronx Defenders indicator interacted with a 2004–2007 indicator, and a Bronx Defenders indicator interacted with a 2012–2014 indicator, plus three other indicators for appointed counsel interacted with these same three time periods. There are nine instruments, comprising the complete set of interactions between the partial Bronx Defenders shift indicator, all Bronx Defenders shifts indicator, and new case counts and indicators for the periods 2000–2003, 2004–2007, and 2012–2014. The other control variables are as described for Table 2. * denotes statistically significant difference, p<.05, ** denotes statistically significant difference, p<.01. See supra note accompanying Table 2, pp. 863–64.

There are several potential explanations for this pattern. One possibility is that there has been an actual convergence in performance across the holistic and traditional defenders as Legal Aid attorneys have increasingly involved outside experts such as social workers and civil attorneys to address the collateral consequences of their clients’ cases. Under this interpretation, the view expressed by many judges and Legal Aid attorneys in our interviews that there are few substantive differences across the two defender organizations today receives some support.

An alternative possibility is that this pattern is attributable to changes over time in how the holistic defenders operated. For example, due to a contract modification, the Bronx Defenders substantially increased its caseloads beginning in 2012, necessitating a ramp-up in hiring and training and temporarily reducing the ratio of available personnel such as investigators and social workers to attorneys.245 Some of the patterns shown in Table 7 may represent internal adjustments such as these.

A third possibility is that other changes within the criminal justice system and the community at large influence the efficacy of holistic representation. For example, if holistic representation is particularly effective at addressing substance-related offending, as suggested by Table 6, but the system as a whole moves toward decriminalizing minor drug offenses,246 this might narrow the scope for the holistic model to exert change. Alternatively, client preferences might evolve over time in a manner that favors non–criminal justice outcomes over criminal justice outcomes, in which case we might observe a convergence such as that suggested in Table 7. Unfortunately, the data do not provide a clear means of adjudicating across these possibilities, and reality may involve some combination of these possibilities or none at all.

G. Nonexperimental Estimates

A key advantage of the estimates presented above is that they exploit variation across defendants assigned to holistic representation that is plausibly unrelated to guilt or innocence or the underlying quality of the case, and thus are likely to represent the causal effect of holistic representation. Absent a source of quasi-experimental variation, a more conventional approach to evaluating the impact of holistic representation would be to use statistical techniques such as regression modeling to estimate the expected difference in outcomes associated with holistic representation, controlling for other factors related to the outcomes. Is this conventional approach adequate for measuring the effects of holistic defense?

In Table 8, we report estimates from linear regression models where we model the outcome in question (for example, whether the defendant received jail time) as a function of whether she was represented by the holistic public defender or by appointed counsel (with traditional public defense as the omitted comparison group), and also control for defendant demographics (age, gender, race), current case characteristics (detailed charge codes, number of counts, month, day of month, day of week, month/year, location), and prior criminal history. For ease of comparison, the table also reports the analogous quasi-experimental estimate from above. Because many defendants do not in fact end up being represented by the defender organization they would receive based solely on shift schedules (Appendix Table 1), and the final assignments depend on factors such as conflicts or dismissals that can be influenced by client or attorney behavior, there is potential for nonrandom sorting of defendants to attorneys. Comparing the traditional regression results to the quasi-experimental results offers one means of assessing whether such nonrandom sorting is relevant from an evaluation standpoint.
Table 8: Comparison Between Conventional and Quasi-Experimental Estimates of the Effects of Holistic Defense

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Regression estimate</th>
<th>Quasi-experimental estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detained pretrial</td>
<td>-.002 (.002)</td>
<td>-.019** (.007)</td>
</tr>
<tr>
<td></td>
<td>-0.84%</td>
<td>-8.63%</td>
</tr>
<tr>
<td>Bench warrant</td>
<td>-.012** (.002)</td>
<td>.013* (.006)</td>
</tr>
<tr>
<td></td>
<td>-5.57%</td>
<td>5.87%</td>
</tr>
<tr>
<td>Any pretrial arrest</td>
<td>.001 (.002)</td>
<td>.019** (.005)</td>
</tr>
<tr>
<td></td>
<td>0.84%</td>
<td>12.7%</td>
</tr>
<tr>
<td>Log (case length)</td>
<td>-.077** (.011)</td>
<td>.085* (.037)</td>
</tr>
<tr>
<td></td>
<td>-7.40%</td>
<td>8.92%</td>
</tr>
<tr>
<td>Charge downgraded</td>
<td>-.004 (.002)</td>
<td>.014* (.007)</td>
</tr>
<tr>
<td></td>
<td>-0.794%</td>
<td>2.67%</td>
</tr>
<tr>
<td>Convicted</td>
<td>.011** (.002)</td>
<td>.003 (.006)</td>
</tr>
<tr>
<td></td>
<td>1.44%</td>
<td>0.414%</td>
</tr>
<tr>
<td>Sentenced to jail</td>
<td>.014** (.002)</td>
<td>-.039** (.006)</td>
</tr>
<tr>
<td></td>
<td>5.53%</td>
<td>-15.5%</td>
</tr>
<tr>
<td>Sentence length (days)</td>
<td>5.80** (1.13)</td>
<td>-9.47%** (3.62)</td>
</tr>
<tr>
<td></td>
<td>14.4%</td>
<td>-23.5%</td>
</tr>
</tbody>
</table>

Note: This table compares effects estimates from traditional regression modeling with those reported above in Tables 2–4 for the quasi-experimental IV models. In addition to indicators for representation by the holistic public defender or appointed counsel (with traditional public defense as the omitted comparison group), the regressions also control for defendant demographics (age, gender, race), current case characteristics (detailed charge codes, number of counts, month, day of month, location), and prior criminal history. Each entry comes from a separate regression or IV model. * denotes statistically significant difference, p<.05. ** denotes statistically significant difference, p<.01. See supra notes accompanying Tables 2–4, pp. 863–64, 866, 869.

Table 8 reveals that the conventional regression approach yields misleading estimates of the effects of holistic representation, erroneously suggesting that holistic representation increases conviction rates and sentences. Such a pattern would be consistent with an environment in which holistic defenders end up representing clients whose cases are less favorable than average in ways not fully accounted for with regression modeling; failure to account for such unobservable differences biases...
estimates obtained via the conventional approach. To be credible, future research seeking to identify the effects of other indigent defense practices will need to address the problem of potential nonrandom sorting of clients to defenders.

V. WHY DOES HOLISTIC DEFENSE WORK?

The results presented in Part IV demonstrate that holistic representation impacts a range of criminal justice outcomes. Compared to similarly positioned defendants with traditional representation, those with holistic lawyers are less likely to be detained pretrial, no more or less likely to be convicted, less likely to receive custodial sentences, more likely to receive shorter sentences, and no more or less likely to accumulate new arrests — including violent arrests — up through ten years postarraignment. With reference to the models presented in section I.C, this pattern seems most consistent with the “better trial advocacy” model, under which holistic representation enables lawyers to more successfully advocate for client interests. However, this model does not fully resolve the underlying issues bringing clients into contact with the criminal justice system.

What is the connection between the Bronx Defenders’ service model and our findings? Robin Steinberg, founder of the Bronx Defenders, argues that under the status quo, judges often make decisions without information about particular challenges that defendants face, such as recent job loss or alcoholism. The client-centered, holistic defense approach encourages advocates to better understand clients and their circumstances, enabling them to communicate this information to judges. Steinberg argues that when holistic defenders present mitigating information about individual clients to judges and prosecutors, they feel more comfortable with pro-defense decisions, such as pretrial release and nonincarceration sentences.

Given that traditional attorneys could also obtain mitigating evidence and present it to judges and prosecutors — and indeed often do — what can explain the superior performance of the holistic model? One possibility is that collecting the information necessary to present convincing mitigating stories of clients requires either different skills from those of the attorney — for example, a social worker’s skill set — or more time than that available to the attorney in a traditional defender.

247 Steinberg, supra note 13, at 633–34.
248 Id.
249 Id. This argument echoes the argument of Brandon Garrett’s recent work on the decline of the death penalty, in which he contends that strong defense lawyering, including the presentation of mitigating evidence about defendants, is one of the main drivers of the decline in the imposition of the death penalty for capital offenses. BRANDON L. GARRETT, END OF ITS ROPE: HOW KILLING THE DEATH PENALTY CAN REVIVE CRIMINAL JUSTICE 106–31 (2017).
office. In altering the personnel mix within the office, the holistic model better matches team-member skills to the needs of the client, generating informational efficiencies. Indeed, Steinberg notes that gathering and communicating details about clients’ lives is “part-in-parcel of the representation,” though that information gathering often is done by social workers.\textsuperscript{250} The structure of interdisciplinary communication in a holistic defense team then allows the team’s attorney to integrate the information into persuasive representation for the client.\textsuperscript{251} Other data suggest that the Bronx Defenders’ staffing makeup might have contributed to the results we found. One study found that the organization has a lower attorney-to-social worker ratio than Legal Aid and uses social workers in a much greater percentage of its misdemeanor and felony cases.\textsuperscript{252}

Alternative explanations for the discrepancy in outcomes between holistic defenders and nonholistic defenders exist, but none as comprehensively explain the full pattern of results from the interviews and empirical analysis. For example, one possibility is that there is nothing inherent about the holistic model that affects outcomes, but instead, holistic defenders recruit more highly skilled attorneys, and this skill differential explains the different case outcomes. This account, if correct, would tend to limit the scalability of the holistic model.

However, several pieces of evidence seem at odds with such an account. First, while there are performance differences between the holistic and traditional defenders in the early period, these differences become minimal in the latest period (2012–2014) (Table 7). Since attorney quality is likely comparatively stable over time, we would not expect such a pattern if better recruiting primarily explains the results. This pattern does, however, make sense if holistic practices are important for case outcomes, because our interviews revealed that over time Legal Aid has embraced interdisciplinary methods used by the Bronx Defenders, including the integration of more social workers.\textsuperscript{253}

Second, the holistic defenders have their biggest effect in drug cases and larcenies (Table 6). In distinguishing a high-quality recruit from an average one, most legal professionals would likely cite traits such as excellent trial advocacy, quick learning, creativity in crafting arguments,
or ability to identify the essential parts of a complex case. Superior handling of high-volume, run-of-the-mill cases would probably not be seen as an obvious indicator of quality, yet the largest effects occur in such cases. Stated differently, the effects of holistic defense are present for the types of crimes where holistic practices might most plausibly offer an advantage — cases where identifying and addressing a substance-abuse or economic issue might shift how the court sees a client — and are not obviously present for serious felonies or other types of cases where “elite” attorneys would seemingly offer the greatest advantage.

A second alternative to the information-centric explanation is that judges treat holistic defenders differently, and it is this differential treatment, rather than the actual staffing and organizational features of holistic defense, that explains outcomes. While not irrefutable, this account also seems unsatisfactory in light of some evidence presented above. First, in the interviews, the judges did not articulate strong distinctions between the two organizations, at least not in ways that might suggest that their advocates would be treated differently.254 Second, there are differences over time and across offenses in the measured impact of holistic representation. These differences seem hard to explain using judge behavior, as such an account would require judges to change preferences over time or show selective favoritism. Finally, if judges really do offer better treatment to holistic clients, that would be a finding in need of an explanation. Why do judges treat the holistic defenders differently? Do they make different arguments? Are they better trained or more professional? If so, then presumably there is something about the model itself that affects outcomes beyond judge preferences.

If holistic practices do make a difference in the outcomes of specific cases, why then does holistic representation not appear to generate lasting reductions in future criminal justice contacts for clients? One possibility is that clients’ problems are sufficiently entrenched, such that whatever assistance is offered through the defense organization is ultimately incapable of fundamentally changing the client’s trajectory with respect to the criminal justice system. Clients receive additional services through their holistic defenders, but the dosage is too small. Under this paradigm, a possible solution that might increase the efficacy of the holistic model would be to provide additional resources to enable the holistic defender and partner organizations to offer a more comprehensive suite of supportive services.

To a legal cynic, the lack of impact would reflect the fact that actions of the criminal justice system are divorced from the actual behavior of those caught within the system, instead reflecting other priorities of law enforcement agents, such as a desire to control certain groups or get reelected. In this view, the lack of lasting reductions in future criminal justice involvement has little to do with the actions of the defender or

254 See supra section II.D, pp. 847–49.
the client, but instead lies in the lack of responsiveness of the criminal justice system to true criminal behavior and vice versa. If the criminal justice system has little deterrent or rehabilitative effect on criminal behavior or criminals, and if its administrations of punishment are not well correlated with criminal behavior, we might expect little impact. If the legal-cynical view is correct, then the “better trial advocacy” model described above is perhaps the best that can be hoped for from public defense providers, as it reduces the harms inflicted by the criminal justice system on clients. Of course, on this view, the same effect could be achieved by simply reducing sentences.

A third possibility is that holistic representation serves more of a sorting function than a rehabilitative function. Here, the information-gathering role of the defender is paramount — some defendants require incapacitation in order to preserve public safety, but others do not, and judges and prosecutors have little means of identifying which defendants belong in which group, leading to overincarceration. In holistically constructing each defendant’s case, the defense team more accurately identifies those defendants who can be released without any consequence to public safety and brings these situations to the attention of the court. The result would be a decrease in incarceration with no net change in crime.

These three possibilities are not mutually exclusive, and available data do not provide a clear way of adjudicating across them. Whatever the underlying explanation for the recidivism results, however, holistic defenders clearly are able to modify how judges and prosecutors view their clients in a way that generates shorter, less punitive sentences. This advantage at relaying information — essentially, clients’ stories — to the court plausibly results from the increased specialization afforded by the team-based holistic model coupled with the interdisciplinary communication it emphasizes.

**CONCLUSION**

Our findings are relevant to at least three ongoing debates. First, and most obviously, we quantified the difference that holistic defense makes as compared to more traditional public defense practices. This contrast is relevant to jurisdictions that may be considering different approaches to providing defense services. Second, our findings suggest that improving the defense function may be an overlooked tool to reduce the problem of overincarceration. Finally, our findings add to the growing body of work that shows that defense counsel is an important factor in the outcome of cases. While this conclusion may seem obvious, it is a rebuttal to the notion that the facts of the case rather than the characteristics of the lawyer almost exclusively determine the outcome of the proceeding and provides important information about how outcomes are actually produced in criminal cases.
How should we provide indigent defense services?

While holistic defense is a promising approach in improving the efficacy of defense services, there has been limited research on its effectiveness. Taking advantage of the fortuity of the methods of assigning counsel in the Bronx, we were able to use a quasi-experimental research design to measure its causal effect. We found that representation by the Bronx Defenders reduces the likelihood of a custodial sentence by 16% and the expected sentence length by 24%. This points to a dramatically superior indigent defense service.

However, a key question is the extent to which the gains observed for the Bronx Defenders are replicable elsewhere. If the results shown in this paper primarily reflect “cream-skimming” of more talented advocates, the scalability of the holistic model may be limited. Alternatively, if the use of multidisciplinary teams with an emphasis on communication and information flow explains the improved case outcomes, then there is considerable potential for these methods to be more widely adopted.

There is substantial work yet to be done to further the adoption of holistic representation. For example, many defender organizations today consider themselves “holistic” because they take into account a range of client needs and outcomes both within and outside of the criminal justice system in their advocacy, yet they have not substantially adjusted their personnel mix, disciplinary training, approaches for staffing cases, or communication methods from what might be typical in a traditional defender office. The results here suggest that adopting the holistic philosophy without some of the underlying internal organizational and structural changes may not be sufficient to generate large changes in clients’ case outcomes. For the holistic model to reach its full potential for improving the criminal justice system, we need a richer understanding of how to apply the model across the myriad of different communities and circumstances facing defenders of indigent clients today.

Another important objective for future holistic defense research is to evaluate the effect of holistic defense on outcomes beyond the criminal justice sphere. After all, a key purpose of holistic defense is to address

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255 See supra section I.B., pp. 826–30 (discussing prior evaluations of holistic defense).
256 The Bronx Defenders themselves have demonstrated a commitment to replicating their model in other jurisdictions, launching a Center for Holistic Defense in 2010 that trains other defender organizations on holistic defense. The Bronx Defenders Seek to Promote Holistic Defense, CTR. FOR CT. INNOVATION (Apr. 27, 2010), https://www.courtinnovation.org/articles/bronx-defenders-seeking-promote-holistic-defense [https://perma.cc/6PDL-X78H]
a client’s needs beyond their criminal case. Any legal services organization that has a contract with New York City is required to keep comprehensive data on public benefits and other non–criminal justice outcomes as well as report this information to the City. Researchers may be able to use data collected by the Bronx Defenders and other providers of indigent defense to evaluate the effects of holistic defense on noncriminal outcomes. Other administrative datasets — for example, earnings records or records of healthcare utilization — could also be analyzed using the same quasi-experimental approach employed here. Client satisfaction is another important measure of the success of a holistic defense program.

Because of the potential for holistic defense to improve indigent defense nationwide, it is important to continue to build an evidence base. Evaluations of indigent defense programs allow public defenders to monitor and improve their performance, identify the features of the program that are associated with better client outcomes, ensure resources are properly allocated, and advocate for funding in an era when legislatures increasingly prefer that empirical data accompany funding requests.

Can better defense counsel reduce incarceration?

Numerous scholars, policymakers, and activists have decried the U.S. system of mass incarceration and highlighted a range of potential

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257 Attorneys at the Bronx Defenders noted that in order to measure the impacts of holistic defense, the following outcomes should be examined: deportations prevented, housing retention, clients connected with Section 8 vouchers, return of clients’ property, maintenance of static income through public benefits, and avoidance of removal of children from their homes/duration of foster care placements. Telephone Interview with Attorney #1, Bronx Defs., supra note 132; Telephone Interview with Attorney #4, Bronx Defs., supra note 70; Telephone Interview with Attorney #5, Bronx Defs., supra note 117; Telephone Interview with Attorney #6, Bronx Defs., supra note 81. The Bronx Defenders collects data on most of these outcomes. Telephone Interview with Attorney #1, Bronx Defs., supra note 132; Telephone Interview with Attorney #3, Bronx Defs., supra note 90.

258 Telephone Interview with Attorney #3, Bronx Defs., supra note 90.

259 As noted in section II.B, supra p. 844, the Bronx Defenders conducts client satisfaction surveys. One Bronx Defenders attorney noted that a common misconception is that clients cannot distinguish between quality representation and good criminal case outcomes. Telephone Interview with Attorney #1, Bronx Defs., supra note 132. She noted that she has had clients facing life in prison who have told her that she had done the best possible job on their case. Id.

On the other hand, a representative from a nonprofit that works within the criminal justice system in New York City opined that clients should not be surveyed by the organization that is currently representing them, as the power dynamic can distort clients’ responses. Telephone Interview with Representative #3, Nonprofit that Works Within the Criminal Justice System, supra note 187.

260 Lee et al., supra note 25, at 1232.

solutions. Much of the conversation has focused on areas such as policing, sentencing reform, and bail and pretrial detention, with much less attention afforded to indigent defense. Our results suggest that indigent defense deserves a more prominent place in discussions about how to address mass incarceration. Like a small number of prior studies, our study rigorously demonstrates the critical role that defense counsel can have in shaping case outcomes; however, unlike past work, it identifies a solution that improves the quality of defense with no apparent tradeoff in terms of downstream crime. Over the ten-year study period, holistic representation in the Bronx has resulted in nearly 1.1 million fewer days of custodial punishment. This finding suggests that improving defense counsel may be an overlooked tool for reducing overall incarceration.

While the results presented above are specific to one jurisdiction, they are of significant import for the criminal justice system as a whole. Although pioneered in the Bronx, the holistic model has spread to multiple other jurisdictions, and there are efforts underway in many traditionally oriented defender offices to move toward the holistic model. To the extent that the results observed in the Bronx extend to other jurisdictions practicing holistic defense, the model could result in thousands or even tens of thousands of fewer custodial sentences each year, with all of the associated savings in both human and fiscal terms. Moreover, in jurisdictions that, unlike the Bronx, lack a well-functioning, highly capable traditional defender as an alternative to a holistic defender, the gains may even be larger.

As demonstrated here, the effects of different choices about how to organize and staff indigent defense are substantial and carry with them immense practical implications. As an illustration, closing Rikers Island has become a prominent issue in public discourse in part because of concerns about guards’ use of force against inmates. New York City Mayor Bill de Blasio has put forth a plan to close the facility that would require reducing the city’s jail population by 4,400, from 9,400 to 5,000. If all New York City defendants received representation comparable to that offered by the Bronx Defenders, the estimates above suggest there would be roughly 3,200 fewer custodial sentences each year. Apparently,

much of the needed reduction might be accomplished through a concerted effort to improve indigent defense, and this without requiring large new expenditures by the city or generating additional crime as a result of the reduced incarceration.

What difference does the lawyer make?

We often claim, in the words of John Adams, to be “a government of laws, and not of men.” Accordingly, just punishment should depend solely upon the circumstances of the offense and the culpability of the offender. Under no plausible theory of punishment should the happenstance of the institutional arrangement of indigent defense provider make any difference to the punishment inflicted upon the offender. Our findings are useful in measuring the extent to which we have not achieved that ideal and in quantifying the difference that the defense lawyer makes to the criminal justice process.

Relatedly, it would be advantageous for policymakers to have a tractable model of the criminal justice process that illuminates the effects of changing various policies or resource constraints. Such models do not yet exist because it has proven difficult to isolate the effect of one part of the criminal justice system from all the others. In this study, we were able to measure the effect of one portion of that system.

Numerous commentators and jurists have criticized the state of indigent defense services and have argued that the Supreme Court’s jurisprudence in this area does not result in adequate counsel. To understand the effect of counsel and to weigh the importance of devoting resources to improving the quality of defense counsel, we must know how much difference the defense function makes. Our work shows that it matters quite a bit.

265 JOHN ADAMS, NOVANGLUS LETTER NO. 7 (1775), reprinted in THE POLITICAL WRITINGS OF JOHN ADAMS 38, 44 (George A. Peek Jr. ed., 2003) (emphasis omitted); see MASS. CONST. art. XXX.

266 See, e.g., Stephen B. Bright, Essay, Counsel for the Poor: The Death Sentence Not for the Worst Crime but for the Worst Lawyer, 103 YALE L.J. 1835, 1857–64 (1994); William S. Geimer, A Decade of Strickland’s Tin Horn: Doctrinal and Practical Undermining of the Right to Counsel, 4 WM. & MARY BILL RTS. J. 91, 93 (1995) (“Directly contrary to its rhetoric in Strickland, the Court has effectively ensured that Gideon guarantees little more than the presence of a person with a law license alongside the accused during trial.”) (footnote omitted)); Bruce A. Green, Lethal Fiction: The Meaning of “Counsel” in the Sixth Amendment, 78 IOWA L. REV. 433, 500–07 (1993); Richard Klein, The Constitutionalization of Ineffective Assistance of Counsel, 58 MD. L. REV. 1433, 1446 (1999) (“[T]he Strickland Court interpreted the requirements of the Sixth Amendment’s right to effective assistance of counsel in such an ultimately meaningless manner as to require little more than a warm body with a law degree standing next to the defendant.”) (footnotes omitted); Richard L. Gabriel, Comment, The Strickland Standard for Claims of Ineffective Assistance of Counsel: Emasculating the Sixth Amendment in the Guise of Due Process, 134 U. PA. L. REV. 1259 (1986).
APPENDIX

Appendix Table 1: Eventual Case Assignment by Type of Shift

<table>
<thead>
<tr>
<th>Share of defendants represented by:</th>
<th>Days where Bronx Defenders are assigned:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No shifts</td>
<td>Some shifts</td>
</tr>
<tr>
<td>Bronx Defenders</td>
<td>1.4%</td>
<td>37.7%</td>
</tr>
<tr>
<td>Appointed counsel (18B)</td>
<td>17.4%</td>
<td>13.8%</td>
</tr>
<tr>
<td>Legal Aid Society</td>
<td>81.1%</td>
<td>48.5%</td>
</tr>
<tr>
<td><strong>N</strong></td>
<td>349,543</td>
<td>113,694</td>
</tr>
</tbody>
</table>

Note: Numbers may not add to 100% because of rounding.
Appendix Table 2: Defendant and Case Characteristics
by Type of Representation

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Representation type:</th>
<th></th>
<th></th>
<th>% Difference (traditional vs. holistic)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Overall sample</td>
<td>Holistic (Bronx</td>
<td>Traditional</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Defenders)</td>
<td>(Legal Aid</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Society)</td>
<td></td>
</tr>
<tr>
<td>Holistic representation</td>
<td>19.6%</td>
<td>100.0%</td>
<td>0.0%</td>
<td>N/A</td>
</tr>
<tr>
<td>Defendant demographics</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>82.8%</td>
<td>81.4%</td>
<td>83.4%</td>
<td>2.4%*</td>
</tr>
<tr>
<td>Age (years)</td>
<td>31.6</td>
<td>31.9</td>
<td>32.0</td>
<td>0.3%</td>
</tr>
<tr>
<td>Black</td>
<td>46.5%</td>
<td>45.8%</td>
<td>46.7%</td>
<td>1.0%*</td>
</tr>
<tr>
<td>Hispanic</td>
<td>48.0%</td>
<td>48.6%</td>
<td>47.7%</td>
<td>-1.0%*</td>
</tr>
<tr>
<td>Current charge</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attempted</td>
<td>3.4%</td>
<td>4.0%</td>
<td>3.1%</td>
<td>-20.5%*</td>
</tr>
<tr>
<td>Felony</td>
<td>29.0%</td>
<td>26.5%</td>
<td>24.5%</td>
<td>-7.6%*</td>
</tr>
<tr>
<td># of counts</td>
<td>1.08</td>
<td>1.07</td>
<td>1.07</td>
<td>0.6%</td>
</tr>
<tr>
<td>Top charge — drug offense</td>
<td>40.8%</td>
<td>34.9%</td>
<td>41.4%</td>
<td>18.4%*</td>
</tr>
<tr>
<td>Violent offense</td>
<td>18.3%</td>
<td>21.1%</td>
<td>15.9%</td>
<td>-24.7%*</td>
</tr>
<tr>
<td>Violent felony</td>
<td>8.4%</td>
<td>8.4%</td>
<td>6.5%</td>
<td>-22.1%*</td>
</tr>
<tr>
<td>Includes firearm charge</td>
<td>31.9%</td>
<td>1.7%</td>
<td>1.5%</td>
<td>-13.3%*</td>
</tr>
<tr>
<td>Includes weapon charge</td>
<td>10.7%</td>
<td>11.4%</td>
<td>9.6%</td>
<td>-16.4%*</td>
</tr>
<tr>
<td>Includes drug charge</td>
<td>45.1%</td>
<td>39.0%</td>
<td>45.8%</td>
<td>17.4%*</td>
</tr>
<tr>
<td>Criminal history</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior felony arrests</td>
<td>3.26</td>
<td>3.22</td>
<td>3.34</td>
<td>3.6%*</td>
</tr>
<tr>
<td>Prior misdemeanor arrests</td>
<td>5.18</td>
<td>5.57</td>
<td>5.37</td>
<td>-3.6%*</td>
</tr>
<tr>
<td>Prior drug arrests</td>
<td>3.52</td>
<td>3.57</td>
<td>3.62</td>
<td>1.4%</td>
</tr>
<tr>
<td>Prior violent felony arrests</td>
<td>.983</td>
<td>.972</td>
<td>.996</td>
<td>2.5%*</td>
</tr>
<tr>
<td>Prior weapon arrests</td>
<td>.803</td>
<td>.823</td>
<td>.806</td>
<td>-2.0%*</td>
</tr>
<tr>
<td>Prior arrests for crimes against minors</td>
<td>.192</td>
<td>.187</td>
<td>.193</td>
<td>3.2%*</td>
</tr>
<tr>
<td>Predicted conviction rate</td>
<td>72.2%</td>
<td>71.6%</td>
<td>73.4%</td>
<td>2.5%*</td>
</tr>
<tr>
<td>Predicted sentence length (days)</td>
<td>61.2</td>
<td>51.5</td>
<td>47.0</td>
<td>-8.8%*</td>
</tr>
</tbody>
</table>

Note: * denotes statistically significant difference, p<.01.
Appendix Table 3: Defendant and Case Characteristics by Arraignment Schedule

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Bronx Defenders not taking cases</th>
<th>Bronx Defenders taking cases</th>
<th>% Difference (taking vs. not taking)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Holistic representation</td>
<td>1.4%</td>
<td>35.8%</td>
<td>N/A</td>
</tr>
<tr>
<td>Defendant demographics</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>83.3%</td>
<td>83.2%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Age (years)</td>
<td>31.7</td>
<td>31.6</td>
<td>-0.5%*</td>
</tr>
<tr>
<td>Black</td>
<td>46.9%</td>
<td>47.5%</td>
<td>1.4%*</td>
</tr>
<tr>
<td>Hispanic</td>
<td>47.7%</td>
<td>47.0%</td>
<td>-1.4%*</td>
</tr>
<tr>
<td>Current charge</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attempted</td>
<td>3.1%</td>
<td>3.1%</td>
<td>1.3%</td>
</tr>
<tr>
<td>Felony</td>
<td>31.7%</td>
<td>32.7%</td>
<td>3.0%*</td>
</tr>
<tr>
<td># of counts</td>
<td>1.08</td>
<td>1.12</td>
<td>4.0%</td>
</tr>
<tr>
<td>Top charge — drug offense</td>
<td>42.5%</td>
<td>43.7%</td>
<td>2.6%*</td>
</tr>
<tr>
<td>Violent offense</td>
<td>17.5%</td>
<td>17.2%</td>
<td>-1.4%</td>
</tr>
<tr>
<td>Violent felony</td>
<td>8.8%</td>
<td>8.7%</td>
<td>-0.8%</td>
</tr>
<tr>
<td>Includes firearm charge</td>
<td>2.1%</td>
<td>2.2%</td>
<td>2.9%</td>
</tr>
<tr>
<td>Includes weapon charge</td>
<td>10.9%</td>
<td>10.8%</td>
<td>-0.8%</td>
</tr>
<tr>
<td>Includes drug charge</td>
<td>47.0%</td>
<td>48.2%</td>
<td>2.5%*</td>
</tr>
<tr>
<td>Criminal history</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior felony arrests</td>
<td>3.40</td>
<td>3.42</td>
<td>0.6%</td>
</tr>
<tr>
<td>Prior misdemeanor arrests</td>
<td>5.19</td>
<td>5.21</td>
<td>0.3%</td>
</tr>
<tr>
<td>Prior drug arrests</td>
<td>3.60</td>
<td>3.64</td>
<td>1.2%</td>
</tr>
<tr>
<td>Prior violent felony arrests</td>
<td>1.02</td>
<td>1.03</td>
<td>0.6%</td>
</tr>
<tr>
<td>Prior weapon arrests</td>
<td>.816</td>
<td>.821</td>
<td>0.6%</td>
</tr>
<tr>
<td>Prior arrests for crimes against minors</td>
<td>.202</td>
<td>.205</td>
<td>1.7%</td>
</tr>
<tr>
<td>Predicted conviction rate</td>
<td>73.4%</td>
<td>73.2%</td>
<td>-0.3%</td>
</tr>
<tr>
<td>Predicted sentence length (days)</td>
<td>68.4</td>
<td>69.7</td>
<td>1.9%</td>
</tr>
<tr>
<td>N</td>
<td>349,543</td>
<td>237,944</td>
<td></td>
</tr>
</tbody>
</table>

Note: * denotes statistically significant difference, p<.01.
Appendix Table 4: First Stage IV Results

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Outcome represented by:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Bronx Defenders</td>
</tr>
<tr>
<td>Arraigned on date when BxD assigned some shifts</td>
<td>.296**</td>
</tr>
<tr>
<td></td>
<td>(.006)</td>
</tr>
<tr>
<td>Arraigned on date when BxD assigned all shifts</td>
<td>.481**</td>
</tr>
<tr>
<td></td>
<td>(.010)</td>
</tr>
<tr>
<td># of new cases within past 48 hours</td>
<td>.0000519</td>
</tr>
<tr>
<td></td>
<td>(.0000633)</td>
</tr>
<tr>
<td>Mean of outcome variable</td>
<td>.196</td>
</tr>
<tr>
<td>F-statistic on instruments</td>
<td>1129</td>
</tr>
<tr>
<td>N</td>
<td>587,156</td>
</tr>
</tbody>
</table>

Note: This table reports results from the first stage IV regressions where the two endogenous variables (indicators for final representation by the Bronx Defenders and appointed counsel) are modeled as a function of the instruments (indicators for an arraignment on a day when the Bronx Defenders was covering some or all shifts — with days when the Bronx Defenders was covering no shifts as the omitted reference group — and the count of new cases arraigned within the past 48 hours). The regressions also control for defendant age at the time of the arrest, gender, race, and ethnicity; the number of arrest charges and detailed top charge (1211 different categories); prior arrests and convictions for misdemeanors, felonies, weapons offenses, drug offenses, violent felonies, and offenses involving children; arrest location; holiday (Christmas, Thanksgiving, Independence Day, Memorial Day, Labor Day, or New Year’s Day) offenses; and fixed effects for arraignment day of week, day of month, and month of year. Standard errors clustered on arraignment day are reported in parentheses. * denotes statistically significant difference, p<.05, ** denotes statistically significant difference, p<.01.
### Appendix Table 5: Robustness Checks

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Excluding new cases instrument</th>
<th>Matching estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bench warrant</td>
<td>0.014* (0.006)</td>
<td>0.015* (0.006)</td>
</tr>
<tr>
<td>Any pretrial arrest</td>
<td>0.037** (0.012)</td>
<td>0.046** (0.013)</td>
</tr>
<tr>
<td>Convicted</td>
<td>0.006 (0.008)</td>
<td>-0.002 (0.006)</td>
</tr>
<tr>
<td>Custodial sentence</td>
<td>-0.032** (0.008)</td>
<td>-0.038** (0.006)</td>
</tr>
<tr>
<td>Sentence length (days)</td>
<td>-8.12* (3.86)</td>
<td>-6.64* (2.99)</td>
</tr>
<tr>
<td>Any arrest within 1 year</td>
<td>0.050 (0.032)</td>
<td>0.053* (0.026)</td>
</tr>
<tr>
<td>Any arrest within 5 years</td>
<td>-0.053 (0.073)</td>
<td>-0.054 (0.072)</td>
</tr>
</tbody>
</table>

Note: This table reports estimates of the effect of holistic defense obtained using variants of the baseline specification. The estimates in the first column of results are based upon IV models similar to those presented in Tables 4–6, but omitting the number-of-new-cases instrument. These models are identified because there are two endogenous variables (holistic representation and representation by appointed counsel) and two available instruments based on shift schedules. The second column of results estimates IV models that implement a matching-type estimator as described in the text. Each entry comes from a separate regression. * denotes statistically significant difference, \( p<0.05 \), ** denotes statistically significant difference, \( p<0.01 \). See supra note accompanying Table 4, p. 869.
Appendix Figure 1: Distribution of Predicted Values from Probit Model of Conviction

Note: In the probit model, the outcome is an indicator for whether a particular defendant was convicted, the unit of observation is a defendant/case pairing, and the predictors are: defendant age (63 categories), gender (3 categories, including missing), race (5 categories), and ethnicity (2 categories); top arrest offense (75 categories); arrest charge count (5 categories); whether that arrest charge included a hate crime, drug charge, firearm charge, weapon charge, charge involving a minor, or DWI/DUI; defendant’s number of prior misdemeanor (11 categories), felony (11 categories), drug (11 categories), violent felony (11 categories), weapon (11 categories), and offense involving a minor (6 categories) arrests; number of prior felony (11 categories), misdemeanor (15 categories), firearm (3 categories), and violent felony (4 categories) convictions; and arrest location (15 categories).
Appendix Figure 2: Daily Case Volume and Appointed Counsel Assignment

Note: This figure plots the daily count of new cases — defined as arraignments occurring within 0–2 days following arrest — against the share of cases that were assigned to appointed (18B) counsel. Each dot represents a calendar date, and the scatterplot includes a total of 3,673 observations. A bivariate regression of the share of appointed counsel on the daily new case counts indicates a positive, statistically significant relationship between the two variables (p<.001).
Heeding *Gideon’s* Call in the Twenty-first Century: Holistic Defense and the New Public Defense Paradigm

Robin Steinberg*

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* Executive Director, The Bronx Defenders. J.D., New York University School of Law 1982. Many thanks to my assistant, Joanna Zuckerman Bernstein, whose research, writing, and intelligence made this Article possible. Thanks to Justine Olderman, McGregor Smyth, and Kate Rubin for their generous and smart advice, information, and editing skills.
I. In the Beginning: A New Vision

In September of 1997, eight public defenders squeezed into a small storefront office between a Radio Shack and a Rent-A-Center across the street from the courthouse in the South Bronx to practice a new kind of public defense.1 We had defended people in criminal justice systems across the country, but had come together to create something different—a defender office that would put clients’ lives, not just their cases, first.

Until the moment The Bronx Defenders opened its doors, The Legal Aid Society in New York City had been the sole provider of indigent defense services in the borough. Legal Aid had deep roots and loyal followers, and like most of the other institutional players in the Bronx criminal justice system, it had no interest in making room for a new organization with a new way of practicing. The hostility in the courthouse was palpable. Judges questioned our competence in front of our clients, court personnel threw our case files on the floor when we weren’t looking, and the private bar snarkily dismissed us as “The Bronx Pretenders.” We had a lot to learn and no one was going to help teach us.

Despite the obstructionism and the deluge of cases that come with being an institutional defender, the office rapidly established itself as tough, uncompromising, and innovative. From challenging the way grand jury practice had been conducted for decades, to filing novel motions, we refused to accept the legal status quo in the Bronx Criminal Courthouse.

1. David Feige also writes about the first few years of The Bronx Defenders in INDEFENSIBLE: ONE LAWYER’S JOURNEY INTO THE INFERNO OF AMERICAN JUSTICE (2006).
And while we waged a war in the courthouse to reform Bronx practice, we were doing something far more radical. We were listening. We listened to neighbors in bodega lines, housing projects, and community centers. We listened to members of tenant associations, school boards, and churches. But most of all, we listened to clients because in order to defend our clients powerfully and effectively, we needed to hear their stories, understand their needs, and give voice to their concerns.

Here is what we discovered: Clients often cared more about the life outcomes and civil legal consequences of a criminal case than about the case itself. Liberty interests were not always paramount. The lawyers and social workers were overwhelmed with stories about housing, immigration, public benefits, jobs, and child custody from clients charged with even petty misdemeanors like smoking marijuana in public or jumping a turnstile. As it turned out, the problem was rarely the criminal case itself, but rather the very real threat of losing public housing, getting deported, having their public benefits cut off, or having their children placed in foster care. Fifty years after Gideon v. Wainwright, what The Bronx Defenders realized was that its clients were facing a whole new host of problems that demanded an entirely new model of public defense. That model is “holistic defense.”

Fifteen years after those eight public defenders set out to create something different, holistic defense is widely recognized as the most effective model of public defense in the country. This Article will define holistic defense, which is comprised of four “pillars,” and discuss how The Bronx Defenders and other public defenders around the country are implementing the model. It will explain how holistic defense relies on an interdisciplinary team of experts, including criminal attorneys, social workers, civil attorneys, investigators, and legal advocates, who work side-by-side to address all aspects of a client’s case, thus providing seamless access to legal services and nonlegal services under one roof (Pillar One). This Article will then outline how working in teams enables advocates to have dynamic, interdisciplinary communication about the client and his case. Frequent, open communication—in-person and through e-mail, text, and on the

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phone—ensures that all team members stay abreast of the details of the case and the client’s life, and that the client feels confident in the strength of his representation (Pillar Two). It will show how advocates are cross-trained in every discipline (criminal law, civil law, immigration, and social work) so that they have an interdisciplinary skill set, meaning that they can recognize the numerous issues clients face, ask the right questions, and make the appropriate referrals to other advocates on the team—depending on the client’s situation and priorities. An interdisciplinary skill set thereby enables advocates to represent clients in a fundamentally different way (Pillar Three). Finally, this Article will demonstrate how a holistic public defender office has a robust understanding of, and connection to, the community served; it is (ideally) located in the community, making its services accessible to clients and familiarizing its staff with the underlying issues that drive poor people into the criminal justice system. Moreover, a holistic defender office conducts outreach, education, organizing, and policy work in partnership with clients and other community members to create large-scale change in the community (Pillar Four).

Part II will outline the changes in criminal justice policy and practice that have necessitated the creation and implementation of the holistic defense model. Part III will discuss how holistic defense is distinct from client-centered defense and community-oriented defense. Part IV will clearly define holistic defense, elaborate on the pillars that must be met to practice holistic defense, and illustrate each pillar with case-specific examples. This Part will be particularly useful for public defenders, academics, and community-based organizations working on criminal justice issues. Part V will debunk myths about holistic defense, such as the claim that holistic defense is antitrial, and Part VI will describe how to evaluate holistic defense. Finally, Part VII will focus on the holistic defense movement, pioneered by The Bronx Defenders’ Center for Holistic Defense, which trains a wide array of public defender offices around the country in holistic techniques.
II. How Did We Get into This Mess? The “Get Tough on Crime” Years

The past fifty years have seen a dramatic shift in our country’s approach to crime, which has had disastrous consequences for inner-city areas like the South Bronx. Many scholars have discussed the impact on poor black and Latino communities of “tough on crime” legislation that arose during the civil rights era. In the last few decades, it has become favorable for politicians to boost their popularity by promoting “three strikes” sentences and other punitive policies.3 The acceptance of the “broken windows theory” has also led to overpolicing of inner-city communities through order-maintenance policies4 and a rise in arrests of people who previously did not have criminal records.5 Moreover, the “War on Drugs,” launched in earnest during Ronald Reagan’s presidency, has contributed greatly to mandatory minimum sentencing and mass imprisonment, particularly of poor people of color.6 In 2010, there were 7.1


5. See id. at 282 (“[A]s of 1998, the shift to [Zero-Tolerance Policing] had resulted in large numbers of people—largely minorities, youths, and many without criminal records—being arrested and put through the system on especially minor charges, only to have their cases disposed of on first appearance . . . .”).

6. There are scores of books and articles on this topic. See, e.g., Mauer & Chesney-Lind, supra note 3, at 10–11 (describing how the “war on drugs” created “vast racial disparities” in the criminal justice system); see also ALEXANDER, supra note 3, at 52–57 (“The War on Drugs, cloaked in race-neutral language, offered whites opposed to racial reform a unique opportunity to express their hostility toward blacks and black progress, without being exposed to the charge of racism.”); Gabriel J. Chin, Race, the War on Drugs, and the Collateral Consequences of Criminal Conviction, 6 J. GENDER RACE & JUST. 253, 262–70 (2002) (providing statistics regarding racial disparities in drug prosecutions and incarceration rates).
million people under correctional supervision in the United States; nearly 5 million were on probation or parole, and more than 2.2 million were in jail or prison.\textsuperscript{7} In 1964, one year after \textit{Gideon}, there were just over 200,000 people in the United States in state or federal prison;\textsuperscript{8} by 2010, that number had ballooned to over 1.6 million.\textsuperscript{9} African-Americans and Latinos almost exclusively bear the brunt of the dramatic increase in our prison population.\textsuperscript{10} Nearly 80% of inmates in state prison for drug offenses are African-American or Latino.\textsuperscript{11} According to a Department of Justice report, approximately 1 in 3 black males, 1 in 6 Hispanic males, and 1 in 17 white males are expected to go to prison during their lifetime.\textsuperscript{12}

Millions of low-level arrests per year serve as the gateway into a backward criminal justice system, from which many people struggle to escape. In 2010, there were 13.1 million arrests, the highest number of which were for drug violations.\textsuperscript{13} As more and more Americans become entangled in the criminal justice system, “collateral consequences” of criminal proceedings—also called “hidden consequences” or “invisible punishments”—have expanded as well, wreaking havoc on the lives of people caught in

\begin{quotation}
\textsuperscript{10} Chin, supra note 6, at 262–70 (“Although . . . African Americans made up only 12.9% of the population in 2000, they were 46.2% of those incarcerated; the 12.5% of the population which was Latino or Hispanic made up 16.4% of the prison population.”).
\textsuperscript{11} Mauer & Chesney-Lind, supra note 3, at 6.
\end{quotation}
HEEDING GIDEON’S CALL

the system and their families.14 There has been substantial literature in recent years about these collateral consequences.15 Beginning in the 1990s, many states started permanently banning convicted felons from voting,16 terminating the parental rights of convicted felons,17 and increasing occupational bars for people with criminal convictions.18 Congress expanded the range of crimes that make an immigrant eligible for deportation,19 and

14. See Mauer & Chesney-Lind, supra note 3, at 1 (describing the unintended effects of social policies as “collateral consequences” and “invisible punishments” and noting that these effects have “transformed family and community dynamics, exacerbated racial divisions, and posed fundamental questions of citizenship in democratic society”).


17. See id. (describing ways parental rights may be infringed and noting that in 1996, nineteen states permitted termination of parental rights based on a felony conviction).


made people convicted of drug-related crimes ineligible for federal public assistance and food stamps. Congress also enacted laws that make people convicted of certain crimes temporarily and sometimes permanently ineligible for public housing and federal financial aid. These invisible punishments do not just affect those convicted of criminal offenses. They impact people who are acquitted, too. In New York, where 1 in 3 people who are arrested are never convicted, many of these same people will still face consequences related to their arrests. Loss of legal immigration status, housing, public benefits, and employment are collateral consequences that often affect a person at the moment of arrest, regardless of his or her innocence.

Advances in technology have made collateral consequences more than just a hypothetical fallout of criminal justice involvement. Local, state, and federal electronic data-gathering and information-sharing means that the details of a person’s life are immediately revealed to various agencies and that information is never fully erased. For example, in New York State, there are many different agencies that keep computerized records of arrests and prosecutions, and data-sharing is practiced

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20. See 21 U.S.C. § 862a (2012) (denying eligibility for food stamps and other public assistance to individuals convicted of certain drug-related felonies); see also Travis, supra note 18, at 23 (noting that the welfare reform law of 1996 “requires that states permanently bar individuals with drug-related felony convictions from receiving federally-funded public assistance and food stamps during their lifetime”).

21. See 42 U.S.C. § 13661 (permitting owners of federally-assisted housing to terminate households with a member who illegally uses a controlled substance or abuses alcohol); see also THE BRONX DEFENDERS, THE CONSEQUENCES OF CRIMINAL PROCEEDINGS IN NEW YORK STATE 16–18 (2010) [hereinafter THE CONSEQUENCES OF CRIMINAL PROCEEDINGS] (discussing statutes relating to public housing eligibility).

22. See 20 U.S.C. § 1091(r)(1) (making students who are convicted of federal drug crimes ineligible for financial aid for a period of time dependent on their prior record).

23. THE CONSEQUENCES OF CRIMINAL PROCEEDINGS, supra note 21, at 2 & n.9 (“In 2004, 36.7% of people arrested were never convicted.” (citation omitted)).
widely regardless of sealing mandates.24 At the end of 2010, the Bureau of Justice Statistics reported that state repositories held criminal records of more than 97.8 million people, and 92% of these records were automated.25 In comparison, in 1989, states held only 45.6 million criminal records and only 60% were automated.26 In New York, the Division of Criminal Justice Services (DCJS) is the state depository, and its criminal records can be accessed fairly easily by future employers.27 Additionally, anyone willing to pay $65 can search for a person’s criminal history in New York State through the Office of Court Administration.28

The federal government maintains its own automated databases to share information with states and local law enforcement. The National Crime Information Center (NCIC) is an electronic database that kept nearly 12 million criminal records in 2011,29 which can be accessed by law enforcement

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24. See id. at 4 ("Technology has provided unparalleled access to an ever-increasing range of criminal history data. Data sharing among government agencies has increased exponentially, and there is widespread availability of criminal history data despite various sealing regimes."). "In New York State, dozens of agencies maintain their own computerized records of arrests and prosecutions, including DCJS, OCA, NY State Police, and local law enforcement." Id.


27. See Access to Criminal History Records & Background Checks, N.Y. ST. DIVISION CRIM. JUSTICE SERVICES, http://www.criminaljustice.ny.gov/ojis/recordreview.htm (last visited Apr. 2, 2013) (permitting an “individual or his/her attorney to obtain either a copy of all criminal history information maintained on file at DCJS pertaining to him or her, or a response indicating that there is no criminal history information on file”) (on file with the Washington and Lee Law Review); see also THE CONSEQUENCES OF CRIMINAL PROCEEDINGS, supra note 21, at 4 (noting the inaccuracy of criminal history records).


agencies nationwide in less than one second.\textsuperscript{30} As of December 1, 2011, the Interstate Identification Index (III) maintained records on 75.4 million people charged with felonies or “serious” misdemeanors.\textsuperscript{31} In 2011, the FBI kept more than 70 million criminal fingerprints and more than 31 million civil fingerprints in its Integrated Automated Fingerprint Identification System (IAFIS), which can be accessed—within minutes—for criminal justice purposes or for civil purposes, like employment or licensing screening.\textsuperscript{32}

The automation and availability of criminal record data have made it easier for landlords and employers to conduct criminal background checks. In addition to state depositories and court records, many employers use private commercial databases that compile and manage criminal records; some of these databases keep over 100 million criminal history records.\textsuperscript{33} To make matters worse, criminal records—from state, federal, and commercial

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32. U.S. DEPT OF JUSTICE, FED. BUREAU OF INVESTIGATION, CRIM. JUSTICE INFO. SERVS. DIV., CJIS ANNUAL REPORT 2011, at 18–19 (2011) (“More than 18,000 local, state, tribal, federal, and international partners electronically submit requests to the IAFIS, which operates 24 hours a day, 365 days a year . . . . In FY2011, IAFIS criminal submissions were processed in an average of 9 minutes, 56 seconds, and IAFIS noncriminal/civil submissions in an average of 1 hour, 4 minutes, and 32 seconds.”).

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databases—often contain errors or are out-of-date, inadvertently disqualifying our clients from public housing or employment.34

At The Bronx Defenders we have seen first-hand the devastating impact of the expansion of city, state, and federal data collection and sharing. As soon as our immigrant clients reach Riker’s Island, Immigration and Customs Enforcement (ICE) can swoop in to place the client in deportation proceedings. Our clients are denied jobs, public housing, and private apartments because their future employers and future landlords are informed of their criminal records via an online database, which is riddled with errors. These same electronic systems enable licensing agencies to quickly revoke our clients’ licenses to be hairdressers, security guards, and home attendants after they are arrested, even if the arrest has nothing to do with their profession.35 Today, even minor criminal justice involvement can send a client and her family into crisis, insecurity, and instability.

Moreover, as our clients—and clients of public defenders everywhere—struggled with a widening array of civil legal consequences, it also became increasingly difficult for them to obtain civil legal assistance. Public defender offices typically do not offer civil legal services or social services in-house, and few have partnerships with agencies that do. In fact, an oft-ignored impact of Gideon v. Wainwright is the way that it siloed the field

34. For example, the FBI’s criminal history record depository “is still missing final disposition information for approximately 50 percent of its records.” U.S. DEP’T OF JUSTICE, THE ATTORNEY GENERAL’S REPORT ON CRIMINAL HISTORY BACKGROUND CHECKS 3 (2006), http://www.justice.gov/olp/ag_bgchecks_report.pdf; see also Smyth, supra note 33, at 45 (noting additional problems with the accuracy of FBI background check reports). This Article also discusses a 2007 study by The Bronx Defenders and a New York law firm that found that, out of a random sample of official state rap sheets, 62% contained at least one error. See The Consequences of Criminal Proceedings, supra note 21, at 5 (providing statistics regarding errors in commercial background check databases); see generally CRAIG N. WINSTON, NAT’L ASS’N OF PROF’L BACKGROUND SCREENERS, THE NATIONAL CRIME INFORMATION CENTER: A REVIEW AND EVALUATION (2005), available at http://www.reentry.net/library/attachment.74268.

35. See J. McGregor Smyth, Jr., Cross-Sector Collaboration in Reentry: Building an Infrastructure for Change, 41 CLEARINGHOUSE REV. 245, 245 (2007) (“Punishment by the criminal justice system begins at arrest and, in many ways, never ends. A conviction—or simply accusation of a crime—frequently leads to immediate eviction, termination of employment, loss of benefits, disenfranchisement, or deportation.”).
of “poverty law” as conceived in the 1960s by creating a separate stream of government funding exclusively for indigent criminal defense. Other factors also exacerbated the division between public defender offices and civil legal aid providers, including the Legal Services Corporation’s (LSC) funding restrictions on civil legal assistance for people involved in the criminal justice system.

36. Poverty lawyering, largely inspired by President Lyndon B. Johnson’s “War on Poverty,” launched in 1964, recognized the need for a holistic approach to fighting poverty and advocating for social change, through integrated direct legal services, impact litigation, social services, policy, and administrative advocacy. See Paula Galowitz, Collaboration Between Lawyers and Social Workers: Re-examining the Nature and Potential of the Relationship, 67 FORDHAM L. REV. 2123, 2130 n.31 (1999) (explaining the War on Poverty’s method of fighting poverty through collaboration between poverty lawyers, social workers, and other community-based professionals). In the introduction to their groundbreaking article, The War on Poverty: A Civilian Perspective, Edgar S. and Jean C. Cahn wrote:

The strategy of [The War on Poverty] appears to have been shaped by an awareness of the interrelatedness of the social, economic, legal, educational, and psychological problems which beset the poor and by a recognition of the necessity to involve all segments of society in a many-pronged attack on these problems.


37. For more about Legal Services Corporation (LSC) restrictions, see 45 C.F.R. §§ 1613, 1637 (2012). See also Smyth, supra note 33, at 248 (explaining the impact of LSC restrictions on civil legal aid attorney involvement with criminal cases). Even before the passage of the Legal Services Corporation Act, 42 U.S.C. §§ 2996(a)–(l) (2012) (originally enacted as Legal Services Corporation Act of 1974, Pub. L. No. 93-355, 88 Stat. 378), the Office of Economic Opportunity, which was charged with handling President Johnson’s “War on Poverty,” required legal services organizations to provide assistance in all areas of the law except criminal defense. See History of Civil Legal Aid: OEO Legal Services and the Passage of the Legal Services Corporation Act, NAT’L LEGAL AID
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At The Bronx Defenders, we concluded that this new age of far-reaching technology and punitive criminal justice policy called for a radically different kind of public defender office, one that reflected the original—holistic—spirit of poverty lawyering. The interconnected nature of city, state, and federal agencies in the twenty-first century makes it impossible to defend clients by using the traditional approach of focusing only on the criminal case. Defenders can no longer ignore the ways in which poor people in America are easily ensnared by a web of government agencies once they become involved in the criminal justice system—even if they are found to be innocent. This is even more crucial since the 2010 Supreme Court decision of Padilla v. Kentucky mandated that defenders advise their clients on the serious and likely consequences of a plea. While Padilla focused

38. See discussion supra note 37 and accompanying text. Also, in an address to the University of Chicago Law School on May 1, 1964, shortly after the Gideon v. Wainwright decision, Attorney General Robert F. Kennedy recognized the need for public defenders to address clients’ civil, legal, and social service needs:

[Po]verty is a condition of helplessness—of inability to cope with the conditions of existence in our complex society. We know something about that helplessness. The inability of a poor and uneducated person to defend himself unaided by counsel in a court of criminal justice is both symbolic and symptomatic of his larger helplessness. But we, as a profession, have backed away from dealing with that larger helplessness. We have secured the acquittal of an indigent person—but only to abandon him to eviction notices, wage attachments, repossession of goods and termination of welfare benefits.


40. See id. at 1494 (“[A]ny competent criminal defense attorney should appreciate the extraordinary importance that the risk of removal might have in the client’s determination whether to enter a guilty plea. Accordingly, unreasonable and incorrect information concerning the risk of removal can give rise to an ineffectiveness claim.”). For additional discussion of the implications of Padilla, see two works by McGregor Smyth: From “Collateral” to “Integral”: The Seismic Evolution of Padilla v. Kentucky and Its Impact on Penalties Beyond Deportation, 54 Howard L.J. 795 (2011) and “Collateral” No More: The Practical Imperative for Holistic Defense in a Post-Padilla World . . . Or, How to Achieve Consistently Better Results for Clients, 31 St. Louis U. Pub. L. Rev. 139.
on the immigration consequences of a plea bargain, the language of the Court is more expansive.\textsuperscript{41} \textit{Padilla} clarifies what holistic defense was created to address—that criminal case dispositions have dire consequences and effects in many areas of a client’s life that must be addressed.\textsuperscript{42} In this context, focusing on securing “the least restrictive disposition”—the mantra of traditional public defense training—does not necessarily result in the most desirable outcome. In fact, that mantra exposes a profound misunderstanding of the nature of poverty in America today. Public defenders must become aware of the many traps, hidden punishments, and big and small losses of liberty that befall their clients, and be equipped to address them.\textsuperscript{43} This is where holistic defense comes in.

\textbf{III. Holistic Defense, Community-Oriented Defense, and Client-Centered Representation: A Guide for the Perplexed}

In the four decades since \textit{Gideon v. Wainwright}, there have been several attempts to change the practice of public defense in offices around the country. In addition to “holistic defense,” public defenders often describe themselves as using a “client-centered” or a “community-oriented” approach. Public defenders, academics, and policymakers tend to use these three terms interchangeably, which proves confusing and dilutes holistic defense, making it seem like just another trend. Unlike these approaches, holistic defense not only redefines what public defense is, but it offers an entirely new model of practice—one that can be implemented on an institutional level.\textsuperscript{44} Neither the

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\item See \textit{Padilla}, 130 S. Ct. at 1481–82 (discussing “direct” and “collateral” consequences of a guilty plea in a context broader than deportation only).
\item Id. at 1481 (recognizing that the right to effective assistance of counsel includes advice on the “collateral consequences” of a guilty plea).
\item For a general overview of the “forces affecting the defense role,” see Cait Clarke, \textit{Problem-Solving Defenders in the Community: Expanding the Conceptual and Institutional Boundaries of Providing Counsel to the Poor}, 14 Geo. J. Legal Ethics 401, 421–25 (2001) (“The criminal justice system, and the defense function in particular, have become the catch-basin for the breakdown of social services inside communities.”).
\item See \textit{infra} Part IV (discussing the applicability of the holistic defense model); \textit{Holistic Defense}, CENTER FOR HOLISTIC DEFENSE, http://www.holistic
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community-oriented nor the client-centered approach has challenged the traditional definition of public defense or offered an alternative to this traditional model that has been replicated since Gideon. However, these approaches are clear predecessors of holistic defense and deserve more than a brief mention, as they have greatly informed the evolution of the model. In this section, I will give an overview of the history and definition of client-centered defense and community-oriented defense and how these approaches have been incorporated into the four pillars of holistic defense.

A. Client-Centered Defense

Client-centered defense took hold as part of a broader movement in lawyering, beginning in the late 1970s.\textsuperscript{45} Client-centered lawyering marked a shift from a conservative, paternalistic attorney-as-decisionmaker strategy, to an approach that considers the needs, wants, and values of the client and includes the client in decisionmaking for the case.\textsuperscript{46} In the 1991 book, Lawyers as Counselors: A Client-Centered Approach, David A. Binder, Paul Bergman, and Susan C. Price explained how the client-centered approach differed from the traditional approach:

As you might imagine . . . client-centered and traditional conceptions of lawyering have much in common. Both, for example, recognize the critical importance of legal analysis and have as their ultimate goal maximum client satisfaction. . . . However, the client-centered conception “fills in” the traditional approach . . . by emphasizing the importance of clients’ expertise, thoughts and feelings in resolving problems. In a client-centered world, your role


involves having clients actively participate in identifying their problems, formulating potential solutions, and making decisions. Thus, client-centered lawyering emanates from a belief in the autonomy, intelligence, dignity and basic morality of the individual client.\footnote{Id. at 18. More recently, Katherine R. Kruse outlined the four “cornerstones” of client-centered representation: (1) it draws attention to the critical importance of non-legal aspects of a client’s situation; (2) it cabins the lawyer’s role in the representation within limitations set by a sharply circumscribed view of the lawyer’s professional expertise; (3) it insists on the primacy of client decision-making; (4) it places a high value on lawyers’ understanding their clients’ perspectives, emotions, and values. Katherine R. Kruse, \textit{Fortress in the Sand: The Plural Values of Client-Centered Representation}, 12 CLINICAL L. REV. 369, 377 (2006).}

Gary Bellow and Bea Moulton’s casebook, \textit{The Lawyering Process: Materials for Clinical Instruction and Advocacy}, originally published in 1978, initiated client-centered representation for poor communities. As a Harvard Law School professor, Gary Bellow started a legal services center the following year, in 1979, now the WilmerHale Legal Services Center, which trained Harvard law students to provide client-centered legal services to indigent clients in the Jamaica Plain neighborhood of Boston.\footnote{About the Legal Services Center: History, WILMERHALE LEGAL SERVICES CENTER, http://www.law.harvard.edu/academics/clinical/lsc/about/history.htm (last visited Apr. 2, 2013) (stating that the Legal Services Center was founded in 1979 by Gary Bellow and Jeanne Charn) (on file with the Washington and Lee Law Review).} Bellow advocated for a “participatory” lawyer–client relationship, which requires “explicit and extensive disclosure” so that clients are well informed of the risks and benefits of various strategies.\footnote{Gary Bellow & Bea Moulton, \textit{The Lawyering Process: Negotiation} 196 (1981).} By informing the client of his options and making the plan of action his responsibility, the attorney “demands energy, intelligence, and judgment”\footnote{Id. at 194.} from the client, and “makes the client a doer, responsible for his choices.”\footnote{Id. at 197. Bellow and Moulton also note that “[a]ctive participation can actually promote effective problem solving,” \textit{id.}, and stress that “[t]he participatory theory promotes an active strategy assuming that it is primarily the client’s own responsibility to grapple with the problem.” \textit{Id.} at 193.}
representation, by demanding active participation from the client, ensures that the client feels more comfortable with his representation.52

The definition of client-centered lawyering for poor clients has not changed much since Bellow and Moulton wrote The Lawyering Process. Jonathan Rapping, Associate Professor at John Marshall Law School, promotes client-centered defense as the President and Founder of the Southern Public Defender Training Center.53 Describing the center's philosophy, he writes:

We emphasize the importance of humanizing the client every chance the lawyer gets to combat the impulse of judges and prosecutors to see him as just another faceless defendant. We also stress the importance of advocating for the client's interests, and not assuming the lawyer knows what is best for the client. Ultimately, we want our participants to treat each client with the respect and attention we would all want for our own loved ones.54

The client-centered approach is an essential component of effective holistic defense. Client-centered defense is incorporated in all four pillars of the model.55 While an office that is holistic, by

52. See id. at 223 (“Generally it seems a client can best live with a decision, and follow through with a decision, if it is one the client has made. This may be true because a client-made decision usually more accurately reflects client values.”). This strategy also “reduces excessive anxieties which are the product of uninformed fears and unexpected stress.” Id. at 197.


55. See infra Part IV (showing how client-centered values are incorporated into holistic defense components); see also Holistic Defense, CENTER FOR HOLISTIC DEFENSE, http://www.holisticdefense.org/ (last visited Apr. 2, 2013) (defining
definition, engages in client-centered representation, a client-centered office does not necessarily provide holistic defense. This is not just a matter of semantics. Without advocates trained to identify the legal and social work issues beyond the criminal case, and without providing seamless access to services to address those issues and defend against the direct consequences of even minor criminal justice involvement, even a “client-centered” defender who treats her clients with respect does not provide holistic representation. Getting great criminal case dispositions, treating clients with dignity, and giving them the facts to help them decide whether to take their case to trial or accept a pretrial case disposition is critical, but falls short of the approach’s own goal. By advising clients solely about their criminal case, without also addressing the host of other consequences of criminal justice involvement, defenders inadvertently disempower clients from making real choices about what consequences they are willing to accept and which ones they are not. Some clients might choose a more restrictive criminal case disposition—and possibly even more jail time—if it means keeping their kids out of foster care, avoiding deportation, an eviction, or the loss of a job. And some clients might do anything to avoid more jail time—even if it means risking their public benefits, their housing status, or their custody arrangements. Only clients can prioritize these consequences of criminal justice involvement. Being “client-centered” is a given, but providing holistic defense is the goal.

B. Community-Oriented Defense

Community-oriented defense gained renown in the 1990s with the founding of Neighborhood Defender Service of Harlem (NDS). NDS was located in Harlem, and provided holistic defense as “a client-centered and interdisciplinary model of public defense that addresses the circumstances driving poor people into the criminal justice system and the consequences of that involvement by offering criminal and civil legal representation, social work support, and advocacy in the client community”) (on file with the Washington and Lee Law Review).

56. NDS was started in 1991 by Christopher Stone and Richard Finkelstein as a pilot project of the Vera Institute of Justice. I was one of the founding members of NDS and served as the Deputy Director before leaving in 1997 to found The Bronx Defenders.
“neighborhood representation,” meaning that anyone accused of a crime within a certain “catchment area” of Harlem was assigned to an NDS attorney instead of being assigned an attorney at random upon arrival at the courthouse. This enabled NDS to provide crucial prearrest services and represent clients in multiple jurisdictions. NDS also had strong ties to the community through education and outreach programs, devised specifically to meet Harlem residents’ needs. Inspired by NDS, the Youth Advocacy Project in Roxbury, Massachusetts, developed a community-oriented model to represent young people charged with crimes in the early 1990s. Under the leadership of Josh Dohan, who was the first staff attorney, the Youth Advocacy Project established relationships with community organizations, performed community outreach, and participated in advocacy.

However, the philosophy of community-oriented defense had emerged much earlier. In the 1970s, community-based projects in Boston and Chicago forged a small-scale alternative to traditional public defense. The Roxbury Defenders Committee (RDC) was founded in 1971 by a “citizens committee” unhappy with the representation of poor African-Americans in the Roxbury neighborhood of Boston in 1971; see also Randolph N. Stone, The Role of State Funded Programs in Legal Representation of Indigent Defendants in Criminal Cases, 17 AM. J. TRIAL ADVOC. 205, 217–18 (1993) (noting that the Criminal Defense Consortium of Cook County was founded in the mid-1970s to serve several poor communities in Chicago through an “experimental model” of defense).
neighborhood of Boston. At the time, the Massachusetts Defender Committee (MDC) represented all of the cases in Roxbury. The Committee received federal funds managed by the Governor’s office and was considered a subcontractor of the MDC. RDC’s defining characteristics were a twenty-four hour hotline, managed by an attorney at all times, a community newsletter, a community legal education program, a Prison Legal Services Project, prearrest services, relationships with social service agencies, and a “spirited commitment to law reform.” In 1985, the Roxbury Defenders was absorbed into the statewide system that replaced the MDC, the Committee for Public Counsel Services (CPCS).

A few years after the founding of the RDC, in Chicago, the Criminal Defense Consortium of Cook County (CDC) was created as an experimental pilot project in indigent defense, funded by the Department of Justice. The CDC sought to create an alternative to the traditional court-based public defender office, which was rife with patronage, and to establish community-based offices closely aligned with local law schools. The CDC created six offices in poor neighborhoods in Chicago and the surrounding area, each with “four attorneys, a social worker, an investigator,

62. See Washington & Hines, supra note 61, at 188 (discussing the “citizens committee” that was formed “to seek funds, and establish an alternative defender program” and led to the formation of the Roxbury Defenders Committee in 1971).

63. See id. (giving a history of the circumstances that led to the creation of the Roxbury Defenders Committee).

64. See id. at 189 (“RDC was founded in 1971 as an ‘experiment in legal representation’ and given vague subcontractual status under MDC.”).

65. Id. at 186.

66. The Roxbury Defenders now exists as a “unit” of CPCS. See Public Defender Offices, COMMITTEE FOR PUB. COUNS. SERVICES, http://www.publiccounsel.net/Office_Locations/public_defender_offices.html (last visited Apr. 2, 2013) (on file with the Washington and Lee Law Review). Yolanda Acevedo joined the Roxbury Defenders in 1982 and still works as a staff attorney in the Roxbury Defenders Unit. She said that many original Roxbury Defenders staff members were disappointed with the merger in 1985 because they felt that it compromised its community-oriented mission. Telephone interview with Yolanda Acevedo, Staff Attorney, Roxbury Defenders Unit (Sept. 14, 2012).

67. Telephone interview with Randolph N. Stone, Clinical Professor of Law, Univ. of Chic. Law Sch. (Aug. 14, 2012); see also Stone, supra note 61, at 217–18 (describing the founding of the Criminal Defense Consortium of Cook County).

68. Telephone interview with Randolph N. Stone, supra note 67.
two secretaries, and volunteer law students. University of Chicago Professor of Clinical Law Randolph N. Stone, then a young staff attorney at the CDC who was also a founding board member at NDS, said that each CDC office was deeply involved in the community and received a great deal of community support. Staff held events each month for community members to discuss crime prevention, policing, and other topics relevant to the community. They tried to recruit a community advisory board for each office, as well. Unfortunately, the CDC could not obtain renewed funding after two years and was dissolved.

Today, a community-oriented defender generally refers to a public defender office with strong ties to, and knowledge of, the community it serves. Community-oriented defenders are often physically located in the community, and have partnerships with schools, churches, and nonprofit organizations in the community. These partnerships enable them to make

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69. See Stone, supra note 61, at 217 (describing the criminal defense consortium of Cook County).
70. Telephone Interview with Randolph N. Stone, supra note 67.
71. Id.
72. Id.
73. Id. Stone attributes this dissolution to patronage as well.
75. See Taylor Thompson, Effective Assistance, supra note 74, at 212 (“Staff lawyers in defenders’ offices often reach out to the larger community. Representing their clients’ interests fully requires that defenders frequently rely on the assistance of other actors outside of the defender community.”); see also Clark testimony, supra note 74, at 2 (noting that community defenders achieve
appropriate referrals for clients to get mental health counseling, housing, and employment assistance. Community defenders often engage in advocacy and policy initiatives that focus on fighting discriminatory policies and practices in the communities they serve.

Community-oriented defense is predicated on the belief that low-income communities have assets, which they can contribute to public defender offices and their advocacy efforts. In a 2004 article, Kim Taylor-Thompson explained: “At its roots, community-oriented defense must stem from a belief that the community from which defenders' clients come is at once a valuable resource and an ally in the effort to improve the justice system.” Community members can help attorneys with their defense strategies and general knowledge of the community can success by utilizing the services of other community organizations to assist their clients); Taylor-Thompson, Taking, supra note 74, at 176–78 (arguing that public defenders should take on a more collaborative role within the community to become more effective); Taking Public Defense, supra note 74, at 2 (“Community-orientated defense means reaching out and building ties with people, activists, support groups, and service providers in your clients' communities.”).

66. See Community Defenders, supra note 74, at 25 (noting that many public defenders have improved their clients' employment options due to the defenders' community ties); see also Taylor-Thompson, Taking, supra note 74, at 195–96 (discussing the benefit of “community-oriented defense”).

67. See Taking Public Defense, supra note 74, at 4 (describing how some further their role as a community defender by participating in political advocacy for low-income communities); see also Clark testimony, supra note 74, at 5 (“Community oriented defenders are also well-placed to support activities and reforms that make the criminal justice system operate more efficiently.”); Taylor-Thompson, Effective Assistance, supra note 74, at 215–16 (noting that the community defender office's political campaign choices may also impact the community); Community Defenders, supra note 74, at 26–27 (describing the political involvement of public defenders).

68. See Community Defenders, supra note 74, at 28 (“Innovative community prosecutors and community defenders understand that even the poorest communities have many assets and human resources that can help build collaborative programs and improve relations with criminal justice stakeholders.”).

69. Taylor-Thompson, Taking, supra note 74, at 195.

70. See id. at 196

Contacts with residents in a client's neighborhood can increase the likelihood of mounting a viable defense. Knowing people in a given neighborhood can facilitate investigation of a case, and can help the defender develop facts and identify witnesses who might provide
assist defenders in reaching better outcomes for their clients because they have a deeper understanding of their clients' situations, and can argue for better bail, sentencing, and case outcomes for their clients.\textsuperscript{81} Community defenders also recognize the need to partner with community members in order to create long-term change in the community through community education programs, policy, and organizing.\textsuperscript{82}

Since 2003, New York University's Brennan Institute of Justice has led a Community-Oriented Defender Network (COD), a coalition of over 100 public defender offices around the country (including The Bronx Defenders), which shares best practices, produces reports, and holds an annual conference for public defender offices.\textsuperscript{83} A recent report, \textit{Community-Oriented Defense: Start Now}, outlines ten principles of community-oriented defense, as developed by its members.\textsuperscript{84} These ten principles, including “meet client needs,”\textsuperscript{85} “partner with the community,”\textsuperscript{86} and

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\textsuperscript{81} See Clark testimony, \textit{supra} note 74, at 5, 7 (“Public defenders throughout the nation have recognized that addressing client needs and developing community relationships improves legal outcomes, while also promoting safer communities, lowering costs, and fostering greater respect for the criminal justice system.”); \textit{see also} Community Defenders, \textit{supra} note 74, at 28 (explaining that representing the needy has improved due to connections in the community).

\textsuperscript{82} See Taylor-Thompson, \textit{Taking, supra} note 74, at 195 (describing how increasing public defenders’ knowledge about the communities may change how they approach cases and increase their overall effectiveness); \textit{see also} Community Defenders, \textit{supra} note 74, at 26–28 (“The third dimension of community defender activities is focused directly on services and programs for their client communities. Public defenders see their role as one that furthers community welfare in a variety of ways.”).

\textsuperscript{83} See Community-Orientated Defender Network, Brennan Center for Justice, \url{http://www.brennancenter.org/content/section/category/community_oriented_defender_network} (last visited Apr. 2, 2013) (describing the history of the group and the services provided) (on file with the Washington and Lee Law Review).


\textsuperscript{85} \textit{Id.}

\textsuperscript{86} \textit{Id.}
“address civil needs,” could be useful for traditional public defender offices that are just beginning to think about how to reshape their practice.

Community-oriented defense is a broad term, adopted liberally and defined vaguely. As such, it is too wide-reaching to provide a model for public defense in America. Moreover, community defenders have historically practiced their work in small, boutique offices, which exclude large numbers of clients and are thus difficult to replicate on a large scale. However, community-oriented defense espouses a number of important principles, such as engaging with the community, establishing a local presence, and creating a strong referral service for clients. In this regard, community-oriented defense is one component of holistic defense. More specifically, it makes up the fourth pillar: “A robust understanding of, and connection to, the community served.” By integrating a community-oriented approach into a concrete institutional model, holistic defense can be applied by offices in diverse counties and states across the country to become more community-oriented, impacting thousands of communities nationwide.

The next Part uses The Bronx Defenders to illustrate how institutional public defenders can pilot this pillar without compromising their fundamental legal and ethical responsibilities to powerfully defend their clients.

IV. Holistic Defense: A Bronx Tale

The Bronx Defenders is not—and never was—a small, boutique legal organization. From the beginning, we have been an institutional provider, burdened by the same crushing caseloads and faced with the same funding challenges as many public defender offices around the country. Our attorneys staff eight-hour arraignment shifts eight times per week and, in addition, perform community intake at our office. Like most public defenders, we do not have control over how many or what

87. Id.
types of cases we pick up on our intake shifts. We are required to pick up all the cases that come through the system. In fact, the past few years have brought tremendous growth to The Bronx Defenders—we have doubled our caseload to over 30,000 cases a year, increased our staff to almost 200 advocates in eleven different disciplines, and have had the opportunity to hone our model with The Center for Holistic Defense, an arm of The Bronx Defenders that acts as a think tank cum training center for holistic defenders. In 2012, we represented nearly half of the people charged with criminal cases in the Bronx and 80% of low-income parents accused of abuse or neglect in Bronx Family Court. Moreover, our cost-per-case ratio is comparable to other public defenders in New York City. Holistic representation does not radically change the financial equation. In other words, The Bronx Defenders is more similar to other public defender offices than it is different, and holistic defense still works. As this Article demonstrates, holistic defense is the most coherent and comprehensive institutional model for public defense fifty years after Gideon v. Wainwright, and can be easily adapted to public defender offices from New York to Montana.


91. See What is Holistic Defense, Center for Holistic Defense, http://www.holisticdefense.org/what_is_holistic_defense/ (last visited Apr. 2, 2013) (“Holistic defense combines aggressive legal advocacy with a broader recognition that for most poor people arrested and charged with a crime, the criminal case is not the only issue with which they struggle.”) (on file with the Washington and Lee Law Review).

92. See Email from the Division of Criminal Justice Services to The Bronx Defenders (Feb. 21, 2013) (stating that 62,326 cases came through Bronx criminal court arraignments in 2012) (on file with Author). Pursuant to its contract with New York City, The Bronx Defenders must take on at least 28,000 new criminal cases every year. See 2012 Internal Case Management System Report, supra note 89 and accompanying text.

93. See Email from the Administration for Children’s Services to The Bronx Defenders (Feb. 15, 2013) (on file with Author) (stating that 1,303 new cases were filed in Bronx courts in 2012). In 2012, The Bronx Defenders took on 1,037 new family defense cases. See 2012 Internal Case Management System Report, supra note 89.

94. It is important to note that several articles have been written about holistic defense since the founding of The Bronx Defenders. See Robin Steinberg
Holistic defense is defined by four essential “pillars.” These pillars are analogous to the elements in a criminal statute. In order to be found guilty of a crime, each and every element, as defined in the penal law, must be present. Similarly, each element or pillar of holistic defense must be present in a defender office for it to be truly holistic.

Holistic defense, however, is an aspirational rather than a static model. In Broadening the Holistic Mindset, Michael Pinard correctly points out: “The holistic mindset is an ever-searching one; it critiques the traditional and contemporary practice methods, searches for improved delivery of defense services and constantly presses for role reformation.” At The Bronx Defenders, we are truly ever-searching; we constantly ask ourselves, what could we be doing better? What are we missing? How could we improve our training, advocacy, intake, referrals, or management to more effectively defend our clients and serve

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In a multi-disciplinary practice, defenders work regularly with trained social workers who assist in problem-solving for the defense at all stages from initial client interviews to securing appropriate sentencing alternatives. In the problem-solving mode, a defender views a case in the context of a client’s life and larger community problems that resulted in criminal justice intervention.


95. See Pinard, supra note 94, at 1068.
their community? What do clients think of us and the representation we provide?

Most public defenders lie somewhere on the spectrum of holistic defense, maybe fulfilling only one or two pillars. This Article is not meant to criticize those offices, but rather, to encourage them to continue, as Pinard puts it, to “search for improved delivery of defense services.”96 This “search” is an individualized one. Although examples for this Part are drawn from The Bronx Defenders, each office should seek to implement the holistic defense model in a way that best fits its clients and community. The pillars provide the framework and foundation of holistic defense, while the particulars of what resources to create, what services to provide, and what representation is promised to clients will be as unique as the clients themselves and the communities they live in. At The Bronx Defenders, we have created holistic defender services that best serve our clients in the South Bronx. As Part VII will demonstrate, holistic public defender offices in rural Wisconsin or on an American Indian reservation might look quite different from The Bronx Defenders because their clients have different needs. This Part will serve as a guide for offices at a variety of points on the holistic defense spectrum, but offices will also have to do the hard work of really listening to clients and engaging with the community.

A. Pillar One: Seamless Access to Legal and Nonlegal Services That Meet Client Needs

At its core, holistic defense recognizes that clients have a range of legal and nonlegal social support needs that, if left unresolved, will continue to push them back into the criminal justice system. Holistic defense accepts the challenge of addressing those issues by going beyond the criminal case to the whole person. Critical to this pillar is that the services for clients—legal and nonlegal—are seamless. Our clients spend their lives navigating one indifferent administrative bureaucracy after the next: the welfare office, the child welfare system, school bureaucracies, the housing authority, and Medicare systems.

96. Id.
Defender offices do not want to create one more obstacle, one more hurdle, and one more administrative system to navigate. Clients must be connected to the services they need—quickly, with certainty and ease.

Seamless access starts with interdisciplinary training for criminal attorneys. Attorneys must be trained to ask the right questions to determine what legal and nonlegal services a client needs. In arraignments, attorneys at The Bronx Defenders are trained to ask not just the names of witnesses or how the client was arrested, but also about the client’s immigration status, children, public benefits, mental health, employment, housing, student loans, and more. The Bronx Defenders Arraignment Checklist helps attorneys ask the right questions, weigh collateral consequences, and reach out to other attorneys in the office for assistance—immediately, if necessary.97 Later, the attorneys can then connect the client to the resources he and his family need, either in-house or outside of the office.

Civil attorneys and social workers, working in partnership with criminal attorneys, are crucial to providing seamless access to services. Civil attorneys and legal advocates at The Bronx Defenders address the collateral consequences of criminal proceedings, such as deportation, loss of a job, revocation of an employment license, and eviction from public housing.98 Social workers conduct psycho-social assessments of the client, identify mental health and substance abuse problems, and recommend treatment. They also gather critical mitigation information that helps contextualize the client’s involvement in the criminal justice system. Social workers were always instrumental in our practice and have taken on an expanded role as we have refined our model of holistic defense. Their training makes them better listeners than lawyers. They are uniquely aware of the services available in the community, and they are adept at determining


98. See Holistic Defense, THE BRONX DEFENDERS, http://www.bronxdefenders.org (last visited Apr. 2, 2013) (detailing how an arrest can have ripple effects and how The Bronx Defenders attempts to mitigate those effects) (on file with the Washington and Lee Law Review); see also Smyth, Holistic, supra note 15, at 481 (noting the cyclical nature of crime is furthered by the collateral legal and social consequences of the criminal justice system).
an effective defense strategy based on client needs and the client’s history.

Not all public defenders have the resources to hire civil attorneys and social workers in-house; moreover, public defenders operating in a statewide system may not be permitted to resolve civil issues directly. However, public defenders can, and must, create seamless access to whatever services exist, even when those services are located outside of the office. Social work, law, and college interns from local universities can assist in creating partnerships outside of the office with legal aid and other social services organizations. Staff can also “map” the various services in the community for clients and work to establish positive relationships with those providers to ensure that clients get access to the services they need.99 Our staff has strong relationships with Bronx churches, food pantries, treatment providers, shelters, hospitals, and free health clinics so that with a quick phone call, we can connect our clients to services that we cannot provide.

When deciding what services to offer and what partnerships to create, however, defenders should be careful not to make assumptions about the needs of the client population. Instead, public defenders must begin to gather hard, statistical data in order to understand what resources should be incorporated to strengthen services and connect better with the community. For example, at The Bronx Defenders, we knew that clients were in desperate need of housing because the court intake form asks for a “permanent address” and we saw how often our clients checked “homeless” or “none.” But we had no way of knowing how often our clients were investigated by child welfare agencies, or how often removal petitions were brought in family court. After collecting the data from our clients in a systematic way, we learned how prevalent child welfare interactions were and how often our clients’ children were being placed in foster care, often as a result of a criminal charge. So, in 2003, we integrated family defense services into our office by collaborating with another nonprofit organization in the Bronx, and in 2006, we secured a

contract with the City of New York to become the first institutional provider of parent representation in Bronx Family Court. Now, family defense is another service that our clients can access seamlessly at The Bronx Defenders.

**Case Study: Seamless Access to Legal and Nonlegal Services that Meet Client Needs**

Criminal Attorney Defne Ozgediz first met Carla Ramirez at her criminal court arraignment. Ms. Ramirez was charged with assaulting her boyfriend. In the initial interview, Ozgediz learned that Ms. Ramirez had a 10-year-old son who was present during the altercation, so she immediately referred Ms. Ramirez to a family attorney on her team, Jessica Horan-Block. Sure enough, the Administration for Children's Services (ACS) opened a case against Ms. Ramirez soon after, and a caseworker even spoke to her son at school. Fortunately, Horan-Block intervened, and because of her advocacy, ACS did not file in court or attempt to remove Ms. Ramirez's son at that time.

However, Ms. Ramirez had unmet mental health needs that would drive her back into the criminal justice system. A few months later, Ozgediz got a call from Ms. Ramirez: she was back in arraignments on a second assault charge. This time, Ms. Ramirez's ten-year-old son was removed from her care. Ozgediz and Horan-Block knew that Ms. Ramirez needed extra help in order to obtain a favorable disposition in her criminal and family cases—and to turn her life around. They reached out to a social worker on their team, Lauren Harris.

Ms. Ramirez revealed to Harris that she was suffering from bipolar disorder; although she was on medication, her psychiatrist did not provide counseling or even refer her to a counselor. Harris explored various options among The Bronx Defenders's community partners, eventually finding a private therapist and psychiatrist who worked with Ms. Ramirez and provided supportive letters to family court. Harris also worked closely with Horan-Block to help Ms. Ramirez get her son back. ACS had placed her son with his father, whom he barely knew. Her son would likely not be returned to her care until she engaged in a long list of services, including taking an anger management class and a parenting class. However, Ms. Ramirez was in the middle of a high-risk pregnancy, making it difficult for her to venture far from home. Harris again

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100. Name has been changed to protect the client's identity.
reached out to her community contacts and found an anger management class and a parenting class near Ms. Ramirez’s house. Thanks to the advocacy of Ozgediz, Horan-Block, and Harris, both of Ms. Ramirez’s criminal cases were dismissed, and her son was returned to her care.

Ms. Ramirez’s seamless access to services, however, did not end there. Ms. Ramirez’s public benefits had been suspended as a result of a missed appointment while she was in jail. When Civil Legal Advocates Stephanie Lopez and Nora Hirozawa met with her, they found that she had been without benefits—public assistance and food stamps—for nearly five months. Hirozawa accompanied her to a fair hearing, at which she presented a Department of Corrections time sheet as evidence that Ms. Ramirez was incarcerated on the day of the missed appointment. They won the hearing, and all of Ms. Ramirez’s benefits were restored. Lopez and Hirozawa are now assisting Ms. Ramirez in restoring her role as a representative payee for her son’s Supplemental Security Income (SSI) benefits.

Ozgediz commented that Ms. Ramirez was a particularly resourceful client—always striving to improve her own situation—but she was caught up in so many bureaucratic systems that it was nearly impossible for her to extricate herself without help. Our advocates were able to identify her legal and nonlegal needs and assist her in seamlessly accessing a wide variety of services, both in-house and in the community. Their support enabled Ms. Ramirez to attain positive case outcomes and crucial life outcomes.

B. Pillar Two: Dynamic, Interdisciplinary Communication

The holistic defense model requires dynamic, interdisciplinary communication among advocates in the office and between the advocates and the client. Such communication enables advocates to think and strategize more effectively and to assist clients with collateral consequences and social service needs in a more efficient manner. The importance of communication may seem obvious, but because everything from crushing caseloads to endless court appearances conspire against communication among advocates, it is critical for public defender offices to create clear and easy paths for information sharing and collaboration.
At The Bronx Defenders, our team model facilitates dynamic and interdisciplinary communication. We have six teams of about twenty advocates each, including criminal attorneys, social workers, investigators, civil attorneys (specializing in immigration, housing, employment, criminal records, and public benefits), civil legal advocates, family defense attorneys, and parent advocates. The team model encourages each advocate to seek advice and assistance from a variety of experts, depending on the needs of the client, and regular team meetings provide an opportunity to highlight examples of effective interdisciplinary communication and collaboration.

The office’s physical layout also facilitates dynamic and interdisciplinary communication. The office was intentionally designed with an open floor plan. Only team leaders and top management have offices, which are all-glass, and we keep an open-door policy. Throughout the day, team members wander in and out with questions and emergencies. Team members sit together in low-rise cubicles that afford some privacy while also allowing for easy communication with coworkers. Moreover, an effort is made to assign cubicles so that team members sit next to someone who works in a different practice, further encouraging interdisciplinary communication; a criminal attorney may sit next to an investigator, who sits next to a family lawyer, who sits next to a social worker, who sits next to a civil attorney, who sits next to a civil advocate. On any given case, a criminal attorney may turn to the investigator on her team to get a statement from the complaining witness; a social worker may ask a civil attorney in the neighboring cubicle to help preserve a client’s housing; a criminal attorney may run over to a family attorney’s cubicle because he just learned that a client’s children were removed; and a civil attorney may ask a civil legal advocate to help a client apply for food stamps or get into a shelter. The possibilities are endless. When they are out of the office, team members use handheld devices—cell phones, Blackberries, iPhones, and iPads—to allow for ongoing communication. For example, if a criminal attorney is in criminal court arraignments and learns that a client has an immigration issue that could potentially land him in deportation proceedings, the attorney can send out an immediate e-mail to the civil and immigration attorney office listserv requesting help or guidance.
We reshape the teams each year, so that they always have the right balance of experience, race, gender, language ability, personality, and areas of expertise. The reconstitution of the teams enables advocates from all different areas of the office to get to know each other. More importantly, it enhances innovation in the office, as different groups of people collaborate and share new ideas and approaches to addressing our clients’ needs. This exchange of ideas is crucial to the holistic defense model, which seeks to constantly improve its services for clients and community members.

Case Study: Dynamic, Interdisciplinary Communication

Amanda Jones\textsuperscript{101} first came to The Bronx Defenders in the fall of 2011. She was charged with using excessive corporal punishment on her twelve-year-old son. According to everyone who knew Ms. Jones, she was a loving and dedicated mother. However, ACS removed her son anyway. Family defense attorney Lauren Elfant was assigned to represent Ms. Jones in family court. During the intake process, Elfant asked a series of questions, which revealed that Ms. Jones, who was disabled and confined to a wheelchair, also suffered from depression and anxiety and had just been evicted from her home. Elfant immediately called two members of her team, social worker Brenda Zubay and civil attorney Vichal Kumar. The three of them met back at the office to discuss Ms. Jones’s case. Now that Ms. Jones was homeless, it would be close to impossible for her to get her son back. Moreover, Elfant needed to convince the family court that Ms. Jones was getting adequate treatment for her mental health issues. Elfant, Zubay, and Kumar started working together to fight Ms. Jones’s case in family court and to make it as easy as possible for her to apply for benefits, secure suitable housing, and stabilize her mental health.

Zubay collected letters from Ms. Jones’s treatment providers showing that Ms. Jones had been making her mental health appointments and was stable on her medication and gave them to Elfant. Elfant used the letters to help convince the court that Ms. Jones’s mental health should not be an impediment to getting her son back. Kumar immediately requested a shelter placement for Ms. Jones but was told he needed a court order verifying that Ms. Jones’s son was coming home in order to get the new placement. Kumar called

\textsuperscript{101} Name has been changed to protect the client’s identity.
Elfant and the two of them went to court to obtain the order. Later that evening, Ms. Jones welcomed her son home to a new apartment.

But there was a problem. Ms. Jones sent a text message to Elfant: the apartment was not wheelchair accessible. Elfant called Kumar who told her that because it was Friday night on a holiday weekend, there was no chance Ms. Jones would get a new placement until Tuesday. So for three days, whenever Ms. Jones needed to go to the bathroom, she had to lift herself out of her wheelchair and crawl in because the doorway was not wide enough. When she wanted to leave the apartment complex, she had to wait for someone to lift her; there were two steep staircases at the entrance of the apartment building.

On Tuesday morning, Kumar was told that Ms. Jones would be given a new placement the next day. Throughout the day on Wednesday, Elfant and Zubay stopped by Kumar’s cube to see if he had heard anything yet. Nothing. He called again the next day. Nothing. Elfant and Zubay visited Ms. Jones in the apartment to provide support and to document the inadequacy of the apartment. They then gave that documentation to Kumar when they got back to the office. Zubay kept in touch with Ms. Jones’s ACS caseworker to assure her that Ms. Jones was able to meet her child’s needs, despite the challenges of the housing placement.

Ms. Jones and her advocates were getting desperate. Fed up with false promises from the city agency, Kumar, Zubay, and Elfant huddled in Kumar’s cube and decided that Kumar should file a Temporary Restraining Order (TRO) against the agency. Less than an hour later, after notifying the agency of the impending TRO, Ms. Jones was given a new, wheelchair-accessible placement. Kumar and another attorney borrowed an investigator van, picked her up, and drove Ms. Jones, her son, and all of their belongings to the new apartment. Elfant bought groceries for Ms. Jones, using money from a client emergency fund that had been created after a recent fundraising event. Although Ms. Jones is still in a shelter, the new placement is a big improvement, and she has called repeatedly to express her gratitude for the zealousness with which her attorneys and social worker advocated on her behalf.
C. Pillar Three: Advocates with an Interdisciplinary Skill Set

In addition to working on interdisciplinary teams, individual advocates at a holistic defender office cultivate an interdisciplinary skill set through cross-training. Newly hired criminal attorneys should receive basic training in family, housing, employment, and immigration law; they should be educated on the complexities of school, welfare, and health care bureaucracies; and they should be taught about the different types of addictions and mental illnesses. They should also spend time shadowing advocates in disciplines other than their own to make what they have learned concrete and to enable them to better understand their clients’ experiences. This combination of training and shadowing ensures that staff members can identify a client’s legal and social work needs and make appropriate referrals within the office or to other community-based providers. Advocates should also be encouraged to work side-by-side with those working in other disciplines on behalf of a client. At The Bronx Defenders, it is not unusual for a criminal defense attorney to co-counsel a family court trial, especially when the criminal and family court cases are based on the same allegations. Likewise, immigration specialists and social workers often accompany criminal lawyers to court to advocate for clients on the record with judges and prosecutors. While advocates are not expected to become experts in disciplines other than their own, their familiarity with other legal and nonlegal issues is critical to their ability to effectively meet their clients’ needs.

Identifying a client’s interdisciplinary needs may seem like a daunting task to some criminal defense attorneys. However, there are many tools that can make it easier to do so. For example, attorneys at The Bronx Defenders use a detailed checklist during their first conversation with the client at his criminal court arraignment, as mentioned earlier in Part IV.A, which requires the attorney to ask about immigration status, employment, housing, children in foster care, mental health, student loans, orders of protection, police misconduct, and more.102 One simple form, such as a checklist, can greatly impact interdisciplinary representation, enabling lawyers to identify

102. Arraignment Checklist, supra note 97.
issues before they pose insurmountable challenges for clients and quickly include relevant experts in a client’s defense.

**Case Study:** Advocates with an Interdisciplinary Skill Set

On a Monday night in September, Desiree Lassiter, one of our criminal defense attorneys, was working the evening arraignment shift. She arraigned Adriana Sanchez, who was charged with felony assault for spanking her six-year-old child with a belt on a single occasion. Using her checklist as a guide, Ms. Lassiter asked her client a series of questions and learned that Ms. Sanchez is not a U.S. citizen and has another child—an eight-year-old son who is autistic. Both children were staying with their father in New Jersey, but Ms. Sanchez had full custody. Recognizing the risk of deportation and potential loss of custody if Ms. Sanchez stayed in jail, Lassiter reached out to friends and family of Ms. Sanchez to get testimonials about her reliability and trustworthiness. Lassiter then used that information to obtain Ms. Sanchez’s release from jail. On Wednesday morning, Lassiter received an urgent call from Ms. Sanchez: the father of her children was refusing to return the kids. Ms. Sanchez, who does not speak English, was in despair. She had been in family court since 7 a.m. trying to get the court order, to no avail.

At a traditional public defender office, Lassiter would have probably told Ms. Sanchez to keep trying by herself or to seek legal help elsewhere. But as a holistic defender, Lassiter knew from her training with the family defense attorneys at the office that it would not be wise for Ms. Sanchez to advocate for herself. Lassiter knew from the training she received that ACS would quickly swoop in and try to prevent Ms. Sanchez from getting her kids back.

Lassiter then sent an urgent referral by e-mail to Dinah Adames-Ortiz, the parent advocate on her team, as well as to Stacey Charland, one of her team’s family defense attorneys. She also referred Ms. Sanchez’s case to Sarah Deri Oshiro, the team’s immigration attorney, who would advise Ms. Sanchez and Lassiter on the immigration-related consequences of her charge. Adames-Ortiz and Charland met with Ms. Sanchez and assured her that she would get her kids back. The two advocates got a writ of habeas corpus by 11 a.m., ordering the father to return the kids.

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103. Name has been changed to protect the client’s identity.
Thursday morning, Dinah received a call: when Ms. Sanchez returned home the night before, she found a notice of a mandatory ACS conference taped to her door. The conference was for Thursday. Adames-Ortiz rushed over to meet her. Adames-Ortiz demonstrated to the caseworker that Ms. Sanchez was a loving, caring mom, and even pointed out her repeated attempts to get support and specialized services from ACS for her autistic child. Because of her own cross-training, Adames-Ortiz was also able to navigate the minefield of questions she and Ms. Sanchez received about the criminal case and Ms. Sanchez’s immigration status. Adames-Ortiz knew that anything Ms. Sanchez said in that meeting could be used against her in criminal and immigration court and so took the lead in talking about the charges and her status in a way that satisfied the caseworker but did not harm Ms. Sanchez. Leaving the meeting, the caseworker said Ms. Sanchez would be allowed to keep custody of her children, and promised to grant her previous requests for extra support for her disabled child.

Lassiter, the criminal attorney, is still working on Ms. Sanchez’s case, and all four advocates—criminal defense attorney, family defense attorney, parent advocate, and immigration attorney—continue to touch base with Ms. Sanchez about various aspects of her case.

D. Pillar Four: A Robust Understanding of, and Connection to, the Community Served

A holistic defender office must have a strong connection to, and understanding of, the community it serves. A deep understanding of the community enables public defenders to argue for more individually tailored case dispositions, get clients the social services support they need faster, and collaborate with residents to create long-term change through policy initiatives and local organizing. Holistic defenders know firsthand about the struggles, deficits, and vibrancy of the community and can place the client’s life, experience, and even criminal charges in a broader context. Further, this connection gives holistic defender offices a better idea of what problems are driving people into the court system and how to lower barriers that block clients’ successful reentry into the community.

At The Bronx Defenders, we use a myriad of tactics—including, but not limited to, community intake, local organizing,
policy advocacy, coalition-building and collaboration, and legal action—to forge a connection with the community and advocate for systemic change. We determine the needs of the community and our policy and community development priorities through client surveys, focus groups, and data collection.

We are fortunate to have staff members who are dedicated to policy and community development. Cash-strapped public defender offices, however, can make great strides without hiring additional staff by creatively deploying its preexisting staff in different roles. Managing attorneys can pursue policy change through everyday practice—collecting and publicizing data, writing about unjust practices, advocating for administrative changes within the court system, and developing impact litigation. Social workers can take on the role of building relationships with community-based organizations. Administrative staff can represent the organization as part of a local coalition or reach out to elected officials. And staff attorneys can lead “Know Your Rights” workshops or judge a mock trial competition at a nearby school. The Bronx Defenders’s community initiatives rely heavily on the involvement and support of our staff, who foster a personal connection to the community and motivate their clients to participate in local events and projects. We also require each interdisciplinary team to take on a community-oriented project every year, and the entire staff pitches in to help with big events like the Community Block Party and Thanksgiving Dinner.

Some policy reform initiatives can be spearheaded by existing staff, with the help of volunteers. For example, last year Scott Levy, a staff criminal defense attorney, led a “Marijuana Arrest Project,” in which he recruited pro bono attorneys to interview hundreds of clients arrested for low-level marijuana possession. The project results, mentioned in the New York Times, found that more than 40% of the marijuana cases reviewed presented constitutional and evidentiary problems arising from unlawful searches and improper charging of clients by the New York City Police Department (NYPD).104

The intake process is another way of creating a connection to, and building an understanding of, the community. From the beginning, The Bronx Defenders set itself apart from other defender and legal aid offices by operating a community intake program five days per week, eight hours per day. Through community intake, we assist approximately 1,500 Bronx residents each year—nearly all of whom find out about us through word of mouth. On any given day, a community member can arrive at our office, without an appointment, and meet with an intake advocate or lawyer. During the intake meeting, advocates will help the community member recover his or her property, clean up errors on his or her rap sheet, get legal information or prearrest representation from an attorney, or get referred to the appropriate outside agency if we do not provide the services he or she is seeking. In addition, The Bronx Defenders has set up a twenty-four hour hotline for community residents to use when someone has been arrested or a child has been removed by child welfare. Our physical space also helps us build a relationship with the community we serve. Visiting the office of The Bronx Defenders is always a positive and welcoming experience. Unlike at other offices in New York City, Bronx residents do not have to speak to a receptionist through a bullet-proof glass window; they do not have to be buzzed in, or talk to a guard in the lobby; and they are never told to return on a different day or at a different time to meet with someone. Instead, community members are greeted by a bilingual receptionist in a brightly painted lobby, adorned with books for adults and children as well as comfortable sofas, where they can serve themselves hot coffee and water while they wait.

The Bronx Defenders also strives to change the underlying conditions that drive Bronx residents into the criminal justice system through community outreach, community legal education, and policy change. Community events serve as outreach mechanisms, and enable us to build stronger connections to community members, and foster goodwill in the South Bronx. In addition to monthly educational events (town halls, Advocacy Days, etc.), we organize two major events per year: the Thanksgiving Dinner and the Community Block Party. The Thanksgiving Dinner draws a large group of community members, many of whom have no place else to go to celebrate the
holiday. Staff attorneys and advocates cook, serve food, clean up, and, of course, socialize with guests. Our Community Block Party, also run by staff, has become a tradition in the South Bronx, offering hundreds of residents an afternoon of food, music, children’s games, face-painting, and information booths about services in the community, including services at The Bronx Defenders. Community legal education is also an integral part of our practice. Our attorneys lead “Know Your Rights” workshops at schools, churches, community fairs, and pretty much anywhere else we are invited. We also hold training and legal education workshops at our office to ensure that clients are actively involved in all of our initiatives and prepared for big events such as a protest or Advocacy Day in Albany. Our Reentry Net project is another community legal education tool that reaches a wider audience of community members, formerly incarcerated people, and advocates.105 Started in 2005 and updated regularly, Reentry Net is a resource center on prison, reentry, and the consequences of criminal proceedings for the New York reentry community, public defenders, and other criminal justice advocates.106 Last year alone, through Reentry Net, we provided training and support for over 1,000 attorneys, direct service providers, and other advocates statewide on civil legal problems related to reentry.

Our policy work frequently takes place on a number of different levels: grassroots organizing, citywide coalition building, direct advocacy with legislators, and impact litigation. We organize clients, community members, and sometimes attorneys and partner organizations, as well. For example, in 2012, we were heavily involved in trying to change discriminatory policing practices in New York City. We mobilized interested clients and community members to attend rallies at city hall and town hall meetings on “stop-and-frisk.” As members of the Steering Committee of a citywide advocacy campaign, Communities United for Police Reform (CPR), we are developing and implementing a multi-year strategy to increase transparency and

106. See id. (describing the resources available on Reentry Net).
accountability in the NYPD. We are also pursuing reform through class action lawsuits. We are currently co-litigating a case with the New York Civil Liberties Union (NYCLU), \textit{Ligon v. City of New York},\textsuperscript{108} which seeks to end the discriminatory and illegal practice of stop-and-frisk inside of New York City apartment buildings, part of an NYPD program called “Operation Clean Halls.”\textsuperscript{109}

As public defenders, we witness daily injustices imposed on our clients by a myriad of broken systems and endemic problems—racism, poor educational options, and lack of economic opportunity. It can be hard to square the immediacy of our desire for change with the slow pace of reform. But over the years at The Bronx Defenders, we have been involved with a variety of efforts, and we have seen some real successes. In 2009 we contributed to a broad coalition that achieved significant reform of New York’s Rockefeller Drug Laws by mobilizing clients, advising lawmakers on drafts of legislation, meeting with Bronx-based lawmakers, and afterward, monitoring the implementation of the new drug laws.\textsuperscript{110} We also played a significant role in ending prison gerrymandering in New York State.\textsuperscript{111} In addition, we have seen the results of our administrative advocacy: by building a relationship with the Department of Probation, we helped to craft and implement policies that reduce barriers to reentry. And in February 2012, we successfully challenged the


\textsuperscript{109} See \textit{Complaint at 1–2, Ligon}, No. 12 Civ. 2274 (“This action… challenges the New York City Police Department’s unconstitutional stop, question, search, citation, and arrest policies implemented pursuant to ‘Operation Clean Halls.’”).


\textsuperscript{111} See \textit{About the Coalition to End Prison-Based Gerrymandering in New York}, \textit{CorrectTheCount.Org}, http://correctthecount.org/about (last visited Apr. 2, 2013) (noting that the coalition seeks to eliminate gerrymandering “by changing how the state and counties use the Census data for the purpose of legislative redistricting”) (on file with the Washington and Lee Law Review).

This pillar gives holistic defenders a unique mechanism for gathering information about systemic problems in the community; it also provides defender offices with a model for tackling those problems through policy action and community organizing.

\textbf{V. Myths and Facts About Holistic Defense}

Critics of holistic defense usually raise the same three misconceptions about the model.

\textbf{A. Holistic Defense Will Increase My Workload}

Public defenders often express this fear, and academics like Gonzaga School of Law Professor Brooks Holland make the theoretical claim that holistic defense unequivocally increases workloads for institutional public defenders because (1) a holistic public defender might hire more ancillary staff and fewer lawyers
for the same caseloads\textsuperscript{113} and (2) attorneys will have “extralegal holistic duties like community outreach.”\textsuperscript{114}

As our staff attorneys will tell you, holistic defense actually decreases their workload. They receive much more support on each case, and can provide services of a much higher caliber to clients. The ability to collaborate with a wide range of advocates on each team takes the pressure off individual attorneys to figure everything out on their own, such as housing, immigration, and public benefits, freeing up their time to focus on what they know best: criminal defense representation. Also, by collaborating with others, attorneys are more likely to figure out the best case strategy—and at a faster pace. Occasionally, staff attorneys do have “extralegal duties” at The Bronx Defenders. For example, each attorney is required to do one community service activity per quarter. However, these commitments also enable attorneys to do their jobs better: attorneys learn more about their clients’ community, which helps the attorneys better understand their clients and, therefore, fight for better and more individualized dispositions. Community involvement also helps dispel negative stereotypes about public defenders in the community, creating fewer obstacles to working with clients who may otherwise be distrustful. Finally, participating in outreach and advocacy enables public defenders to avoid burnout and frustration because they become part of a movement to change the system on a larger scale. Without exception, staff attorneys come back from a day in the community doing outreach activities excited, reenergized, and inspired.


Yet every extra social worker or investigator a holistic public defender office hires, or community outreach program it funds, may mean one less attorney—or at least one less experienced attorney—the office can afford to employ . . . each lawyer who is not hired means that the fifty to one hundred cases that this lawyer would have handled must be distributed amongst the other lawyers, increasing their caseloads even more.

\textsuperscript{114} \textit{Id.}
B. We Do Not Have Enough Funding to Do Holistic Defense

Let’s face it, public defenders never have enough funding to do everything they want and money is always an issue. But holistic defense is not necessarily more expensive than traditional defense models. And it can be applied just as successfully at a small office with very little funding115 as it can be at a large office with many private grants and donations. Whether building resources for clients in-house, or creating meaningful relationships with preexisting community-based providers, any defender office can make holistic defense a reality. For example, services can be expanded by using unpaid, skilled interns. At The Bronx Defenders, law student interns and social work interns provide extra support year-round; during the summer, more law student interns, in addition to college interns working with investigators and community organizers, can take care of both short- and long-term projects that staff do not have time to complete. In addition to interns, volunteers from the community can enhance the range of services for clients. At The Bronx Defenders, we trained community volunteers to work with parents in our family defense practice as “parent advocates” before securing, years later, government funding to support that role. Creating relationships with the private bar and establishing robust pro bono relationships can also expand the services of the public defender. From handling a family court case, to working with a client on a forfeiture proceeding, pro bono attorneys are a valuable resource for underfunded offices. Finally, establishing relationships and mutually beneficial agreements with other community-based or local agencies, organizations, and coalitions that work with our clients is a way to expand access to services, without spending a penny.

Smart managers who can properly allocate resources are also key to making holistic defense work. We have similar cost-per-case ratios as other institutional public defenders in urban areas. We accomplish this by thinking carefully about the services clients need and who can provide them in-house and in the community. We hire many nonattorney advocates who work

115. See, e.g., infra Part VII.A (discussing the operation of the small office of the Tribal Defenders of the Confederated Salish and Kootenai Tribes).
directly with clients and who, in many areas, are more effective than lawyers might be. For example, in New York, ACS does not allow attorneys at certain conferences with parents who are under investigation for abuse or neglect. ACS will, however, allow nonattorney advocates at these critical meetings, at which a decision will be made about whether to file a formal “case” against a parent. Rather than hire more attorneys, we have been able to use our resources in a more effective and cost-efficient way by hiring nonattorney parent advocates to accompany clients to all of the investigative meetings with child welfare representatives. Additionally, these parent advocates, who become intimately familiar with the clients, their families, and their cases, work alongside the lawyers in court. Parent advocates provide lawyers with information, insight, and valuable service recommendations for our clients who are seeking reunification or trying to avoid the removal of their child. Hiring fewer attorneys, but creating more internal resources by hiring parent advocates, makes us stronger, better informed advocates and helps us stretch our budget further.

Holistic public defenders should base their hiring on more than just a simple ratio of criminal attorneys to support staff. And support staff should be reenvisioned to think beyond clerical and administrative support to include actual advocacy work on behalf of clients. Holland, in his critique of holistic defense, states that in the case of limited funds, offices should always hire more lawyers and fewer support staffers. A holistic manager, however, must analyze what type of position could best support the team and needs of its clients and then assess the office’s funding scheme in order to support that position. Hiring one more lawyer does not necessarily result in better case outcomes; nor does hiring a social worker mean that each attorney will have to work harder as Holland presumes. It is essential to have a balance of skills, knowledge, and background on each team.

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117. See Holland, supra note 113, at 642–44 (emphasizing the importance of attorneys over support staff).

118. See id. at 642–44 (“[T]he holistic advocacy model may cause lawyers to
Finally, if public defenders cannot, they should seek extra funding to meet their needs. Some argue that because public defense is a “mandated governmental function” we should not “let government off the hook” by finding alternative sources of money to support our work. This argument is not only unpersuasive, it is self-defeating. Government will never fund public defenders at the levels we need to do exemplary work, but by enhancing our funding with outside sources of support we can make a huge difference. Applying for foundation grants, seeking support from local businesses, advocating for paid fellowships with foundations, law schools, or colleges, or throwing an annual fundraising event are all ways to bring in more money, raise an office’s profile, and gain support for your work.

C. Holistic Defenders Avoid Going to Trial

Brooks Holland and many public defenders misinterpret holistic defense’s emphasis on collateral consequences as a shift away from trial work. However, holistic defense simply calls for defenders to look at the broader context of a client’s life and

have even less time for each client’s case, increasing the already high pressure to dispose of many cases quickly.”).

119. See N.Y. STATE DEFENDERS ASSOC., STANDARDS FOR PROVIDING CONSTITUTIONALLY AND STATUTORILY MANDATED LEGAL REPRESENTATION IN NEW YORK 4 (2004), http://www.nysda.org/docs/PDFs/Pre2010/04_NYSDAStandards_ProvidingConstitutionallyStatutorilyMandatedReprsntatn.pdf (“Government has the full responsibility to fund the full cost of quality legal representation for all eligible persons.”).

120. See Holland, supra note 113, at 650–51 (discussing holistic defense’s emphasis on collateral consequences). Holland assumes that holistic defenders always try to convince clients to take plea bargains to minimize collateral consequences. See id. at 651 (“[T]he direct consequences of the choice between a trial and a plea bargain . . . generally should weigh heavily enough on the client’s decisionmaking that to overemphasize collateral consequences disserves the client.”). He also assumes that holistic defenders eschew the importance of trial skills during the hiring process. See id. at 642

But, if a public defender office so elevates, institutionally, a social work and community-outreach practice that it becomes “the new litmus test for hiring” and promotions, the office risks professional imbalance. This imbalance may leave the office’s lawyers unprepared for the core feature of a public defender’s practice: trial litigation on behalf of criminal defendants who are commonly unpopular—even in the communities from which they come.
respond by addressing these issues. Interestingly, most of holistic advocacy takes place outside of the criminal courthouse, before, during, or after the criminal proceedings—whether they consist of a trial or a plea deal. What’s more, clients, and only clients, decide if they want to engage with advocates from other disciplines in a holistic defender office to address the broader range of issues that criminal justice involvement brings. Our responsibility is to provide information, advice, and access to those services that go beyond the criminal case; the decision about whether to use those services rests solely with the client.

Indeed, contrary to the misconception that holistic defenders avoid going to trial, holistic defenders are just as eager to go to trial—if the client wishes—as traditional defenders. In fact, in the Bronx we go to trial quite often—with impressive acquittal rates.\(^{121}\) In recognition of trial work’s importance in a holistic model, we created a “Trial Chief” position in our office and developed the Defenders’ Academy, an intensive, five-day, CLE-approved trial skills program for criminal, family, and civil defenders from all over the city, state, and even out-of-state. We also require that all jury trials are co-counseled, with balanced pairs selected by the Trial Chief; this enables us to provide the best possible trial defense for our clients and allows our attorneys to get the frequent trial experience that they need.

**VI. Evaluation and Results**

Assessment is critical for holistic public defender offices. Evaluation is necessary to prove that the holistic public defense model works, and is superior to, the traditional model; assessment also enables public defenders to tweak the model and their practice, and along the same lines, to make sure that their clients are satisfied. At The Bronx Defenders, this last indicator—client satisfaction—is probably the best gauge of our performance.

The model of holistic defense, with its vigorous, team-based representation and focus on both the individual case and the broader context of clients’ lives, results in high levels of client satisfaction.
satisfaction. It also contributes to procedural fairness; a sense that the criminal proceedings have been just, even if the outcome was not desirable. The Bronx Defenders’s client satisfaction surveys have repeatedly yielded very positive results. In our most recent survey, we interviewed 132 clients at random, charged with a wide array of crimes. Eighty-four percent of clients interviewed said that the services they received at The Bronx Defenders were “Excellent” or “Good.” Ninety-one percent of clients said they would want The Bronx Defenders to represent them again.

This data is corroborated on a weekly basis by letters that we receive from clients and their family members. Many of these letters underscore clients’ appreciation of not just the criminal attorney’s work, but of the zealous, caring representation of clients by the holistic teams.

The Bronx Defenders also considers case outcomes and “life outcomes” when assessing the holistic defense model. So far, the results are positive. For the last three years, our felony trial acquittal rates have hovered around 70%, much higher than the overall rate of felony trial acquittals in the Bronx, which have ranged from 43%–57%.


The idea that people might be more interested in how their cases are handled than in whether or not they win often strikes people as counterintuitive and wrong-headed. Yet it is the consistent finding of numerous studies conducted over the last several decades . . . . These studies show that people use ethical criteria to evaluate their experiences, and that they particularly focus on their views about appropriate ways for legal authorities to act when deciding how to resolve legal problems.


124. Id.

125. Id.


Our data on the “life outcomes” of clients also demonstrates the success of the holistic model. We consider “life outcomes” to be cases in which, for example, The Bronx Defenders is able to help clients correct criminal record errors, get their employment licenses back, successfully fight eviction or deportation, or secure housing. In 2010, 87% of the hundreds of plea consults given by our immigration attorneys resulted in an immigration-positive outcome in the criminal case.128 Last year, we prevented the eviction of over 150 families with more than 400 household members, and we prevented over 100 deportations, affecting over 200 family members.129 More than 50 clients obtained legal immigration status.130 We also preserved jobs and employment licenses for over 100 clients who are heads of their households, and obtained health insurance for more than 70 families.131

VII. Moving Forward: Replicating Our Model Outside of the Bronx

As The Bronx Defenders grew and became a nationally recognized practitioner of holistic defense, we began receiving requests from public defenders all over the country to give lectures, train their staff, and help them become like The Bronx Defenders. However, we have always maintained that it would be misguided for public defender offices to directly replicate The Bronx Defenders in their communities. That is not what holistic defense proposes to do. It is imperative that an office use the pillars of holistic defense to determine the kind of staff and services that would best fit the needs of its clients and community. What a holistic defender office looks like will vary from district to district and state to state; however, the general


129. THE BRONX DEFENDERS, CIVIL ACTION PRACTICE INTERNAL CASE DATA (2012).

130. Id.

131. Id.
structure and values of the office will be consistent across communities.

The Center for Holistic Defense, first funded by the U.S. Department of Justice in 2010, is the latest attempt by The Bronx Defenders to help other defenders implement holistic defense in their offices. So far, we have conducted training and technical assistance for nine offices around the country: the Washoe County Public Defender's Office (Reno, NV), the District Public Defender (Knoxville, TN), the Wisconsin State Public Defender’s Office (WI), the Committee for Public Counsel Services (MA), the Harris County Public Defender (Houston, TX), the Tribal Defender Office of the Confederated Salish and Kootenai Tribes (MT), the Maryland Office of the Public Defender (Baltimore, MD), the East Bay Community Law Center (Berkeley, CA), and the Mecklenburg County Public Defender (Charlotte, NC). Cait Clarke, Director of Strategic Initiatives at the National Legal Aid and Defenders Association, observed that our technical assistance has had a great impact on public defenders around the country. “By breaking [holistic defense] down into pieces that are manageable, [public defenders] can see progress,” she commented recently. All of the offices we have trained have reported positive results, and some challenges, too, which have helped us refine the model and better advise other public defenders on how to replicate it. We are also planning a Symposium on Holistic Defense in 2013. The Symposium will bring together the defenders we have trained, in addition to other public defenders interested in improving their holistic practice, for a day of


133. Telephone Interview with Cait Clarke, Dir. of Strategic Initiatives, Nat’l Legal Aid & Defenders Assoc. (Aug. 21, 2012).

134. Id.

135. Id.
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seminars, trainings, and, most importantly, dialogue, about how to improve the implementation of public defense in our offices.

Below, three profiles of public defenders trained by the Center for Holistic Defense in Montana, Wisconsin, and California, exemplify how the model of holistic defense fits a wide range of public defenders.

A. Tribal Defenders of the Confederated Salish and Kootenai Tribes

The Tribal Defenders of the Confederated Salish and Kootenai Tribes is located on the Indian reservation in Pablo, Montana. The Flathead Indian Reservation is a world away from the South Bronx. However, the Tribal Defenders has been an enthusiastic champion of holistic defense since its training with the Center for Holistic Defense in 2010. The Tribal Defenders is a combined civil legal aid and criminal defense office that serves juvenile and adult members of the Confederated Salish and Kootenai tribes, in addition to members of any federally recognized tribe accused of a misdemeanor within the bounds of the reservation, and representation on some felonies. There are ten people on staff, each with caseloads of 90–200 active criminal cases.

Ann Sherwood is the managing attorney at the Tribal Defenders, and she has been with the office for fifteen years. “Initially, the inclination is to say we can’t do holistic defense because we don’t have the resources,” she said. “But the concepts apply regardless of resources. It’s all about changing agency attitude and goals.”

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137. See E-mail from Ann Sherwood, Managing Attorney, Tribal Defenders Office of the Confederated Salish & Kootenai Tribes, to Robin Steinberg, Exec. Dir., The Bronx Defenders (Oct. 15, 2012) [hereinafter Sherwood Email] (on file with Author).

138. Id.

139. Id.

140. Id.
Holistic Defense’s training helped the office to develop more seamless access to services and better communication on staff, particularly between its criminal and civil programs; become more community-oriented through expanding intake and hosting events relevant to the community; and fostered staff members’ multidisciplinary skill set.\(^{141}\)

For example, as a result of the training, the office manager directs a Bad Checks Diversion Program.\(^{142}\) Previously, she had only performed secretarial tasks and managed the budget.\(^{143}\) “With a small, interdisciplinary staff it’s important to build on strengths. Our office administrator has a strong working knowledge of Tribal systems and a good rapport with our clients,” Sherwood said.\(^{144}\) In fact, the office administrator convinced the administrator in the prosecutor’s office to send bad checks over to the Tribal Defenders before pressing charges, so that the client would have a chance to pay the money before being charged.\(^{145}\)

After the training by The Bronx Defenders, the Tribal Defenders also started reassessing how they address collateral consequences affecting their clients.\(^{146}\) For example, they noticed that many clients’ driver’s licenses were being suspended for a variety of reasons.\(^{147}\) This causes great hardship for residents of the 1,317-acre reservation, where a suspended license means that a tribe member cannot get to work.\(^{148}\) A legal advocate on staff has developed a specialty in helping clients get their licenses reinstated.\(^{149}\) “We used to tell people to call the DMV and figure it out. It’s astounding what a difference it makes when [the advocate] makes those phone calls and gives people more...
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direction,” Sherwood said.150 The advocate also frequently takes extra steps to help clients meet requirements for getting their licenses back, such as completing alcohol treatment programs and securing financial assistance to pay fines or reinstatement fees.151 She also communicates with the prosecutor, advocating on behalf of the client for a diversion that does not result in the suspension of his license.152 This year, the advocate helped thirty-five clients get valid driver’s licenses.153

While this may sound like extra work, Sherwood insists that it is not.154 The Tribal Defenders has sought out social work interns to help,155 and reports: “Our attorneys and advocates will tell you it doesn’t create more work for them, but streamlines the process. In order to provide effective assistance of counsel we must address the collateral issues and advise our clients accordingly. A holistic approach helps us do that in an efficient way.”156

B. Wisconsin State Public Defender

The Wisconsin State Public Defender’s Office (SPD) is an independent, executive branch state agency with 39 offices throughout the state.157 In fiscal year 2012, the SPD appointed a public defender in 138,813 cases.158 Sixty percent of cases were assigned to staff attorneys; 36% to private bar attorneys; and 4% (only misdemeanors) to private bar contractors.159 Gina Pruski is the Training Director of the SPD and she noted that although the SPD had been moving toward client-centered representation for

150. Id.
151. Sherwood Email, supra note 137.
152. Id.
153. Id.
154. Sherwood Telephone Interview, supra note 141.
155. Id.
156. Sherwood Email, supra note 137.
158. Id.
159. Id.
many years, they applied for technical assistance to “make sure we were on the right track.”

The SPD faces challenges that a county office such as The Bronx Defenders does not; for example, it cannot represent clients in civil court (housing, immigration, etc.). However, The Bronx Defenders’s assistance served as a catalyst for many changes, some of which are still in progress. For example, SPD management has changed its hiring practices, making sure to hire on holistic, client-centered values, not just technical skills. They developed and implemented a needs assessment survey, which was conducted by law student interns in summer 2011. The need for more information about collateral consequences arose from the survey results, and so the SPD has begun developing an online collateral consequences database for the state, assisted by law interns. In addition, the technical assistance inspired SPD to do community mapping; its 16 statewide Client Services Specialists have since devised Community Resources Guides for the counties they cover, and they are trying to make these guides electronic.

Finally, the training helped SPD formalize an immigrant practice group that formed post-Padilla, consisting of twelve attorneys across the state who had been trained by an immigration lawyer in how to advise clients on immigration issues related to their criminal cases. Now, SPD has designated one lawyer to lead the practice group, an “Immigration Practice Coordinator.” The Coordinator keeps the group up-to-date on immigration law and makes sure to communicate to lawyers across the state that they can reach out to the Practice Group for

161. Id.
162. Id.
163. Id.
165. Id.
166. Pruski Telephone Interview, supra note 160.
167. Id.
168. Id.
help. The success of SPD in integrating holistic defense into its practice—and the unique challenges it has encountered—makes it a good example and resource for other public defenders working in statewide systems.

C. East Bay Community Law Center

The East Bay Community Law Center (EBCLC) in Alameda County, CA is a civil legal services organization that is part of the clinical law program at the University of California at Berkeley Law School. EBCLC requested support and training from the Center for Holistic Defense to incorporate criminal defense services into its civil practice in the form of a new clinic: the Youth Defender Clinic. The EBCLC demonstrates that there is more than one path to holistic defense; public defender offices can incorporate civil representation, but civil legal services can add a criminal defense component as well.

The Youth Defender Clinic seemed like a natural addition to EBCLC. The organization was already representing young people in Alameda County through a Medical-Legal Practice in partnership with Children’s Hospital and Research Center Oakland and a free school-based clinic at five Oakland, CA middle schools. They saw that delinquency cases were frequently connected to hardships at school, unstable or unsafe housing, unmet health needs, immigration complications, and the failure to get appropriate government support. With the

169. Id.
170. Id.
174. Telephone Interview with Kate Weisburd, Project Dir., East Bay Cmty. Law Ctr. (Aug. 16, 2012) [hereinafter Weisburd Telephone Interview].
175. Id.
integration of the Youth Defender Clinic, EBCLC is the first law office in Alameda County that represents young people in both civil and criminal matters.\textsuperscript{176}

With the help of the Center for Holistic Defense, EBCLC has created and strengthened its relationships with project partners like the public defender office, the East Bay Children’s Law Office, the probation office, and Youth Uprising (a community-based organization in Oakland).\textsuperscript{177} These collaborations will help the Youth Defender Clinic make and receive referrals; it will also enable its staff to rely on experts for advice and support throughout the pilot phase.\textsuperscript{178} In addition, the Youth Defender Clinic has done an informal assessment to better understand the types of collateral consequences young people in criminal proceedings face.\textsuperscript{179}

The Youth Defender Clinic began in September of 2012.\textsuperscript{180} Project Director Kate Weisburd emphasizes that it is a pilot project, and that EBCLC and its partners will “tinker” with and “adapt” the model upon completion of the pilot phase.\textsuperscript{181} In its first semester, it aspired to reach at least 100 young people and youth service providers through direct representation, limited scope assistance, and community outreach and workshops.\textsuperscript{182}

Weisburd added:

The Bronx Defenders is having a huge impact not only on the Youth Defender Clinic, but on the entire EBCLC office. Thanks in part to The Bronx Defenders, EBCLC is now thinking about how every client who walks in the door gets coordinated and streamlined holistic legal services. This shift is forcing the entire office to reevaluate our intake procedures, our interoffice referral process, and how to use technology to better communicate about cases and services. . . . One of our staff now often cries out: “I have a client that needs to be

\textsuperscript{176} E-mail from Kate Weisburd, Project Dir., East Bay Cmty. Law Ctr., to Robin Steinberg, Exec. Dir., The Bronx Defenders (Oct. 9, 2012) [hereinafter Weisburd Email] (on file with author).

\textsuperscript{177} Weisburd Telephone Interview, supra note 174.

\textsuperscript{178} Id.

\textsuperscript{179} Id.

\textsuperscript{180} See Youth Defender Clinic, supra note 172.

\textsuperscript{181} Weisburd Telephone Interview, supra note 174.

\textsuperscript{182} Weisburd Email, supra note 176. When this Article was written, the first semester had not yet been completed.
Bronx Defender-ed!” “Bronx Defender” has become a verb for describing clients who need holistic wrap around legal services.\textsuperscript{183}

\textbf{VIII. Conclusion}

Holistic defense works, and it is replicable. For many years, other public defenders would politely listen to us talk about holistic defense, and then dismissively declare: “That may be needed in the Bronx, but not here.” If the Bronx is exceptional, it is only exceptional in the sense that it is poorer than the other boroughs of New York City, and most other areas of the United States.\textsuperscript{184} Our clients are like clients of all public defender offices—poor, marginalized, and from underresourced communities. They are disproportionately people of color, young, and male. And they experience a host of issues, often related to poverty, that drive them into the criminal justice system and, once in the system, find themselves caught in a morass of dire consequences that further damage and destabilize them. Holistic defense cannot be dismissed because of geography. Its principles and effectiveness know no bounds. It results in better case outcomes, supports positive life outcomes for clients, and strengthens communities. Clients like it better. More pressingly, it is the only current model of public defense that addresses the real-life consequences of criminal justice involvement—the consequences that are often more dire than the criminal case itself—and addresses the underlying issues driving clients into the system.

\textsuperscript{183.} Id.

Holistic defense is scalable, customizable, and universal. All it requires is a deep understanding of client needs, a meaningful engagement with the client community, an interdisciplinary approach to problem solving, and providing seamless access to the services necessary to tackle those problems. Whether the client base is rural or urban, diverse or homogenous, the commitment to these basic ideas will change your practice whether you appear in whitewashed courthouses, suburban judicial centers, or the criminal court fortresses of our cities. By breaking down legal silos, listening to clients, and engaging with their communities, holistic defense changes the goals of the attorney–client relationship to better reflect the reality and goals of the clients themselves and, in so doing, redefines the very nature of public defense in the twenty-first century.