Arnold Ventures

PUBLIC DEFENSE RESEARCH AGENDA

CRIMINAL JUSTICE INITATIVE | PRETRIAL JUSTICE TEAM 2022

OVERVIEW

When people are arrested, taken into police custody, booked into jail, charged, and are facing incarceration, they are left powerless, without a voice or agency, and completely vulnerable to the extraordinary harms and trauma associated with navigating an overwhelmingly complex criminal legal system. Decisions made by system actors can lead to damaging and disparate outcomes for justice-involved persons, especially people of color, and those who come from impacted and poorly resourced communities. Access to effective counsel is paramount to mitigate the negative implications of system contact. The Sixth Amendment guarantees this right, and case law has upheld it – yet, the reality is, **many individuals navigate the system without representation, or even adequate and independent counsel.**

Between 1963 and 1984, four Supreme Court decisions critically expanded the Sixth Amendment. The first two cases mandated that states provide representation for individuals who cannot afford legal counsel, initially offering this right only to individuals in felony cases *(Gideon v. Wainwright)*[1] and later extending the right to all individuals charged with any crime, including misdemeanors, that could result in imprisonment *(Argersinger v. Hamlin)*.[2] The next two cases *(United States v. Cronic and Strickland v. Washington)* confirmed that individuals not only have a right to counsel, but a right to effective assistance of counsel.[3]

While these decisions marked seminal shifts in the United States criminal justice system, they left to the states the responsibility to uphold these affirmative rights – specifically, **individuals facing charges with the possible penalty of incarceration have this dual right of access to counsel and effective assistance of counsel.** Many states have not instituted structural support to transfer the responsibility for provision of counsel to the county or district level. The resulting system is a fragmented one that has rendered public defense over-burdened and under-funded. Public defense attorneys are saddled with far too many clients (e.g., excessive caseloads are well documented in caseload studies[4]) which then in turn may limit the ability to provide adequate counsel. Burdensome caseloads may lead to a failure to complete core tasks central to their role, such as communication and meeting with clients, discovery and investigation, and case and court preparation. These challenges are exacerbated where there are often shortages of attorneys or simply no counsel available within a county's borders. This vast problem, described as 'legal deserts' was comprehensively described in a recent report by the American Bar Association, 40% of all U.S. counties and county-equivalents have less than one lawyer per 1,000 residents. Public defense systems are making difficult decisions to scale back on who receives representation, the time and core activities performed, and at what point representation begins, and the consequences that follow are quite detrimental – longer pretrial detention, case delays, worse case outcomes, family disruption, guilty pleas accepted to access freedom, destabilization (e.g., residential stability, employment, physical and mental health), and racial and ethnic disparities.[5]

This is clearly not some small problem with an easy fix, it's a crisis. To address this, we will have to acknowledge the harms, highlight the structural and systemic inadequacies and subsequent failures, and deliberately work toward tackling the underlying complex factors driving the crisis. For Arnold Ventures, we believe that a **fair, legitimate, and racially just system depends on a full realization of the Sixth Amendment right to counsel and adherence to three core pillars: access** to a lawyer at all stages of the case, **quality** representation, and **independence** of counsel. We have deliberately chosen to prioritize these three core pillars within our public defense research agenda, as they are necessarily intertwined and have the ability to impact one another.

This research agenda intends to:

1. Define the guiding principles and core duties and functions of public defense
2. Highlight the barriers to an effective public defense system
3. Describe the current state of public defense research and policy-relevant research opportunities related to:
   a. Access to Counsel
   b. Independence
   c. Quality
   d. Innovation
4. Present outcomes of interest and potential research methodologies aimed to produce the most rigorous and robust research to drive change within the public defense sector

Guiding Principles & Core Duties and Functions of Public Defense

Before we dive into the primary sections of this research agenda, it's important to understand the role and significance of an effective public defense system as well as the challenges that have rendered this vision a near impossibility. These next two sections of the research agenda address both.

The American Bar Association has published both standards and guiding principles on public defense. Collectively, these documents are grounded in the pillars of access, quality, and independence. Below are some of the noteworthy principles organized by access, quality and independence.

Access

- Clients are screened for eligibility and defense counsel is assigned and notified of appointment, as soon as feasible after clients' arrest, detention, or request for counsel.

Quality

- Defense counsel's workload is controlled to permit the rendering of quality representation.
- Defense counsel's ability, training, and experience match the complexity of the case.
- Defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards.
- There is parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the judicial system.

Independence

- The public defense function, including the selection, funding, and payment of defense counsel, is independent.

In 2017, the ABA published its fourth edition standards on public defense, which describes the core functions and duties of public defense. The first standard recognizes that **defense counsel are essential to the administration of justice,** and the additional standards distinctly point out the unique dichotomy of the public defense role, to be both an officer of the court and a zealous advocate of their client. These expectations are not in direct conflict with one another, rather, they elevate the responsibilities of the public defense – one in which defense counsel should seek to improve and reform the administration of justice, which spans from taking corrective action to address inadequacies to procedural and substantive law – including addressing abuses of state power from system actors (police, prosecutors, judiciary), to having knowledge and advocating for alternatives to prosecution, to providing public education and community support to address the flaws of the criminal-legal system. Public defense then must have an active voice in reforming the criminal-legal system and ensuring its legitimacy. However, there are tremendous barriers that nearly preclude these public servants from fulfilling their core duties and fully adopting these principles.

Barriers to Effective Public Defense Systems

There are multiple barriers to an effective public defense system. Perhaps the two most pronounced barriers are a lack of sufficient funding and resources, and excessive caseloads. Whether considered separately or collectively, these barriers are associated with reduced access to quality counsel, harsher pretrial outcomes, increased sentence length, and

racial disparities.[6] The provision of public defense is largely dependent on funding amount and funding structure. As discussed above, *Gideon* required states to provide counsel to indigent clients. However, each state takes a different approach to meeting this obligation: some states fund indigent defense at the state level; some devolve the responsibility to counties or judicial districts; some have a hybrid funding system. As such there are great variations in levels of funding across the U.S. and even within the same state. Today, 24 states' public defense systems receive 100% of their funding from the state, while 18 states receive more than 50% of their funding from the county or local level, with 1 state (Pennsylvania) receiving no state funding whatsoever.[7,8]

While there is no definitive benefit to one funding stream over another, as the level of funding is far more important than its source, state funding typically allows for a more equitable distribution of resources, as states have the ability to allocate funding according to each jurisdiction's population size and need.[9] Local and county budgets, on the other hand, vary based on the tax revenue of the region. As a result, where funding is provided at the local level, areas with the highest need are subjected to the most poorly resourced public defense systems.[10]

The most recent report on public defense spending nationally found that in 2012, state governments spent $2.3 billion on public defense.[11] In comparison, and using the most recent published data on prosecution spending, in 2007, the total budget for all prosecutors' offices nationally was $5.7 billion.[12] While these spending data are both outdated and do not include county and local appropriations, spending parity between prosecution and public defense is a substantial problem that can't be ignored.

Despite the constitutional mandate that individuals who cannot afford an attorney be offered free legal counsel, many jurisdictions rely on revenue gained from assessing fees to indigent clients in exchange for representation. Public defense fees come in two general forms: recoupment and contribution.

Recoupment fees are judicial orders that require defendants to repay the government (and in some cases, defense attorneys) some or all of the cost of their legal representation. Recoupment fees, especially those charged without consideration of ability to pay, can be extremely burdensome for indigent defendants. the Contributions, which come in the form of application fees, co-pays, registration fees, or administrative fees, are charged at the time of the appointment of the legal counsel.

While it stands to reason that instituting fees increases the likelihood that an indigent defendant will go without counsel, there is a complete dearth of empirical research on the effect of recoupment or contribution fees on counsel waivers.[13] It further stands to reason that waiving one's right to counsel would have a detrimental effect on case outcome, but studies assessing this link could not be sourced. Anecdotal reports from judges and trial lawyers, however, do suggest that implementing fee statutes decreases the number of people who apply for representation by indigent counsel.[14]

Public defense counsel fees not only hinder access to the constitutionally mandated right of defense counsel, but, when not paid in a timely manner, can lead to increased incarceration, due to refusals to grant probation or parole, or probation and parole revocations.[15,16] Research also indicates that fees associated with obtaining indigent defense counsel are inefficient[17, 18, 19, 20] and some jurisdictions even incur losses when attempting to assess recoupment fees.[21, 22] Further, that the failure to pay indigent defense counsel fees can result in increased prison or jail time only costs the government more money.[23] However, while this research confirms the drawbacks of recoupment fees in particular, more research is needed to demonstrate the devastating effects of upfront fees, or contributions. More specifically, studies should focus on the extent to which contributions (or perhaps even the anticipation of inability to repay recoupments) force indigent individuals to go without counsel, as well as the effect of waiving counsel on case outcomes.

Excessive caseloads

While inadequate funding and unaffordable fees hinder an individual's constitutional right to counsel, excessive caseload levels impede the constitutional right to effective assistance of counsel, as guaranteed by *Strickland*. Public defenders with high caseloads, are on average, less likely to adequately conduct client interviews, secure pretrial release, file motions, investigate case facts, and prepare for hearings.[24, 25] Indigent defendants pay the price for these shortcomings. For example, clients represented by over-worked counsel often accept plea bargains, regardless of guilt, in order to return to their daily lives, rather than endure long trial wait times in jail.[26] Public defenders with elevated caseloads may also make legal mistakes that have devastating consequences for their clients.

Overall, the research on caseloads suggests the extent to which

excessive caseloads, which pervade the indigent defense system, put indigent clients at a disadvantage by failing to adequately conduct client interviews, secure pretrial release, file motions, investigate case facts, and prepare for hearings.[27, 28] Further, high caseloads provoke attorney turnover, which increases clients' reliance on less experienced counsel.[29] As a result, over the past two decades, researchers have been dedicated to establishing appropriate caseload standards. The most recent wave of research, which relied on the Delphi method, created an effective model for developing workload standards.[30, 31, 32, 33] However, research suggests that these standards must be developed on a state-by-state or even, jurisdiction-by-jurisdiction basis. Arguably, this isn't a viable path for developing country-wide standards. Moreover, the well-documented inability of jurisdictions to adhere to standards, given their case volume and funding level,[34, 35, 36] questions the utility of developing standards, when insufficient funding and lack of resources render them nearly impossible to meet. Of course, from a research-driven policy perspective, having data on caseloads further elucidates the challenges with providing access to effective counsel and similar jurisdictions may benefit learning from the caseload standards implemented in other states and counties.

Future research opportunities

With a vision toward fully implementing the Sixth Amendment and upholding the three pillars of access, quality, and independence, future research examining these barriers will be pivotal to identifying and adopting reforms. Updated landscaping research on public defense system funding sources with a focus on amount relative to need to ensure timely access and quality, parity, as well as system efficiency and effectiveness is essential. As the system currently stands, no indigent defense funding standards exist.

Research is also needed to establish whether there is a link between the administration of fees and the decision to waive one's right to counsel. It is likely that indigent clients who are unable to pay contributions, such as application fees, co-pays, registration fees, and administrative fees, may feel that they have no other choice than to waive their right to counsel. Even concerns about a future inability to pay recoupments may encourage indigent defendants to waive this right. However, no research currently exists investigating the link between inability to pay fees and counsel waiver. Further, no research exists examining the effect of counsel waiver on case outcomes. In order to establish the importance of counsel waiver, this secondary link must also be studied. Policy-relevant research examining the implications of recoupment fees and contribution fees both at an individual and system level, will be an important next step to informing policy at the local and state level.

Access to Counsel

As stated in the introduction, **access to effective counsel is paramount to mitigate the punitive harms of system contact.** The Sixth Amendment guarantees this right, and case law has upheld it, but states and jurisdictions have broad discretion in how to implement access to counsel. There are two components of access to counsel – timeliness of assignment and lack of access, or stated more directly, denial of the right to counsel.

In terms of timeliness, much of the research has focused on counsel at first appearance. For researchers and policymakers, it's imperative that this processing point be examined given that the Supreme Court has not determined that bail setting at the initial appearance is a critical stage. Access to counsel is not a reality for all individuals facing charges with the possible penalty of incarceration, especially for those charged with misdemeanors.

Future research opportunities

We are interested in funding research that comprehensively and rigorously examines both access to counsel across diverse jurisdictions—urban, suburban, and rural—and the timeliness of representation. To guide policy and practice, research should include when the right to counsel attaches, and thoroughly test the impact of access to counsel at each critical stage, including at various case processing points not currently recognized by the Supreme Court as critical. This includes early stage case processing points such as initial appearance and being detained at the station house. Beyond this, research is needed

to examine the impact of access to counsel and timeliness for individuals facing misdemeanor charges and possible sentence to incarceration. In some places, access is hindered by the unavailability of lawyers in certain areas, a phenomenon referred to as a "legal desert". Descriptive research can demonstrate how the dearth of lawyers and legal and procedural barriers may result in a sentence to incarceration, barriers to access, with a focus on case processing delays, extended pretrial detention, invalid waivers to counsel (possibly to avoid application fees), plea bargaining, obtaining discovery, case outcomes, the quality and independence of representation, and racial and ethnic disparities.

Lastly, cost-benefit analyses are needed that compare the costs associated with public defense, assigned, and contracted attorneys in relation to the costs of pretrial detention, incarceration sentences, and other outcomes of interest.

Independence

The integrity of public defense systems requires both political and professional independence; however, the mechanisms for oversight and funding may impede independence of public defense counsel and possibly the other core pillars, access and timing, as well as quality. The research on independence is not as robust or rigorous as other areas of public defense research and information about independence is often anecdotal; however, it's important to highlight what is known about the independence of public defense systems, especially related to the compensation and appointment of counsel, and how these policies and practices may influence defense counsel decision-making and client outcomes.

Briefly, as it relates to political influence, some argue that the process for selecting, appointing, or electing the heads of indigent defender services may hinder the independence of public defense. Counties and districts across Nebraska, Florida, and Tennessee conduct elections for their public defender chiefs. Other jurisdictions may assemble hiring panels consisting of members of the judiciary, prosecution and law enforcement to identify the next public defender, which may be perceived as lacking independence.[37] While perception on the process for identifying who will lead public defender services within a state may play a role in hindering independence, there is no sound evidence for how this process influences or impacts quality, access, and client outcomes. While these methods are worthy of investigation, in many jurisdictions, judicial oversight over assignment of counsel and funding should be examined.

When the mechanism for assignment of counsel is managed by the judiciary, there is potential for conflict of interest. Specifically, assigned counsel may be wary that judges will use their oversight over the appointment process for personal gain, for example, by accruing campaign contributions where applicable.[38, 39]

Future research opportunities

Given the dearth of empirical evidence examining independence, it will be important to determine a clear path forward for conducting studies about this core pillar that are policy-relevant. First, researchers and policy makers will need to agree on how independence can be measured and operationalized. Second, while there is variation in the mechanisms used to appoint and compensate public defenders, the conflict of interest with judiciary oversight both in terms of appointment and funding should serve as a starting point of empirical inquiry. While it may seem like relatively straightforward questions to ask and answer, data should be brought to bear to understand and identify which of the different processes for appointment and compensation across jurisdictions and states are associated with a zealous defense, increased access to counsel, improved case processing and outcomes for clients, increased racial equity, and reduced conflicts of interest.

Quality

The public defense system faces structural and resource challenges to providing meaningful and effective counsel, adversely impacting the quality of representation, and likelihood of favorable case outcomes. These consequences are especially concerning given that the majority of people facing charges rely on the public defense system. The Department of Justice estimates that somewhere between 60% and 90% of individuals are counseled by public defenders.[40] Further troubling are the racial and socio-economic disparities in reliance on public defense counsel. The Bureau of Justice Statistics reports that use of public defense counsel varies based on race, education level, poverty level, and employment status.[41] In state prisons, 69% of White individuals use public defense services, while 73% of Hispanic individuals and 77% of Black individuals rely on such services. In federal prisons, 56% and 57% of Hispanic and White people respectively use public defense counsel, compared to 65% of Black people.[42]

Across state and federal prisons, those with lower educational attainment, lower income level, and recent unemployment are all more likely to rely on public defense counsel than are their counterparts.[43] Thus, while all Americans are guaranteed the right to effective assistance of counsel, the majority of individuals, and especially those who face increased marginalization in this country, rely on a system that struggles, and often fails, to deliver this right.

Examining the quality of public defense is complicated. Much of the existing research has focused on comparing indigent defense counsel types, such as public defense, contract attorneys, and assigned counsel, and studies examining the quality of privately retained counsel in comparison to indigent defense counsel types; caseload studies (addressed above); as well as examining funding structures or compensation models.

Taken together, our review of the research suggests that of the three indigent defense counsel types, public defenders not only secure lower charges, achieve better sentences (in terms of both type and length), and reduce conviction rates for their clients[44,45,46,47] but also present the most economically efficient option for the provision of indigent defense.[48, 49] Study authors attribute public defenders' outcomes to the fact that, compared to assigned counsel and contract attorneys, public defenders are typically better trained, often receive support from investigators and social workers[50, 51, 52, 53] and lack financial incentives to underperform.[54, 55] However, although studies present mixed results, some research suggests that privately-paid attorneys outperform public defenders in terms of sentence length, conviction rate, case dismissal rate, and charge reduction level.[56,57,58,59,60] While more research verifying the differences between public and private counsel may be warranted, the existing results should not be ignored, as they suggest that indigent defendants may be at a disadvantage compared to defendants with higher means.

Future research opportunities

While studies find that public defenders outperform assigned counsel, there is little research on whether there are disadvantages to using one assignment method versus another.

Furthermore, more research is necessary to understand differences in case outcomes between those represented by public and privately retained attorneys. Not only is much of the existing research in this area dated , but results vary immensely, oscillating between finding that public attorneys outperform private attorneys, that private attorneys outperform public attorneys, or that both attorney types perform equally well. The finding from the most recent study on this topic, that client self-selection may play a large role in the observed differences between public defenders and privately retained counsel, merits further investigation. Future research comparing public defenders and privately retained counsel should additionally focus not only on the ways in which case outcomes may differ between the attorney types, but why the disparities in outcomes exist. Explanations for these disparities may be helpful in developing policies to improve the provision of public defense.

Additionally, research needs to provide a clearer picture for what the key characteristics, expectations, and competencies of quality representation are relative to what is produced when these components are present. Research should also demonstrate what is required to ensure that public defender systems are provided with the necessary resources and funding to make this core pillar, quality, a priority.

Finally, evaluations of how the other core pillars, independence and access, may impact quality is imperative to developing data driven policies aimed to improve the public defense system.

Innovation

Beyond adhering to minimum standards for effective assistance of counsel, some public defense offices have conceived of alternative models for improving the provision and quality of indigent defense. The most prominent of these models are vertical representation, holistic defense, and participatory defense. It is important to note that there are many variations to each model and that no two iterations are wholly the same.

Vertical Representation

In order to manage high caseloads, public defender offices have long used the horizontal representation model where the client is represented by a different attorney at each stage of their case. The ABA's Ten Principles of a Public Defense Delivery System

discourages the use of horizontal representation and recommends that "the same attorney continuously represents the client until completion of the case."[61] This principle describes the vertical representation model, which has gained increasing popularity in the past two decades. In 2007, 11 states reported that a majority of their public defense offices used vertical representation for felony cases and six states reported that their offices used a combination of vertical and horizontal representation for felony cases.[62]

While vertical representation is touted as superior to horizontal representation, no research exists comparing vertical representation to other indigent defense models.

Holistic Defense

Holistic defense, which originated in the 1990s, is based on the theory that effective counsel is provided when the client's needs both inside and outside of the courtroom are attended to. Within the holistic defense model, individuals are supported not only with their immediate legal needs, but with collateral consequences associated with their criminal-legal system involvement, including transportation, mental health and substance use concerns, childcare, employment, housing, etc. In order to accommodate this multitude of needs, holistic defense offices employ an interdisciplinary team, including defense lawyers, investigators and paralegals, civil, family, and immigration lawyers, social workers, public benefits advocates, and mental health and housing specialists.[63]

There have been several evaluations of the holistic defense model.

The most notable recent and major evaluation was conducted in 2018 and leveraged the as-if random case assignment process in Bronx Criminal Court to conduct a large-scale natural experiment on case outcomes for clients represented by the Bronx Defenders, a holistic defense practice, versus those represented by a traditional practice in New York City. The results affirm the merits of the holistic model by suggesting that, over a ten-year study period, holistic representation resulted in one million fewer days of incarceration for Bronx residents than traditional representation, with an estimated savings of $165 million on jail housing costs alone. Holistic defense clients were less likely to receive jail time and were sentenced to fewer days in jail. This difference was statistically significant. However, there were no statistically significant effects on overall conviction rate and likelihood of future arrest when compared with those who did not receive holistic defense services. While holistic representation in the Bronx did not significantly reduce recidivism, the model did appear to and has the future potential to reduce incarceration without negatively impacting public safety.[64]

Participatory Defense

Conceived in the mid-2000s, participatory defense is guided by the theory that indigent defendants are better served by the public defense system when they are active agents in their own representation and support, rather than passive clients, that impacted families and communities can play a powerful role in criminal justice reform, and that this radical approach to individual representation can help end mass incarceration more broadly.[65]

Proponents of the participatory defense model contend that this approach to public defense can help to the offset societal power imbalances inherent to the criminal justice system. While the participatory defense model is relatively new, it has been carried out by 11 community groups across the country. While evaluations are likely underway, no empirical research exists examining the success of these defense hubs or of the other 11 participatory defense models across the US.

Future research opportunities

Research should be conducted to determine whether the growing preference for vertical defense is warranted, and what, if any, downsides this up-and-coming model may introduce. Evaluation of the emerging participatory defense hubs would be useful in determining whether this model ought to be expanded across the U.S.

While there are a number of comprehensive evaluations of the holistic defense model, future research should aim to associate case outcomes with the client's defense counsel type during each stage of the case and take a more nuanced approach to evaluating the success of holistic defense programs. For example, while sentence length, release on recognizance rates, conviction rates, dismissal rates, and number of court appearances are all valuable outcome measures, the holistic model seeks to consider each client's individual needs, which may lead attorneys to accept what, to a researcher, may seem like "worse" case outcomes, despite actually representing a preferable outcome to their clients.[66] Researchers should account for client considerations of collateral consequences when comparing holistic defense models to more traditional models.

Methodologies

Most of the studies we reviewed rely on mixed-methods designs, descriptive analyses, with just a few using randomization. Recently more rigorous designs have been employed in public defense research, especially when evaluating holistic defense and the impact of access to counsel and timing of access to counsel.[67]

Taking stock of this reality, we aim to fund a variety of different research projects that have a clear path forward to impact policy and practice in public defense. Study designs should reflect the most rigorous of methods and researchers should consider the methodologies of prior evaluations for similar policies and interventions when developing the study design. Research that produces causal evidence, leverages natural experiments, or allows for causal inference, is strongly encouraged. For policies and practices that are relatively new, observational and descriptive studies, including mixed methods and qualitative research may be the most appropriate. Studies that directly focus on identifying and addressing the barriers that local jurisdictions and states face with implementing this constitutional right of access to effective counsel will be central to building a robust policy agenda on counsel at first appearance. Cost-benefit analyses that provide reliable estimates to implement and sustain new policies in public defense relative to the costs of other system alternatives, such as pretrial detention and post-disposition incarceration, should be included into research projects where cost data are available. Rigorous replication studies of policies and practices implemented in different jurisdictions or with different populations is also strongly encouraged. Research efforts that meaningfully integrate those with lived experience, including community members impacted by the criminal-legal system, into the development and execution of the study design as well as the dissemination of results is welcome. Finally, we encourage diverse research teams and the inclusion of students into all research endeavors.

Outcomes of Interest

Given the multi-faceted responsibilities and guiding principles for public defense, especially related to access, quality and independence, outcomes of interest must be identified and operationalized appropriately. For example, we don't assume that all policies and practices related to public defense are intended to reduce recidivism. Simply the availability of administrative recidivism data does not mean that it's an appropriate outcome in which to examine the effectiveness or efficiency of a public defense policy or practice. Given the essential role that public defense plays in the criminal-legal system, researchers must be both thoughtful and critical in the selection of outcomes. The examination of individual, family, community, and system outcomes, which may require original data collection, will be essential for policy makers and the public to understand the barriers and the benefits to accessing effective counsel, the timing of access, the impact of independence and quality, and the funding and resources to ensure the full realization of the Sixth Amendment. Importantly, researchers should consistently prioritize examining outcomes to determine if there are racial, ethnic and gender disparities, as well as other disparities for impacted persons.

While not an exhaustive list, examples of outcomes of interest across the four levels – individual, family, community, and system include:

Individual – improved case outcomes (e.g., disposition, case processing length, sentence), waivers to counsel, reductions in pretrial detention including length of detainment and individual impact as a result of detention conditions, court appearance, pretrial and post-disposition recidivism (e.g., arrest, new charges, convictions, supervision placement and supervision outcomes including violations and revocation, subsequent incarceration for a conviction in jail or prison), fines and fees, employment attainment and stability, educational attainment and stability, residential attainment and stability, financial stability and mobility including uptake of public benefits, mental health status, substance abuse or addiction status, perceptions of engagement with public defense services and criminal justice system, and disparate impact by race, ethnicity, gender identity, sexual orientation, age, disability, and immigration status.

Family – ongoing stability indicators for family members including employment and educational stability for adult family members, financial stability including uptake of public

benefits, reductions in disruption to children and adult dependents, improved health, indicators of generational criminal justice system involvement, disparate impact by race, ethnicity, gender identity, sexual orientation, age, disability, and immigration status, and perceptions of criminal justice system.

Community – greater engagement of community with public defense systems, increased education and advocacy of public defense for impacted communities, residential stability and growth, economic stability and growth, access to diversion and treatment, public health, and reintegration resources, community engagement, quality of schools and education, community safety rates, perceptions of community wellness and perceptions of criminal justice system including public defense system models.

System – Increased early appointments of counsel, increased assignment of public defense to misdemeanor cases, reduced workloads, increased funding and resources for public defense systems, increased training, supervision, and support, expansion of effective innovative public defense service models, funding parity between prosecution and defense both in terms of salary and expenditures, increase in access to counsel in rural settings (e.g., reduction in legal deserts), increase in court appearance & community safety, reductions in arrest and case filing rates, pretrial detention rates, jail utilization, increase in release rates, decrease in the use of money bail and restrictive release conditions, reduced costs associated with case processing, supervision, detention and post-conviction incarceration, adoption and expansion of reform policies, alternative sanctions, greater collection and use of data, fewer lower level cases charged, increased use of diversion, reduction in the use of fines and fees, reductions in criminal justice system engagement (e.g., policing practices - arrests, prosecution, detention, incarceration), decrease in punitive responses and disparate impact by race, ethnicity, gender identity, sexual orientation, age, disability, and immigration status.

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