

JOINT LEGISLATIVE PUBLIC HEARINGS
ON THE 2023/2024 EXECUTIVE BUDGET PROPOSAL

Written Testimony to

The New York State Senate Finance Committee
and
The New York State Assembly Ways and Means Committee on
the Human Services Budget

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Thank you for the opportunity to submit testimony on the Human Services section of the State Budget Fiscal Year 2023/2024 as it relates to veterans' programs. I am Gary Horton, Director of the Veterans Defense Program (VDP), a statewide program of the New York State Defenders Association (NYSDA). The VDP provides assistance and expertise to attorneys and their veteran clients who are suffering with the mental health and physical impacts of military service and combat and are involved in the criminal and family court systems.

I want to thank the Senate and Assembly for sponsoring the SFY 2022/2023 Legislative add to the budget of \$500,000 for the statewide VDP (with a match of \$250,000 from the Assembly and \$250,000 from the Senate), and the Senate's sponsorship of \$220,000 for the VDP's Long Island office. The \$720,000 we received was instrumental to our ability to provide services to veterans. The Executive failed to include the VDP in the SFY 2023/2024 proposed budget. This year we are asking the Legislature to provide \$1,000,000 for the VDP, so that we can continue to provide crucial legal support to public defense attorneys representing veterans and peer-to-peer mentoring services to those veterans. A \$720,000 appropriation would restore the VDP funding to the 2022/2023 level (Statewide services, provided through offices in Batavia, Albany, and Long Island). The request also includes an additional \$280,000 to expand VDP services and meet increased demand. NYSDA also presented this funding request in its budget testimony at the Public Protection hearing on February 7, 2023.

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 divert into treatment and probation, avoiding hundreds of years of incarceration, saving the State approximately \$112 million over 6 years. **The Senate and Assembly should be proud of their role in fostering this innovative, effective program.**

The Veteran Experience and Justice System Involvement

Veterans returning home face difficulty readjusting to civilian life when suffering from a frontline military-related injuries and mental health conditions and, all too often, they do not receive timely treatment for such conditions. After making tremendous sacrifices, many suffer from post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), major depression, and substance use disorder that negatively affect their cognitive abilities, judgment, and behavior – potentially drawing them into the criminal justice system and possibly leading to incarceration. Veterans often come into contact with the justice system because they struggle to integrate back into society. They face difficulty securing employment and stable housing, lack access to social services, and may not have critical supportive family connections and social networks. Their unique challenges are often overlooked or ignored, and some veterans end up with criminal charges. These charges can cause further consequences, such as a loss of work and housing, estrangement from family, and, unfortunately, some veterans will die of suicide.

Veterans charged with a crime end up lost in a criminal justice system that does not address their core problems nor treat their underlying condition(s). “Left untreated, the emotional wounds of war can have a dramatic and destructive impact on veterans,” said Melissa Fitzgerald, Director of Advancing Justice for the national organization, Justice For Vets. “If we don’t intervene at the critical point of arrest, we risk losing veterans to the system forever. We can hold accountable veterans who commit crimes while connecting them to the benefits and treatments they have earned. Men and women who, instead of languishing behind bars, are going back to school, working, raising children, and living as civic assets. Veterans have fought for our freedom—shouldn’t we fight for theirs?”

The VDP Helps Veterans and the Attorneys Who Represent Them

Most attorneys and judges are not veterans and are unlikely to understand the veteran experience. Defense attorneys are rarely trained or prepared to adequately represent veterans who suffer from the invisible wounds of war, or to translate the combat experience of their clients in a way that contextualizes their resulting criminal

behavior. Judges and prosecutors usually do not receive training that is specific to veterans. Defense attorneys need to be zealous advocates for therapeutic justice on behalf of their veteran clients. They need to be trained to develop strategies for dealing with their clients around the issues of trauma with a higher degree of sensitivity. They need to understand that they are functioning as therapeutic agents in their interactions with their clients. To accomplish this, understaffed and overburdened public defenders need the support services of a resource such as the VDP.

The VDP, the first program of its kind in the nation, works to ensure that each veteran in all 62 New York counties has an effective advocate. The VDP is staffed with attorneys and support personnel with deep experience and commitment to working for veterans. More than fifty percent of the employees of the VDP are veterans, including our Deputy Director, a U.S. Army Lieutenant Colonel who retired from the Judge Advocate General's Corps (JAG). Our case managers, who are veterans, provide peer-to-peer mentoring and assistance to veterans and their families. The VDP's goal is to ensure that each veteran's story is properly presented to a judge and prosecutor and that these veterans get the treatment they need and deserve. In many of the cases where the VDP attorneys provided substantial legal assistance, veteran clients received treatment and probation and avoided incarceration.

In addition to the direct work the VDP does for individual veteran clients, the VDP also trains defense attorneys in the best practices of representing veterans, including Military Culture and Cultural Competence, the effects of PTSD, TBI, and Military Sexual Trauma (MST), and Trauma-Informed Representation. The VDP presented CLE webinars and in-person training on various topics concerning veteran representation in the justice system. In 2022, we trained 540 defense attorneys around the state, a 25% increase over 2021. We have also started to train defense attorneys on how to effectively use the 2021 legislation that the Senate and Assembly passed to allow for inter-county transfers of cases so that veterans throughout New York have access to Veterans Treatment Courts and their benefits.

The VDP has helped justice-involved wounded warriors suffering from mental health conditions obtain treatment and receive just, trauma-informed dispositions in the court system. Over the past six years, the VDP helped justice-involved veterans be diverted into treatment and probation, with a cost saving to the State of up to \$112 million. The cost saving is calculated by taking the maximum number of incarceration years for the original charge and subtracting the number of years imposed at sentencing. The estimated cost of incarcerating a person for a year is \$60,000.

VDP Services and the Pandemic

Participants in the Veterans Treatment Courts (VTCs) were particularly hard hit by the pandemic. VTCs are most successful when they have strong peer-to-peer support provided by veteran mentors. When virtual VTC appearances did take place, such appearances were unable to replicate the human connections and support that exist between all those who are usually present during those proceedings. During the pandemic, the length of time participants spent in VTCs has doubled, at least.

As in-person appearances resumed across the state, VTCs have struggled with reduced mentor corps, and less frequent scheduled appearances for participants. Our case managers have needed to spend more time mentoring veterans who had an understandably difficult time coping with the delays. With cases being open much longer than usual and the regular influx of new cases never diminishing, the caseloads of our attorneys increased.

Despite these significant additional stresses and unprecedented conditions, the VDP staff knew that we needed to continue to function at full capacity to address the critical needs of veterans in the justice system. Since March of 2020, the VDP maintained all staff at their regular hours through a combination of remote work and reduced office presence. We are also proud to say that regardless of the increased workload, the VDP did not reject any requests for service and assistance.

Funding for the VDP Must be Restored and Increased

The VDP's budget request is modest, particularly in light of the impact we have on veteran representation, reduced incarceration, and increased access to the treatment and services that veterans deserve. We ask the Legislature to fund the VDP at \$1,000,000. This represents a restoration of the \$720,000 the VDP received last year and an additional \$280,000 to ensure that the VDP staff are able to meet increasing demand.

Our budget request is supported by over 70 veteran and mental health organizations, including the American Legion, AMVETS, Disabled American Veterans, Marine Corps League, Military Order of the Purple Heart, New York State Council of Veterans Organizations, United War Veterans Council, National Alliance for Mental Illness-NYS, Veterans of Foreign Wars, and county public defense programs, such as Brooklyn Defender Services, Legal Aid Society of Suffolk County, Ontario County Public Defender's Office, and the Legal Aid Bureau of Buffalo.

The VDP Strongly Supports Funding for Other Veteran Programs

The VDP has excellent working relationships with a large number of veteran agencies and groups across the state, including the VA Health Administration, Veteran Justice Outreach offices, county Veterans Service Officers, longstanding not-for-profit organizations such as the Rochester Veterans Outreach Center and the Buffalo Veterans One Stop Center of Western New York, and the New York State Council of Veterans' Organizations. We strongly endorse the Council's budget priorities, which include full funding for the Joseph P. Dwyer Veterans Peer to Peer Program and continued funding for County Level Veterans Service Officers (VSO). Greater funding for VSOs would allow them to expand their training and reach, which in turn can bring added federal dollars into New York as VSOs assist veterans with discharge upgrades and benefit applications.

State Funding for the VDP Helps Guarantee Justice for Veterans

The VDP is committed to giving veterans access to the best possible legal representation. Veterans with battle-borne illnesses need treatment and an alternative resolution process in the criminal justice system. We need your help to continue this work.

This year, we request restoration of the \$720,000 for the VDP and an additional \$280,000 to expand the VDP services and meet increased demand.

Thank you for the opportunity to submit this written testimony.

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