

# New York State Defenders Association



## How to Get Funding for Experts, Investigators & Auxiliary Services

This is a brief overview of the process attorneys should follow when requesting funding for assistance with their cases. For help with any of these steps, contact NYSDA's Public Defense Backup Center at [info@nysda.org](mailto:info@nysda.org).

### Decide What Help You Need

- Review Discovery - Identify specific evidence and strategies that would benefit from assistance.
- Investigate - Seek additional evidence and information from your client and others.

### Find Help

- Determine what field of expertise is required: medical, digital, toxicology, psychology, etc.
- Ask colleagues for recommendations (preferably those with first-hand experience).
- Contact NYSDA, your Assigned Counsel (AC) program, or your office supervisors.

### Make Contact and Gather Information

- Reach Out Early - Most experts and investigators need time to do good work.
- Discuss Details - Get information about capabilities, qualifications, fees, estimates, and timelines.
- Request and Verify - Ask for a CV, publications, transcripts, sample reports or work product, and references; do due diligence to confirm qualifications.

### Decide Funding Source

- Best Option: Administrative or program-based funding through your office or AC program
  - Ask your office supervisors, or your AC program administrator, what funding is available. Each office is different, so carefully follow their instructions. Some offices may require detailed justifications for obtaining assistance, especially if the request is expensive.
- Second Best Option: The Court
  - Apply *ex parte* to the court for funding under County Law § 722-c. Courts must consider applications from both appointed and private counsel, including Family Court defenders.

### Motion for Funds Under County Law § 722-c

A strong application is important to convince the judge that funds are necessary and to preserve the issue for appeal if the request is denied. Address the following factors in your motion:

- Financial inability to pay – Funding is not limited to defendants with appointed counsel.
- Necessity – Specific factual details showing reasonable probability to assist the defense.
- Relevance – Need must be relevant to significant issue; bare bones requests are insufficient.
- Materiality – Issues to be addressed by expert must be material to case and significant.
- Purpose – Reviewing complex evidence, independent testing, research, testimony, etc.
- Projected Costs – Not required but must show “extraordinary circumstances” if > \$3,000.

### Receive Determination on Funding Request

- Funding is Denied
  - Make sure the judge's reason for denying funding is on the record and in writing when possible. Having a clear record is necessary for appeal and helpful for reapplying. Nothing prohibits multiple applications, but failure to follow up on a denied application may forfeit the issue.
- Funding is Granted
  - Begin working with approved funds. Communicate the scope of work, funds available, deadlines, client confidentiality, reciprocal discovery, and other work expectations. Provide secure access to any required materials and establish a plan to follow-up or meet so everyone stays on track.
- Expert Work is Completed
  - Follow the process for submitting invoices and vouchers provided by your office or the court. Some offices and courts require significant detail about services rendered before paying.
  - Organize work product and communications for preservation in the client's file and satisfy reciprocal discovery requirements in CPL § 245.20(4).