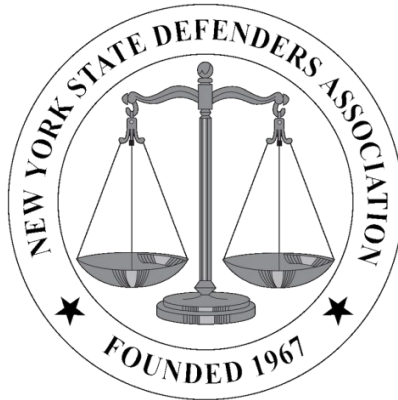


**JOINT LEGISLATIVE PUBLIC HEARINGS
ON THE 2024-2025 EXECUTIVE BUDGET PROPOSAL**

**Testimony before
The New York State Senate Finance Committee
and
The New York State Assembly Ways and Means Committee
on the Public Protection Budget**

**Susan C. Bryant
Executive Director
New York State Defenders Association, Inc.**



**January 25, 2024
Albany, NY**

Thank you for this opportunity to present the testimony of the New York State Defenders Association (NYSDA) concerning the State's budget for 2024/2025 State Fiscal Year as it relates to matters affecting public defense, community safety, and equitable access to justice in family and criminal legal systems here in New York State.

NYSDA's Public Defense Backup Center Funding Must Be Restored.

NYSDA's Public Defense Backup Center provides integral services to defenders around the state who represent clients in criminal and family courts. Those services include case consultations and legal research assistance, continuing legal education and other training (in person and online), extensive resources and regular publications, and our Public Defense Case Management System, currently used by 100 public defense programs. With a still small staff, we serve approximately 6,000 attorneys in more than 130 county-based programs whose needs are immense and varied. In addition to the information provided in this written testimony, a description of our services appears in the attached NYSDA Budget Request and our [2023 Annual Report](#).

The responsibilities and needs of defenders are growing and evolving, thanks in large part to positive reforms this Legislature has championed in recent years. These reforms include an increase in state funding to counties for public defense and the establishment of standards for improving the quality of mandated representation in both criminal and family defense cases. NYSDA's work and the scope of our support must similarly grow and evolve to most effectively support the attorneys doing this work each and every day.

Thankfully, two years ago, the Legislature recognized this and provided funding for the Backup Center's statewide defender Discovery and Forensic Support Unit. This has allowed us to hire a team leader and three attorneys. The Unit's expert attorney staff offer case-specific guidance, training, expert witness referrals, and resources to defenders, from individual assigned counsel to attorneys in large public defense offices. The Unit helps defenders review and analyze the discovery they receive and the evidence that defense investigators gather while doing independent investigative work.

We cannot do all of this without adequate funding. Sadly, the proposed Executive Budget does not come close to providing critical resources. This year's Executive Budget, like proposals over the past several years, provides only \$1,030,000 for the Public Defense Backup Center. That is less than 1/3 of the amount we need to maintain our existing services. We come to the Legislature again this year to ask that you restore our funding to \$3,130,000. Without restoration, we will not be able to sustain these crucial services. We will not be able to respond to the hundreds of calls, emails, and messages that we receive from new and experienced defenders; nor offer training on skills, practice, ethics, diversity, and cybersecurity issues; or provide timely information to the thousands of attorneys who represent people who cannot afford counsel.

Funding for NYSDA’s Discovery and Forensic Support Unit Must Be Increased.

We are also asking the Legislature to provide an additional \$1,792,000 to hire much-needed additional staff for our Discovery and Forensic Support Unit. Since the Unit was established, we have presented many free training programs, each of which has hundreds of participants from throughout the state, and each of which generates a list of topics for future programs ranging from basic technology and fundamentals of forensics to advanced motion and trial practice. Our small Unit does not have the capacity to develop and offer all of these important programs, even if the expert staff did nothing other than provide training. At the same time, the Unit gets requests daily from attorneys who urgently need litigation guidance, including assistance with reviewing technical evidence and the identification of materials that may be missing from disclosed discovery, determining whether consultants and expert witnesses may be needed, finding appropriate experts, and deciding which motions should be filed. And the Unit is also gathering and preparing resources practitioners need as well as monitoring national and international developments in forensics. The demand for support cannot be sustained by our current staff who assist a vast number of defenders from around the entire state.

Our attached budget request outlines the additional staff members needed to meet this demand. This includes five attorneys with expertise in digital forensics, medical and DNA forensics, and mental health and mitigation. Other staff the Unit requires include a training and meetings coordinator, a discovery technician, and a mental health and substance use specialist. This Legislature has already recognized the need for a centralized Discovery and Forensics Unit to support defenders, and we ask you to continue investing in this already successful program. We are fully prepared to execute the proposal by hiring these additional staff members and increasing our support to defenders, if funded.

Public Defense Backup Center	
Executive Budget Proposed Appropriation 2024/2025 SFY	\$1,030,000
Amount Needed to Restore the Backup Center’s Funding to 2023/2024	\$2,100,000
Expansion of Discovery and Forensic Support Unit	\$1,792,000
Total	\$4,922,000

Discovery funding for the defense is essential for proper implementation of CPL article 245.

NYSDA thanks the Legislature and the Governor for recognizing the importance of discovery funding for the defense and, as discussed below, respectfully requests that defense funding match the funding prosecutors and law enforcement receive so there are no barriers or obstacles to efficient disclosure while advancing equitable and racial justice.

Landmark discovery reforms passed by the Legislature in 2019 have yielded a positive shift in how criminal cases are handled, removing the “blindfold” that long hampered

justice for people presumed innocent of the charges against them.¹ But the reforms have also presented already under-resourced public defense lawyers with challenges including a lack of capacity to process, store, review, and evaluate increasingly common digital and electronic materials. Prosecutors have made known their own challenges with these and other aspects of discovery and are slated in the Executive Budget to again receive \$80 million more, specifically for discovery expenses.² Yet public defense providers are expected to continue to meet increased discovery costs with half of that funding. This year's State budget must address the wrong and balance the scales of justice to make our criminal legal system equitable.

The *Gideon* decision³ noted that “[g]overnments, both state and federal, quite properly spend vast sums of money to establish machinery to try defendants accused of crime,” and found that fair trials could not be achieved where persons unable to afford a lawyer have to face their accusers without counsel. But a lawyer can be of limited help, at best, when confronting a prosecution that is supported by vastly superior resources. Parity is critical and a Constitutional right. It is imperative that NYSDA be sufficiently funded to enhance the vital discovery assistance we provide to public defense lawyers.

Discovery assistance is integrated into many NYSDA services.

We have been adding discovery functionality to our Public Defense Case Management System (PDCMS), which is used by 100 offices in 53 counties⁴ to efficiently handle a variety of case management tasks and to meet data reporting requirements of the NYS Office of Indigent Legal Services. We have launched a cloud version of the PDCMS that allows defense offices to seamlessly integrate discovery with the other aspects of their case management. NYSDA has always assisted with discovery issues and, with our new staff, we have increased our capacity to provide such assistance. Our website, www.nysda.org, includes the [Discovery Reform Implementation](#) webpage and we are currently working on expanding such resources to meet the needs of the defense community. The well-attended Continuing Legal Education (CLE) training programs we offered last year trained attorneys in critical changes in the law. Many participants attended multiple programs and our reach is significant;⁵ several hundred attorneys attended our timely discovery training programs where they learned the technical aspects of the law and how to incorporate the reforms into their practice.

While NYSDA has provided discovery assistance for a large population of attorneys, there is more work to be done. We have identified a resource gap in the defender

¹ Last year, NYSDA, the Chief Defenders Association of New York, the New York State Association of Criminal Defense Lawyers, and the NYS Office of Indigent Legal Services conducted a joint survey of defense attorneys. The resulting report, [The Impact of Discovery Reform Implementation in New York](#), includes extensive information from the more than 500 defenders who responded to the survey.

² Last year's enacted budget provided \$80 million to prosecutors and law enforcement for discovery implementation, as well as \$50 million in capital funding for New York City police and prosecutors.

³ The landmark right to counsel decision, *Gideon v Wainwright*, 372 US 335 (1963).

⁴ See the attached map of PDCMS installations as of December 2023.

⁵ In 2023, we trained more than 5,000 attorneys and defense team members on criminal and family law topics.

community around the state and we are trying to address this concern with our limited budget. We require an increase in funding to provide crucial support for defense discovery.

NYSDA helps defenders meet many different client needs.

All clients of public defense lawyers lack the financial ability to retain counsel, which means that they share certain problems. But each client has their own unique characteristics and backgrounds that may affect their case and what is required of their attorney to offer them quality representation. Also, in any given year or era, it is possible that social, economic, and other widespread problems may manifest in ways that demand new public defense and legal system responses. NYSDA provides training, assistance, and advocacy regarding a variety of special circumstances.

For example, clients who are citizens of countries other than the United States may face serious consequences from involvement in the criminal and family legal systems. As New York and the nation grapple with the many needs of newly arrived immigrants, public defenders must continue to provide clients with representation that takes into account all potential immigration consequences. NYSDA works with the Regional Immigration Assistance Centers (RIACs) funded by the NYS Office of Indigent Legal Services (ILS) to help lawyers meet their professional obligations and provide client-centered representation to clients who are not U.S. citizens. Assistance includes training and referrals (see the list of RIACs on the [Immigration Resources for Criminal and Family Defense](#) webpage).

Another example of clients with distinct representation needs are those in the criminal legal system who are survivors of domestic violence. They may benefit from the Domestic Violence Survivors Justice Act (DVSJA). Our [DVSJA Attorney Support Project](#), in collaboration with the DVSJA Statewide Task Force and the Brooklyn Law School's Survivors Justice Project, continues to help defenders assist clients who may qualify for DVSJA sentencing consideration. The DVSJA exemplifies how concerns about public safety and justice for victims are not opposites but rather are two facets of a complicated situation.

Yet another set of clients whose circumstances must be addressed is the large number of people whose involvement in the legal system stems from mental illness. The proposed Executive Budget acknowledges the need "to transform the way we care for New Yorkers struggling with mental illness." Some specific proposals acknowledge the interplay between the mental health crisis and the criminal legal system, e.g. calling for investments "targeted to divert individuals with mental health needs and substance use disorders from incarceration." By failing to include full funding for NYSDA, however, the Executive missed an opportunity to help prevent the counterproductive incarceration of people who need treatment, not jail or prison. Client-centered representation must include advocacy for appropriate services and case dispositions in both criminal and family matters; NYSDA helps individual attorneys, and public defense providers more broadly, attain the knowledge they need to meet this challenge. For instance, in September 2023 we presented a training event on "Representing Parents with

Disabilities: Strategies and Solutions for Preserving Their Rights.” Backup Center attorneys assist other defense attorneys who contact us about clients’ mental health issues. And our Veterans Defense Program, described below, helps ensure that clients who are active or former members of the military, and who are also experiencing service-related mental illness, receive appropriate advocacy.

NYSDA helps lawyers in an underfunded defense system represent parents well. New York has recognized the right to counsel for parents threatened with “loss of a child’s society” through legal action⁶ but has failed to provide sufficient funding to ensure that right. NYSDA’s panoply of services to family defenders helps them provide quality representation while advocating for more resources. NYSDA provides information about parental defense in our publications and [Family Defense Resources webpage](#), and consultation and guidance by our Family Court Staff Attorney. We have increased family defense training; most notable in the last year was the inclusion in our 2023 Annual Conference of a family defense track as well as plenary sessions on topics common to both family and criminal defenders. Stand-alone family defense training subjects ranged from “A Guide to Motion Practice” to specific topics like the recently enacted Parental Equity Act. The funding sought for the Backup Center will enable all these critical family defense services to continue.

Confronting racism remains a crucial part of NYSDA’s work.

NYSDA remains [committed](#) to exposing and ending racism and to helping public defense lawyers confront it. Racism in both the criminal and family legal systems directly harms people of color. It also impacts the work of Black, brown, and indigenous attorneys. And it leads to a corrosion of justice that ultimately damages the system itself and all those involved. Through its publications, training events, and website, NYSDA provides information and tools for revealing and combating racism and the dehumanizing practices that it has spawned. For example, a plenary offered at last year’s Annual Conference was “History Informs Practice: Deconstructing Anti-Black Racism in Criminal and Family Legal Systems.” NYSDA lauds Legislative efforts such as the [joint public hearing](#) held on Nov. 1, 2023, by the NYS Senate Standing Committees on Judiciary and on Children and Families concerning Family Court. This event provided an opportunity for impacted parents, attorneys who represent parents and children, judges, and others who work or appear in family courts throughout the state to testify about the extensive problems in an institution that overwhelmingly involves people with few financial resources and people of color.

Restore Veterans Defense Program Funding and Provide Funding for Services to Veterans in Central and Northern New York.

Military service members and veterans in the criminal and family legal systems need lawyers who are knowledgeable about their experience and needs and have access to specialized mitigation support. NYSDA’s Veterans Defense Program (VDP) provides services that generate military cultural competence and promote trauma-informed,

⁶ See *In re Ella B.*, 30 NY2d 352 (1972).

client-centered effective representation. The VDP offers defenders training, support, and legal assistance, and provides veteran clients peer-to-peer mentoring. In the last year, defenders in both populous and more rural counties had access to VDP training. The VDP offered webinars that made training available statewide along with local, in-person, sometimes county-specific events. Each time the VDP provides training, the requests for assistance increase, which means that more veterans are getting the specialized services they need and deserve. Despite the VDP’s success and savings to the State of more than \$126 million in avoided incarceration costs, the proposed Executive Budget does not include any funding for this essential program. The Legislature’s much-appreciated past support for the VDP in the amount of \$720,000 must continue.

NYSDA celebrates the 10-year anniversary of the Veterans Defense Program.

As we mark the 10th anniversary of the VDP, we thank the Legislature for making this Program a reality. The VDP has assisted hundreds of veterans this past decade and saved the State millions of dollars of incarceration costs. Our VDP has been successful, and we are proud of our ongoing work on behalf of veterans as we start the second decade of the Program.

Recently, we have identified unmet needs of veterans and their attorneys in Central and Northern New York. We are asking the Legislature to add \$230,000 in funding to bring a VDP attorney and Veteran Case Manager services to this region. More information about this request appears in the attached budget request and we will be submitting separate written testimony in support of the VDP budget request to the Human Services joint committee next week.

Veterans Defense Program	
Amount Needed to Restore the VDP Funding to the 2023/2024 Level [2023/2024 appropriation: \$250,000 + \$250,000 + \$220,000 LI office]	\$720,000
Amount Requested to Expand the VDP Services to Address Unmet Needs of Veterans in Central and Northern New York	\$230,000
Subtotal	\$950,000

NYSDA Supports Other Funding for Public Defense.

Aid to localities funding for public defense is scattered across several programs. Each of those named below are important to maintaining public defense services across the state.

Parental representation must be funded at \$50 million.

NYSDA urges the Legislature to include \$50 million in funding for parental representation. The proposed Executive Budget does continue the \$4.5 million it provided for this purpose in last year’s budget but does not incorporate the \$10 million in additional funding the Legislature added last year. Even \$14.5 million is nowhere near what is needed for this important part of public defense representation. ILS has received

grant applications from more counties than it can support with small grants for reduced caseloads, timely representation, and the addition of parent advocates and social workers who can connect families to critical services.

The State must treat this need seriously. Families, particularly Black, brown, indigenous, and immigrant families and those in poverty, are being unnecessarily separated because parents do not receive timely representation. By providing representation upon the commencement of a child protective services investigation, parent defenders can often guide their clients to community resources and other support that prevent family separation. And parent defenders can help identify cases where anonymous reports of alleged child neglect or abuse have been made to harass or intimidate their clients, an all too frequent problem.

Ensuring more equitable access to representation for those parents who face the loss of their children is one way to reduce the likelihood of family separation and reduce the number of children of color in the state's foster system, protecting the rights and integrity of Black and low-income families in New York. Further, the State could save millions in foster care and related expenses if it properly funded parental defense. NYSDA asks the Legislature to at least provide the full amount requested by ILS.

Funding for defense discovery implementation is critical and should match discovery funding for the prosecution.

Defenders continue to need funding for discovery implementation to support the existing and increasing demands associated with the discovery law. Defenders need funds to pay for cloud and other storage of discovery materials, improved technology to allow for faster processing of discovery materials, and increased staffing to access, download, organize, and review materials provided by the prosecution. These materials include hundreds of hours of videos from police body and car cams, police reports, witness statements, computer and cell phone forensics, forensic evidence reports, police disciplinary records, and other materials.

This Legislature recognized the needs of defenders when it added \$40 million to the SFY 2023-2024 budget.⁷ That appropriation was one-half the amount provided to prosecutors. And the capital appropriation of \$50 million for New York City last year is expected to be used for a discovery platform that would be used by the five city DA offices and the NYPD, but not defense providers. We ask the Legislature to increase the defender discovery appropriation to \$80 million, to justly match the funding for the prosecution.

⁷ It is important to note that defense providers around the state have not yet received any of the funding appropriated in the 2023/2024 State Budget. This means that needed investments in staffing and infrastructure have not been made to date.

NYSDA supports the Office of Indigent Legal Services Aid to Localities request, with a two-year cost-of-living adjustment (COLA).

NYSDA supports the Aid to Localities budget appropriations for ILS, and appreciates the Governor's (and, in advance, the Legislature's) commitment to continuing the Justice Equality Act expansion of the *Hurrell-Harring* settlement statewide. However, as we stated last year, we know that public defense providers cannot maintain appropriate caseloads and achieved improvements in the quality of representation, much less make further needed ones, if funding for statewide implementation, as well as funding for the *Hurrell-Harring* settlement counties and regular grant distributions, remains flat. Public defense offices face a dilemma, either cut staff to provide a COLA to those who remain or keep salaries and benefits flat and risk losing staff anyway. The Office of Indigent Legal Services has made a budget request that includes a 3% COLA. Because there was no cost-of-living adjustment in last year's budget, we are asking the Legislature to provide a modest 3% increase for last year and an additional 3% increase for this year.

The State must fund the Indigent Parolee Representation Program.

Parole-related proceedings continue to fiscally impact localities, especially those in which prisons are located. Although both the Executive and the Legislature have recognized that our current parole system is beset with problems, and efforts to address those issues continue, local expenses for providing counsel in parole-related proceedings remain. The Indigent Parolee Representation Program (IPP) reimburses localities for some of those expenses. Once again, the proposed Executive Budget does not include any funding for this program that seeks to ameliorate the local impact of statewide parole policies.

Created in 1978, IPP was later funded at around \$1.6 million by the late 1980s. However, funding was cut in the 1990s and has been stagnant for a decade. We thank the Legislature for adding \$600,000 to last year's state budget for the IPP. That allowed some counties providing representation in state parole matters to receive reimbursement for a small percentage of their costs. But the limited appropriation excludes New York City parole representation providers. And the funding provided is nowhere near what is needed to support the state parole representation work being done by defenders around the state.

We cannot expect the underfunded parole representation structure to secure the greater due process protections envisioned by the Less is More Act of 2021 for clients accused of violating their parole conditions. Full implementation requires additional resources. A conservative estimate of the cost for parole representation statewide is \$5 million. We ask that IPP be restored, at a minimum, and preferably increased to \$5 million to cover actual costs.

Aid to Defense should be increased to match Aid to Prosecution.

A relatively small, but important program that recognizes the effect of statewide criminal legal policies on localities, Aid to Defense (ATD) was created as a counterpart to Aid to Prosecution (ATP) to offset some of the increased costs of certain law enforcement initiatives. The Governor proposes to fund ATD at \$7,658,000, which goes to 25

counties and New York City, but to fund the ATP program at \$12,549,000, providing support to all counties. The Legislature needs to stop this ongoing imbalance by adding \$4,891,000 to ATD so that these funding streams are equal.

The State should provide full funding for the assigned counsel fee increase enacted last year.

We applaud last year's increase in the hourly rate paid to assigned counsel attorneys.⁸ Unfortunately, the State only committed to paying for one-half of the rate increase, leaving counties to pay the other 50 percent. The Executive Budget proposes to maintain the status quo. Counties are not able to absorb the cost of the increase, nor should they be expected to do so. The right to counsel is a State obligation and the State Budget must include the funding to meet that obligation.

The defense must receive resources that match the funding the Governor proposes for retail theft and domestic violence prosecution.

The Governor has proposed an additional \$15 million in funding for retail theft investigation and prosecution and an additional \$35,670,000 for project GIVE and efforts to reduce gun and domestic violence. As with Aid to Defense and Discovery funding, the Executive Budget fails to recognize that new and expanded prosecution initiatives result in increased burdens on public defenders. A large percentage of those accused in these types of cases will not be able to afford counsel and defender offices are not sufficiently funded to take on many new clients. Further, it is important to acknowledge that many domestic violence cases end up being heard by judges in integrated domestic violence courts or family courts, which means that family defenders will also need to be brought into the case. To the extent the Legislature agrees with the Governor that additional state funds are needed for these issues, we ask you to provide matching funding to defense providers so they can be prepared to tackle an influx of new cases.

Extreme Risk Protection Order (ERPO) funding must be expanded to the defense and a right to counsel must be added.

For the second year in a row, the proposed Executive Budget includes \$10 million for law enforcement costs of investigating and enforcing ERPOs. We ask the Legislature to add \$10 million to the state budget for the defense representation of respondents in ERPO cases.

New York's ERPO law, CPLR article 63-a, fails to provide fundamental due process protections, including the right to counsel. As noted in the [Report and Recommendations of the Task Force on Mental Health and Trauma-Informed Representation](#), which was adopted by the NYS Bar Association's House of Delegates on June 10, 2023, the State Bar's "Criminal Justice Section, the Committee on Disability

⁸ The amendment to County Law article 18-b last year increased the hourly rate for assigned counsel representation but failed to include the critical provision requiring regular evaluation and adjustment of the assigned counsel rates. It took 19 years of advocacy and eventually litigation to get the fee increase and the impact of the assigned counsel crisis has not been fully mitigated. We ask the Legislature to amend the law to prevent another assigned counsel crisis.

Rights, and the Committee on Mandated Representation have raised several due process concerns regarding the ERPO law, including the failure to provide a right to counsel to respondents who are financially eligible for counsel.” A December 2022 decision, *G.W. v C.S.* (78 Misc 3d 289 [Supreme Ct, Monroe Co]), and an April 2023 decision, *R.M. v C.M.* (79 Misc 3d 250 [Supreme Ct, Orange Co]), held that the State’s ERPO law is unconstitutional for lack of due process protections. NYSDA supports the Task Force’s recommendation that CPLR article 63-a be amended to provide a right to counsel in cases where a petition seeking an ERPO or temporary order is filed. It is important to note that, when a respondent is also facing criminal court charges, some public defense attorneys are laudably providing representation in the ERPO proceeding whether they will be compensated for that work or not.

A right to counsel and the requested funding would ensure that all respondents have counsel in cases where the court must decide whether their liberty can be curtailed based on a finding that the respondent “‘is likely to engage in conduct that would result in serious harm to himself, herself or others, as defined in section 9.39 of the mental hygiene law’ (CPLR 6342 [1]; 6343 [2]).”

Conclusion

We thank the Legislature for your support of the New York State Defenders Association’s Public Defense Backup Center and Veterans Defense Program. The funding we request in the 2024/2025 SFY Budget will allow us to continue and expand the work that you have long recognized to be a vital part of the public defense system and fulfillment of the State’s constitutional obligation to provide proper representation to individuals who cannot afford a lawyer.



New York State Defenders Association

2024-2025 SFY Budget Request

The New York State Defenders Association (NYSDA), a not-for-profit organization, has been providing support to New York's public defense community since 1967. Our mission is to improve the quality and scope of legal representation for people who cannot afford an attorney in New York's criminal and family court systems.

Public Defense Backup Center

We provide comprehensive legal support throughout the state to all public defense lawyers who represent low-income people in New York's criminal and family court systems. NYSDA's Public Defense Backup Center serves approximately 6,000 attorneys in more than 130 county-based programs.

Since 1981 under a state grant, the Public Defense Backup Center has carried out the State's public defense support obligation required by the Sixth Amendment and the New York State Constitution, which guarantee New Yorkers the right to effective public defense regardless of their ability to pay.

Our services include:

- **Training, Legal Education, and Case Consultations:** In 2023, we provided valuable training to more than 5,000 attorneys and other defense team members. We offered more than 50 in-person and online criminal and family defense training programs, including our week-long Basic Trial Skills Program for 45 new attorneys. Our legal staff have responded to hundreds of requests from public defense attorneys for case consultations and legal research support.
- **Publications & Website Resources:** In 2023, we published 15 issues of our e-newsletter and several issues of the *Public Defense Backup Center REPORT*; provided new and timely resource guides; and frequently updated the resources and links on our redesigned website.
- **Public Defense Case Management System (PDCMS):** Presently used by 99 programs in 53 counties, PDCMS gives defense offices the ability to efficiently manage cases and report required data to the State. We have transitioned a number of programs to the cloud-based version of PDCMS and we have improved functionality to better assist defenders with discovery management.

Veterans Defense Program (VDP)

The VDP provides essential training, support, and legal assistance to promote trauma-informed, client-centered representation of veterans and service members who suffer from the invisible wounds of war and are involved in the criminal and family court systems. Since its establishment in 2014, the VDP has helped hundreds of justice-involved veterans to be diverted into treatment and probation, avoiding hundreds of years of incarceration, saving the State more than \$126 million.

NYSDA's Public Defense Backup Center	
Public Defense Backup Center 2023-2024 SFY appropriation restoration	\$3,130,000
Expansion of the Defender Discovery and Forensic Support Unit	\$1,792,000
Total	\$4,922,000
NYSDA's Veterans Defense Program	
VDP State Program 2022-2023 SFY appropriation restoration	\$720,000
VDP Central and Northern NY expansion of service delivery	\$230,000
Total	\$950,000

Contact NYSDA's Executive Director Susan C. Bryant: sbryant@nysda.org or 518-465-3524 x26.

New York State Defenders Association

**Expanding the Public Defense Backup Center's
Statewide Defender Discovery and Forensic Support Unit**
\$1,792,400

Discovery reform has created a positive shift in how cases are handled in New York State. It has also come with great challenges. With the state funding included in the 2023/2024 budget, defender offices will begin to have some of the fiscal support necessary to hire staff to process and review digital and electronic discovery, and the technology to support that work, but they will still need training and technical assistance. Also, most public defense offices and assigned counsel attorneys will not be able to hire in-house experts on the spectrum of discovery and scientific evidence, such as DNA testing, digital evidence (including body-worn camera video, cell phone and computer extractions, and social media evidence), toxicology and other medical evidence, and firearms and weapons.

NYSDA's statewide Defender Discovery and Forensic Support fills that role, but we require additional staff to respond to the current and expected demand, particularly from the 57 counties outside New York City. Our centralized support model offers efficient and cost-effective legal support. Programs that do not have in-house experts have referred their attorneys to our Unit, which provides in-depth consultations, expert referrals, and resources. And even offices with some in-house forensic staff have reached out to the Unit for specialized support. NYSDA is also working on new functionality and improvements to our PDCMScloud case management system's discovery management solution to make viewing and organizing discovery more efficient. This shift in practice for attorneys requires additional support and training from NYSDA.

In 2022, NYSDA launched the Unit to assist with major improvements in the quality of public defense representation. We have a team leader who is a nationally-recognized forensic defense attorney and two staff attorneys with digital evidence and DNA expertise, and we will be bringing on a second digital evidence attorney in the Fall of 2024. In 2023, the Unit offered individual case assistance, resources, and numerous training programs attended by more than a thousand defenders and defense team staff from around the state. In the coming weeks, the Unit will be presenting a three-part series on DNA and a three-part series on digital evidence. The Unit has been able to identify many needs of the public defense community, helping to direct our CLE curriculum to support attorneys in adequately and competently handling their cases. Our small staff cannot support the continued demand so we need to increase our capacity.

Based on the Unit's current work and the requests we receive from defenders around the state, we propose eleven new positions.

- 5 Attorneys (2 with expertise in medical evidence, including DNA and toxicology; 2 with expertise in digital evidence; 1 with expertise in mental health and mitigation)
- Discovery Technician
- Discovery Paralegal
- Investigator
- Mental Health & Substance Use Disorder Specialist
- Trainings & Meetings Coordinator
- Administrative Assistant

Contact NYSDA's Executive Director Susan C. Bryant: sbryant@nysda.org or 518-465-3524 x26.

NEW YORK STATE DEFENDERS ASSOCIATION
Expanded Statewide Defender Discovery and Forensic Support Unit

	Estimated Cost
Personnel	
5 Discovery & Forensic Support Unit Staff Attorneys (2 attorneys focused on DNA, toxicology, and other medical evidence attorneys; 2 attorneys focused on digital evidence; 1 attorney focused on mental health conditions and mitigation)	600,000
Discovery Technician	85,000
Investigator	85,000
Mental Health & Substance Use Disorder Specialist	85,000
Discovery Paralegal	70,000
Trainings & Meetings Coordinator	60,000
Administrative Assistant	60,000
Administrative Support (including personnel support)	75,000
Subtotal	\$ 1,120,000
Fringe Benefits	\$ 442,400
Non-Personal Expenses	
Electronic Discovery & Forensic Tools	40,000
Expert Witness Database	10,000
Training Programs for public defense attorneys, investigators, discovery specialists, paralegals	35,000
Training Videos and Resources Database	30,000
Conferences & professional development	35,000
Office space	25,000
Equipment & Supplies	35,000
Travel	20,000
Subtotal	\$ 230,000
Total	\$ 1,792,400



NYSDA's Veterans Defense Program \$950,000 2024/2025 SFY Budget Request

The New York State Defenders Association's Veterans Defense Program (VDP) promotes trauma-informed effective representation of veterans and service members involved in the State's criminal and family court systems by providing mitigation, training, and other legal assistance to public defenders as well as peer-to-peer mentoring to veterans and service members. The VDP was launched in 2014 in response to a crisis situation where veterans with service-related mental health illnesses, such as Post-Traumatic Stress Disorder, were lost in the criminal justice system. Over the last seven years, the VDP has helped many justice-involved veterans to be diverted into treatment and probation, saving the State up to \$126 million in avoided incarceration costs while sparing veterans from incarceration and connecting them to treatment, leading to family restoration and meaningful re-integration into their communities.

The VDP began with a Director (based in Western New York), a Deputy Director (based in Albany), and a Program Coordinator. In 2016, recognizing the need for peer-to-peer support to veterans, the VDP added a part-time Veteran Case Manager. In 2018, with the support of the Senate Veterans, Homeland Security & Military Affairs Committee, the VDP was able to open an office on Long Island that is staffed with a VDP Attorney and a Veteran Case Manager. It has made a tremendous difference having VDP staff located in the area where veterans and their attorneys need direct legal and resource support. In the areas where the VDP staff are located, they have established professional connections with local public defense providers, offering them training and in-person office visits, and have also networked with the VA medical centers and Veterans Service Officers ensuring that veterans who need help in the area are getting referred to the VDP for assistance.

Veterans in the Central and Northern parts of New York also require the VDP services. Although there are substantial veteran populations in these locations (including the cities of Syracuse, Binghamton, Elmira, Utica, and throughout Jefferson, Madison, Oswego, St. Lawrence, and Saratoga counties), the VDP has historically received substantially fewer requests for assistance from those areas. This means that veterans who are appearing in criminal and family courts in this region are not getting the high-quality support that the VDP provides to veterans and their attorneys elsewhere. An additional \$230,000 will allow us to devote a VDP attorney and provide case manager services specifically to this area of the state.

Support the \$950,000 Necessary to Provide Crucial Veterans Defense Program Services:

- Mitigation and Substantial Legal Assistance in Justice-involved Veteran Cases
- Peer-to-Peer Mentoring to Veterans
- Case Consultations and Expert Referrals to Veterans and Their Families
- Expert Training to Public Defenders Representing Veterans

NYSDA's Veterans Defense Program	
VDP 2023/2024 SFY appropriation restoration	\$720,000
VDP Central and Northern NY expansion (4th, 5th & 6th JDs)	\$230,000
Total	\$950,000

Contact NYSDA's Executive Director Susan C. Bryant: sbryant@nysda.org or 518-465-3524 x26.



**NYSDA's Veterans Defense Program
Central and Northern New York (4th, 5th & 6th Judicial Districts) Expansion
2024/2025 SFY Budget Request
\$230,000**

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There are substantial veteran populations in the Central and Northern parts of New York (including the cities of Syracuse, Binghamton, Elmira, Utica, and throughout Jefferson, Madison, Oswego, St. Lawrence, and Saratoga counties). However, the VDP has historically received substantially fewer requests for assistance from those areas. This means that veterans who are appearing in criminal and family courts in this region are not getting the high-quality support that the VDP provides to veterans and their attorneys elsewhere.¹

¹ For example, between January 1, 2019 and June of 2023, the VDP had 16 cases from Onondaga County, which has a veteran population of 24,013, and 5 cases from Oswego County, which has a veteran population of 8,542. In the same period, the VDP has had 62 cases from Ontario County, which has a veteran population of 6,209, and 43 cases from Albany County, which has a veteran population of 13,846.

In mid-2023, seeing the disparity in requests for assistance, the VDP hired a fourth attorney to examine the needs of veterans and defenders in Central and Northern New York. This attorney has substantial criminal and family defense experience, has worked with veteran clients, and lives in this area. She has started to make the necessary connections with defense attorneys and veterans service providers. **In order to ensure that we can retain this experienced attorney to serve veterans in Central and Northern New York, the VDP needs an additional appropriation of \$230,000.**

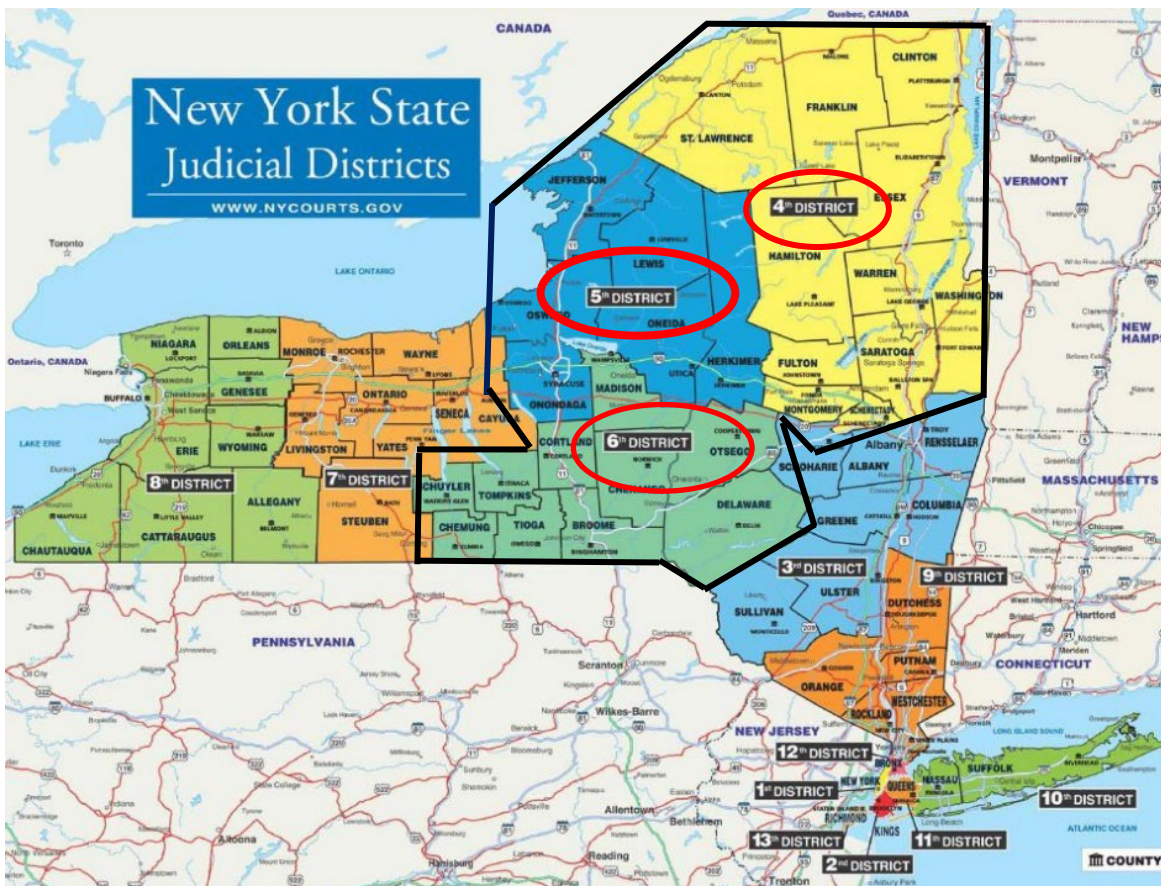
The Veterans Defense Program Provides Crucial Services to Veterans and Their Attorneys:

- Mitigation and Substantial Legal Assistance in Justice-involved Veteran Cases
- Peer-to-Peer Mentoring to Veterans
- Case Consultations and Expert Referrals to Veterans and Their Families
- Expert Training to Public Defenders Representing Veterans

The VDP requests \$230,000 in the 2024-2025 SFY Budget to provide focused services to veterans and their attorneys in the 4th, 5th & 6th Judicial Districts.

Contact: Susan C. Bryant, Executive Director, sbryant@nysda.org or Gary Horton, VDP Director, ghorton@nysda.org

Central and Northern New York (4th, 5th & 6th Judicial Districts)



**NEW YORK STATE DEFENDERS ASSOCIATION VETERANS DEFENSE PROGRAM
2024/2025 SFY Budget Request**

	Western NY, Capital District, Hudson Valley, New York City, Long Island	4th, 5th, and 6th Judicial Districts	Total
Personnel			
VDP Director	\$115,000		\$115,000
VDP Deputy Director	\$105,000		\$105,000
2 VDP Staff Attorneys	\$90,000	\$100,000	\$190,000
VDP Program Coordinator	\$40,000	\$20,000	\$60,000
VDP Case Manager Supervisor	\$50,000	\$10,000	\$60,000
1 VDP Case Manager (part-time)	\$26,000		\$26,000
Administration/Management (Executive Director, IT Director, Business Manager)	\$25,000	\$10,000	\$35,000
Subtotal	\$451,000	\$140,000	\$591,000
Fringe Benefits			
	\$189,420	\$58,800	\$248,220
Other than Personnel Expenses			
Statewide and regional training & meetings	\$12,000	\$10,000	\$22,000
Occupancy (Batavia & Long Island offices)	\$30,000		\$30,000
Travel & related expenses	\$12,000	\$10,000	\$22,000
Office supplies, furniture & technology	\$18,000	\$6,000	\$24,000
Other expenses	\$7,500	\$2,500	\$10,000
Subtotal	\$79,500	\$28,500	\$108,000
Total	\$719,920	\$227,300	\$947,220

