

**JOINT LEGISLATIVE PUBLIC HEARINGS
ON THE 2023-2024 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**

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**February 7, 2023
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 State Fiscal Year 2023-2024 as it relates to matters affecting public defense, community safety, and justice.

Next month we will observe the 60th Anniversary of the United States Supreme Court right-to-counsel decision in *Gideon v Wainwright*. It comes at a time of turmoil and hope regarding the presence—or absence—of justice in our criminal and family legal systems. In news cycles we see ever-growing evidence that racism continues to infect our institutions and we hear hyperbolic assertions that reforms intended to curb inequities and injustice are *the* cause of an (exaggerated) increase in crime. The state budget you are now considering provides an opportunity to ensure both justice *and* public safety; these are not competing principles but rather intertwined aspects of one fundamental government function. We ask you to focus on the fiscal aspects of the budget that invest in our communities and support the public defense system, which help make New York State a safer place.

This testimony addresses NYSDA's own funding; other funding for public defense services; and legislation relating to the criminal and family legal systems and the people and communities those systems affect.

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

Many of you are already familiar with our Public Defense Backup Center. Information about what we do is included in the attached NYSDA Budget Request that sets out last year's work. Some of that work was made possible by the first increase in NYSDA's budget since 2012—thank you!

Note particularly that we were able to provide expanded support to public defenders dealing with issues under the discovery reform law and with cases involving forensic evidence; we also laid the groundwork to provide even greater future support in these areas. During a difficult job market, we were able to add some staff and, despite inflation, continue the work that we have done under state contracts since 1981. With a still-small [staff](#), we serve approximately 6,000 attorneys in more than 130 county-based programs whose needs are immense and varied.

Despite the achievements last year's budget made possible, the current proposed Executive Budget includes only the same amount for the Backup Center that the Executive has included since 2017: \$1,030,000. We ask the Legislature to restore us to last year's full amount of \$3,130,000 and include an additional \$450,000 for expanded Discovery Support and Recruitment/Retention Support. As detailed below, both support functions are particularly important as a matter of fairness.

Public Defense Backup Center	
Executive Budget Proposed Appropriation 2023/2024 SFY	\$1,030,000
Amount Needed to Restore the Backup Center's Funding to 2022/2023 SFY Level	\$2,100,000
Expanded Discovery Support & Recruitment/Retention Support *new project*	\$450,000
Total	\$3,580,000

Discovery reform is working, but defense resources are required, both for NYSDA and public defense providers. The 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 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 \$40 million specifically for discovery expenses.² Yet public defense providers are expected to meet increased discovery costs from within general budget allocations. This must be addressed in the budget to balance the scales of justice to make our criminal legal system more equitable. Our recommendations regarding discovery funding for public defense providers appear below.

The *Gideon* decision 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. That is why NYSDA provides discovery assistance 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 96 offices in 53 counties³ 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. Our Direct Defender Services include consultation and research for institutional public defenders and assigned counsel struggling to provide quality representation in the face of stagnant rates. NYSDA has always assisted with discovery issues and with our new staff we have increased our capacity to provide such

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 also provided \$40 million to prosecutors and law enforcement for discovery implementation.

³ Map of PDCMS Installations as of February 2023.

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 Continuing Legal Education (CLE) training we offered last year included sessions such as the “2022 Discovery Reform Legislative Update and Certificate of Compliance Refresher” and “Reviewing Digital Discovery in Criminal Cases.” Our reach is far and wide⁴; several hundred attorneys attended our discovery training programs where they learned the technical aspects of the law and how to incorporate the reforms into their practice.

We ask for a very modest amount of additional funds for discovery support to alleviate in part the disparity in state resources provided for prosecution and defense.⁵ While NYSDA has provided discovery assistance for a large population of attorneys, there is more work to be done.

Funding is also requested for enhancing defender staff recruitment and retention statewide. Public defense has been particularly hard hit by the crisis in recruitment, hiring, and retention of staff resulting from the COVID-19 pandemic. Even before that, rural areas were experiencing a shortage of lawyers, including in public defense, and NYSDA has collaborated with Chief Defenders and others to attract law students and attorneys to do this work. With the crisis now full blown, NYSDA seeks funding to begin a coordinated, structural effort to recruit, hire, train, and develop a current and future generation of public defenders. If we don’t encourage, develop, and *support* future public defenders, New York will undoubtedly be unable to meet and fulfill the constitutional guarantee laid out in *Gideon*. You have the power to address this crisis by funding our initiative.

The requested increase over last year’s budget for these emerging and continuing needs is in addition to our request for restoration of last year’s budget to support the full range of NYSDA services.

NYSDA helps defenders meet the needs of a variety of clients. While all clients of public defense lawyers have in common the lack of financial means to retain counsel, each has their own unique characteristics and backgrounds that may affect their cases and what is required to provide them with quality representation. NYSDA provides training and assistance regarding a variety of special circumstances.

For example, defenders with clients in the criminal legal system who are survivors of domestic violence need to know about the Domestic Violence Survivors Justice Act

⁴ In 2022, we trained more than 4,500 attorneys and defense team members on criminal and family law topics.

⁵ We are seeking \$125,000 for increased discovery support. While the Governor’s proposed budget includes \$40 million to assist prosecutors with discovery and an additional \$47 million for prosecution support, the Governor proposes to cut NYSDA’s Backup Center funding, including our statewide Discovery and Forensic Support Unit. Prosecutors will be creating specialized units to prosecute drug crimes and overdose deaths, there’s no funding for similar defense projects. This will add to the existing imbalance between prosecution and defense, leaving those accused of crimes without the representation they are entitled to under the federal and state constitutions and statutes.

(DVSJA) that may benefit those clients. We have continued our [DVSJA Attorney Support Project](#), in collaboration with the DVSJA Statewide Task Force and the Brooklyn Law School's Survivors Justice Project. Cases that fall under the DVSJA exemplify how concerns about public safety and about justice for victims cannot be treated as polar opposites but rather as two facets of a complicated whole.

Clients who are citizens of countries other than the United States may face serious consequences from involvement in the criminal and family legal systems. 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).

Veterans Defense Program funding must be restored. Lawyers representing military service members and veterans also need specific information and skills. NYSDA's [Veterans Defense Program](#) (VDP) provides training, support, legal assistance, and peer-to-peer mentoring to promote trauma-informed effective representation to such clients in the criminal and family legal systems. Separate written testimony in support of the VDP budget request will be submitted to the Human Services joint committee. We greatly appreciate the Legislature's past support for the VDP and ask that it continue. The demand for the VDP's services continues to grow, but the resources we receive to meet that demand have not. The dedicated and experienced VDP staff, many of whom are veterans, do not turn away requests for assistance, but flat funding puts a strain on them. As the Executive failed to include the VDP in the proposed budget, we are asking the Legislature to provide \$1,000,000 as noted in the attached NYSDA Budget Request and chart below.

Veterans Defense Program	
Amount Needed to Restore the VDP Funding to the 2022/2023 Level (Statewide services, provided through offices in Batavia, Albany, and Long Island) [2022/2023 appropriation: \$250,000 + \$250,000 + \$220,000 LI office]	\$720,000
Amount Requested to Expand the VDP Services to Meet Increased Demand	\$280,000
Subtotal	\$1,000,000

NYSDA confronts racism. The documented systemic racism in both the criminal and family legal systems directly harms clients of color and leads to a corrosion of justice that ultimately damages the system itself and all who are involved. As this testimony was being written, people in New York State rallied along with others across the country protesting the death of Tyre Nichols at the hands of police in Memphis, TN, the latest of too many killings. Two months before that, a previously unreleased 2020 draft of a National Innovation Service (NIS) report, revealed by the *New York Times'* online *New York Today Newsletter*, stated as its lead finding that New York City's Administration for

Children’s Services (ACS) “disrupts the safety of Black and Brown families.”⁶ NYSDA is [committed](#) to exposing and ending racism and to helping public defense lawyers confront it. One forum for doing that is our annual Basic Trial Skills Program (BTSP), which was twice endorsed by the New York State Judicial Commission on Minorities, now the Franklin H. Williams Judicial Commission. BTSP returned in 2022 after a COVID-19 hiatus.

Public defense includes family defense; NYSDA helps lawyers who represent parents. While the *Gideon* decision in 1963 did not address the right to counsel in family matters, the Court of Appeals in 1972 recognized the right to counsel for parents threatened with “loss of a child’s society” through legal action. *In re Ella B.*, 30 NY2d 352. NYSDA offers its panoply of services to family defenders. For example, [Family Defense Resources](#) are available on our website, and family defenders can reach out to NYSDA’s Family Court Staff Attorney for assistance. Many family defense CLE programs were held last year, and plans are underway to expand the CLE offerings at this year’s Annual Conference to include a full range of family defense sessions. The funding sought for the Backup Center will enable all these family defense services to continue.

More information on NYSDA’s work can be seen in its [Annual Report](#). Pages one through thirteen of NYSDA’s 2022 Annual Report to the Membership cover NYSDA’s work in more detail. The report reflects completed efforts, celebrates successes and progress in the improvement of public defense services, and notes future challenges.

Assigned counsel compensation must be rectified. Under *Gideon*, *Ella B.*, and the body of law and standards developed in their wake, the State has a duty to provide public defense clients with quality, conflict-free representation. The stagnation of the statutorily-set compensation rates for attorneys assigned to public defense cases obstructs that duty and has created a systemic crisis. The ability of family and criminal legal systems to function, much less do justice, has been impaired by the exodus of lawyers from assigned counsel panels and the inability of lawyers who remain to do the necessary work in a reasonable amount of time due to heavy caseloads and insufficient resources.

The Executive’s recognition in the proposed budget of the need for change is welcome, but the change that is offered will not provide a lasting statewide improvement in public defense services and is therefore unacceptable.

The proposal exchanges one type of rate differentiation for another. Misdemeanors would, properly, no longer be treated as less important than other cases. But the unified statewide rate would be replaced by geographical divisions that will invite lawyers to stay off panels in the lower-rate counties while encouraging unending legislative efforts by higher-rate counties to be switched, at least as long as the failure to provide state funding, discussed below, persists. Per-case caps are raised (also with geographical

⁶ “[New York City Administration for Children’s Services Racial Equity Participatory Action Research & Systemic Audit: Findings and Opportunities](#).”

divisions) rather than eliminated. Such caps defy the reality that issues and/or factual situations that are not extraordinary but require more than an “average” amount of time may arise in any type of case, anywhere.

The proposal does not include any mechanism for changing the compensation rates based on costs of practice, inflation, or other factors that change the value of the set compensation. Like any postponement of infrastructure maintenance to ostensibly save money, this will ultimately cost us all dearly.

Finally, on the issue of cost, the Executive’s proposal appears to put the full fiscal weight of the much-needed rate increase on localities. We have been here before. The obligation to ensure public defense representation falls on the State. *Gideon* and *Ella B.* established counsel rights for every person facing deprivation of their liberty interests in state courts. **“Justice for all” cannot mean “as much justice as the county you happen to be in can—or will—provide.”**

NYSDA urges the Legislature to increase statutory assigned counsel fees to match those paid in federal court; eliminate the per-case limit; establish a cost of living or similar measure for keeping rates equivalent to those established; and ensure that the costs of these measures are the State’s responsibility.

Data doesn’t support claims that further changes to the bail law are needed.

NYSDA testified at the Joint Hearing on Criminal Justice Data on January 30, 2023, and our written testimony can be viewed [here](#). We reiterate what we said last week: we must not go backwards with bail reform implementation or make any further changes.⁷ The data simply does not support additional rollbacks, including those set out by the Governor in the proposed budget.

That proposal would allow judges to choose between four options—remand, bail, release under non-monetary conditions, or release on recognizance—without requiring judges to consider the individual’s likelihood of returning to court. For decades, New York has correctly used the return to court standard to guide bail determinations. The Governor’s proposed language would not only gut the recent bail reforms but move the law further back. Giving judges complete discretion, without any standard, will result in the pre-trial incarceration of more people who are presumed innocent than we saw under the old bail law.

NYSDA supports other funding for public defense. State funding for public defense as aid to localities is scattered across several programs. Each of those named below are important to maintaining public defense services across the state.

⁷ When we talk about bail, we need to be accurate about what the law provides and how it can be applied. Sadly, some continue to misrepresent the scope of the law. For example, during his testimony at last week’s joint Legislative hearing on criminal justice data, the president of the District Attorneys Association of the State of New York, Anthony Jordan, made incorrect and misleading assertions and offered examples and hypotheticals that are contradicted by the current bail law.

The State must fund the Indigent Parolee Representation Program. Created in 1978, the Indigent Parolee Representation Program (IPP) reimburses localities—especially those where prisons are located—for expenses incurred in providing counsel in parole-related proceedings. This program is a recognition that statewide parole policies have local impact. Although both the Executive and the Legislature have recognized the myriad of problems with our current parole system, as when enacting the Less is More Act, and efforts to address those issues continue through pending bills, the proposed Executive Budget does not include any funding for IPP once again.

In the late 1980s, funding for the program was around \$1.6 million. However, funding was cut in the 1990s and has been stagnant for 10 years. 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 (on average 30%) of their costs. However, the limited appropriation excludes New York City parole representation providers and others. And it is nowhere near enough to support the state parole representation work being done by defenders around the state.

At this minimum funding level, most counties that submit vouchers for reimbursement of parole representation receive approximately 30 cents on the dollar. Because of the low reimbursement rate, some counties eligible for IPP funding have opted not to seek reimbursement.

Under Less is More, individuals accused of violating their parole release now have greater due process protections, including the right to counsel at preliminary violation hearings and recognizance hearings. But we cannot expect the underfunded parole representation structure to secure those rights. 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.

NYSDA supports the Office of Indigent Legal Services Aid to Localities request, with a cost-of-living adjustment. 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, we know that public defense providers cannot maintain achieved improvements in the quality of representation, much less make further needed ones, if the funding in the sixth year of implementation, as well as for the *Hurrell-Harring* settlement counties and regular grant distributions, remains flat. Public defense offices face a dilemma, either cut staff to provide cost-of-living adjustments to those who remain or keep salaries and benefits flat and risk losing staff anyway. As noted above, public defense offices are facing shortages of quality applicants for attorney positions. Flat funding will exacerbate this recruitment and

retention crisis. A small cost-of-living adjustment of 3% will help reach the goals set out in the settlement and statewide expansion.

Parental representation must be funded at \$28 million. NYSDA urges the Legislature to add \$23.5 million in additional funding for parental representation. The proposed Executive Budget does continue the \$4.5 million for this that was in last year's budget. But the amount is nowhere near what is needed for this equally important part of public defense representation. ILS has received grant requests from more counties than it can provide even small grants to, and New York City has not been eligible for any of this funding.

The State needs to treat this need seriously. Families, particularly Black, brown, indigenous, and immigrant families and those in poverty, are being unnecessarily separated because parents don't receive timely representation. In New York, Black children make up 40% of the children in the foster system yet make up 15% of all children in the state, whereas white children make up 25% of the children in the foster system and 48% of all children across the state. Ensuring more equitable access to representation to those parents who face the loss of their children is one way to reduce the likelihood of family separation, reduce the number of children of color in the state's foster system, and protect 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 provide the full amount requested by ILS.

Aid to Defense should be increased to match Aid to Prosecution. Another 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. This year, the Legislature can stop this ongoing imbalance by adding \$4,891,000 to ATD to equal the ATP funding.

Public defense providers need funding for discovery. As noted above, in the 2022/2023 SFY budget, the prosecution received \$40 million in funding to help them meet the growing technology and staffing required to comply with the landmark discovery law. This year, the Governor is proposing another \$40 million in discovery funds for the prosecution, as well as another \$47 million for prosecution services. The Governor recognizes that State funding for prosecutors is needed to successfully implement the discovery law and address recent recruitment and retention challenges faced by prosecutors.

In contrast to the \$127 million for prosecution services last year and this year, there has been no funding for defense providers to meet the 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. This includes 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. And to the extent that the responsibilities of discovery contribute to lawyer attrition, defense providers around the state face similar challenges. The State must provide equivalent funding to the defense to overcome the barriers to hiring and retaining well-qualified staff. In addition to NYSDA's very modest request for funding to increase its assistance to defenders on discovery and staffing issues, funds need to be available to providers across the state.

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 2023/2024 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

2023-2024 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 the state's criminal and family courts.

Public Defense Backup Center

We provide comprehensive legal support to all public defense lawyers across the state who represent low-income people in the state'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:** In 2022, we provided valuable training to more than 4,500 attorneys and other defense team members. We offered more than 30 training programs on criminal and family defense topics, including our week-long Basic Trial Skills Program (46 new attorneys).
- **Legal Assistance & Support:** In 2022, our legal staff provided case consultation, legal research, and legal assistance to over 700 public defense attorneys and others.
- **Publications & Website:** In 2022, we published 20 issues of our e-newsletter, provided new and updated resource guides, and frequently updated the resources and links on our website.
- **Public Defense Case Management System (PDCMS):** Presently used by 95 programs in 52 counties, PDCMS gives defense offices the ability to efficiently manage cases and report required data to the State. In 2022, several programs moved to the cloud-based version of PDCMS, and more will be transitioning during 2023. We are also improving functionality to 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 are suffering from the invisible wounds of war and 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 approximately \$93 million over 5 years.

Public Defense Backup Center	
Public Defense Backup Center 2022-2023 SFY appropriation restoration	\$3,130,000
Expanded Discovery Support & Recruitment/Retention Support	\$450,000
Subtotal	\$3,580,000
Veterans Defense Program	
VDP State Program 2022-2023 SFY appropriation restoration	\$720,000
Amount Requested to Expand the VDP Services to Meet Increased Demand	\$280,000
Subtotal	\$1,000,000
New York State Defenders Association Total 2023-2024 SFY Appropriation	\$4,580,000

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



New York State Defenders Association **Continue to Support the Public Defense Backup Center's New** **Statewide Defender Discovery and Support Unit &** **Enhance Defender Recruitment/Retention Support**

Request Additional \$450,000 in the 2023-2024 SFY Budget

Advance Equitable Justice • Improve Quality Representation
Implement Discovery Reform

Discovery Reform has Positively Changed the Landscape of Criminal Cases in NY

While discovery reform has created a positive shift in how cases are handled in New York, it has come with great challenges. Many defenders do not have the capacity to process, store, review, and evaluate digital and electronic discovery. Many public defense offices and assigned counsel attorneys do not have any in-house expertise or specialists to support this scientific paradigm shift and influx of discovery.

In 2022, with state funding, NYSDA launched its statewide Defender Discovery & Forensic Support Unit to assist with major improvements in the quality of public defense representation. We have hired new staff with expertise in areas of discovery and forensic evidence, and we have been gathering information on the training and resources that defenders need most. At a recent training on digital discovery and evidence, attendees identified numerous areas for additional support, which will be part of the Unit's work in 2023. With continued funding, we will be able to provide necessary and centralized technical and legal support to public defense attorneys throughout the state.

Hiring, Retention, Professional Development, and Engagement of Public Defenders

As we survey the landscape of public defense in New York, we have identified a crisis in recruitment, hiring, and retention within the public defense community. While many professions have been struggling with these issues since the pandemic began, public defense has been particularly hard hit by these challenges. To meet caseload standards and quality improvement required under the statewide expansion of the *Hurrell-Harring* settlement, defender offices are expected to hire hundreds of new attorneys. Yet, according to an [October 2022 report](#) by the NYS Office of Indigent Legal Services, more than one-third of defender offices reported fewer full-time attorney staff in 2021 than 2020. This has prevented counties from complying with defense reforms and putting quality representation at risk. NYCLU has recently sued New York State for failing to meet its public defense obligations under the historic settlement reached in the *Hurrell-Harring v New York* lawsuit. This matter is currently pending.

New York's public defense community needs a coordinated, structural effort to recruit, hire, train, and develop our current and future generation of public defenders. As a statewide public defense organization, NYSDA is uniquely situated to do this work. NYSDA already maintains a public defense job opportunities webpage where offices can post openings. With increased funding, we will have two dedicated staff who can assess the specific challenges that offices face with recruitment and retention. NYSDA can coordinate with law schools around New York and beyond to expand on recruiting efforts. NYSDA could launch a statewide defender job application, strengthen its efforts to increase diversity among public defenders, and offer training to support successful retention, such as building networks of new defenders and future defender leaders and providing training and

resources to improve attorney wellbeing. All of these services will complement the support and training we already provide in the Public Defense Backup Center.

Continue to Expand NYSDA's Statewide Defender Discovery & Forensic Support Unit

In 2022, NYSDA increased its staffing to support the discovery and forensic support needs of public defenders around the state. We plan to continue those efforts with restoration of our 2022-2023 funding and a small amount of additional funding to meet needs we have identified this year. We seek to add an additional Discovery Technician to assist our Staff Attorney – Discovery & Digital Evidence Specialist with training, building a resource library and best practices materials, and assisting attorneys with digital evidence challenges.

District Attorneys, the District Attorneys' Association of the State of New York (DAASNY), and the New York State Prosecutors Training Institute (NYPTI) are facing similar challenges with far greater budgets; there must be equitable access to justice and increased funding for defenders. The *New York Law Journal* [reported](#) that DAASNY is requesting additional funding to support discovery implementation efforts. Law enforcement agencies, district attorneys, and forensic labs have received funding for increased staffing, training, and technology. The State has already provided approximately \$40 million per year to meet those needs, as well as additional funding to NYPTI for its case management system and Digital Evidence Management System.

Likewise, NYSDA needs additional funding to provide the support for defenders to accomplish the intended purpose for discovery reform under CPL article 245. Our modest increase of \$450,000 for both discovery support and public defense recruitment and retention efforts will help defenders throughout the state and continue our vital work to address the ongoing, serious need to improve the quality of representation in New York State.

NEW YORK STATE DEFENDERS ASSOCIATION
2023-2024 SFY Expanded Discovery Support and Recruitment & Retention Support

	Estimated Cost
Personnel	
Discovery Technician	80,000
Director of Defender Recruitment & Development	115,000
Recruitment & Development Specialist	70,000
Subtotal	\$ 265,000
Fringe Benefits	\$ 104,700
Non-Personal Expenses	
Electronic Discovery & Forensic Tools	25,000
Training Programs for public defense attorneys, investigators, discovery specialists, paralegals	15,000
Conferences & Meetings	10,000
Public Defense Web Career Center	15,000
Equipment & Supplies	10,000
Travel	5,000
Subtotal	\$ 80,000
Total	\$ 449,700

PDCMS Installs February 2023

