MISSION STATEMENT

The New York State Defenders Association, a not-for-profit membership organization, has been providing support to New York’s criminal defense community since 1967. Its mission is to improve the quality and scope of publicly supported legal representation to low income people.
NYSDA Across New York

New York State Defenders Association 2009

- Client Advisory Board
- Board of Directors
- Trainings
- PDCMS
- Offices, Trainings & PDCMS
- Requests for Assistance*

*Requests also came from counties receiving other services.
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INTRODUCTION: REVIEWING OUR 42 YEARS

The New York State Defenders Association (NYSDA) proudly presents its Forty-second Annual Report to the Membership.

NYSDA is one of the first statewide defense organizations established following the U.S. Supreme Court’s right to counsel decision in *Gideon v. Wainwright*. A Board of Directors composed of prominent public defense practitioners and leaders in the statewide justice community governs the Association. A list of those Directors, along with the others who constitute our collegial enterprise, begins at page 11.

NYSDA has been providing support to New York’s criminal defense community since 1967. We also seek to increase our support for public defense lawyers who represent adult respondents in family court cases.

By assisting lawyers, we serve their clients. NYSDA recognizes that clients and the client community have a stake, and must have a voice, in public defense provision. Unlike most other bar associations, our membership includes incarcerated persons, and our by-laws mandate a Client Advisory Board. That board works directly with the Executive Director and advises the Association on issues of client relations and NYSDA’s community programs.

At forty-two, NYSDA provides many people answers to many questions. Through its Public Defense Backup Center, which began receiving state funding in 1981, NYSDA assists lawyers, governmental bodies, the client community and the public. We develop and sustain innovative programs and services in response to identified needs. Examples include our Criminal Defense Immigration Project, providing specialized information for lawyers representing noncitizens in criminal matters, and our Public Defense Case Management System (PDCMS), software designed specifically for public defense programs in New York State.

The Backup Center has maintained its many services, sometimes in more limited forms, despite budget cuts and flat funding, for nearly three decades. The survival of our services is due to:

- the willingness of an experienced staff to do good work for modest compensation, adopt streamlined methods and automation to increase productivity, and take on a variety of roles;
- the availability of federal funding;
- the invaluable support we have received from private foundations;
- the flexibility that our non-profit status allows; and
- the help of public defense programs and county officials statewide who, along with our members, advocate for the Backup Center when state funding is threatened.

One attorney wrote this year:

*I rely on the services provided by the Backup Center. On countless occasions over the past few years, I have relied on their well-trained, knowledgeable, patient and available attorneys to guide me through challenging situations and problems. They have suggested strategies, cited cases, and provided important feedback and guidance on difficult questions of criminal and constitutional law. The absence of the Backup Center would significantly hinder my work on behalf of indigent defendants facing jail.*
We thank all our supporters and staff for what they make possible. We look forward to continuing and expanding services to improve the representation provided to public defense clients, ensuring justice for all.

Reviewing Our 42nd Year

This annual report details how NYSDA achieved short-term goals and moved toward long-term ones during the past year.

Backup Center staff worked daily to improve the quality of public defense services in individual cases by responding to requests for assistance – 2,398 in the last fiscal year – from lawyers, clients, and others. These direct defender services helped individual lawyers provide the best defense possible, often under the worst of circumstances, by making centralized resources available that county-based defense offices could not afford. Similarly, the NYSDA Immigrant Defense Project, which became a separate, independent office at the end of 2008, and the Criminal Defense Immigration Project, our new initiative begun in 2009, offered aid regarding issues at the interface of immigration and criminal law. NYSDA’s Public Defense Backup Center continues to provide efficient, centralized services to local public defense offices and attorneys.

In every quarter of the year, NYSDA also sought to improve the quality of public defense services by distributing information beyond individuals requesting assistance. We used our newsletter, website, and legal trainings to accomplish this. Such training and information allowed busy lawyers, many struggling with excessive caseloads, to learn quickly about new and potential challenges to erroneous police and prosecution tactics and evidence, ameliorative changes in sentencing laws, and more. The technical assistance we gave offices and their local governments allowed them to provide more cost-effective services and engage in more informed policymaking.

Year round, NYSDA met its contractual duty to review, assess, and analyze the existing public defense system and recommend improvements. We published an analysis of the State’s primary public defense funding mechanism, the Indigent Legal Services Fund (ILSF). We offered testimony at hearings, and moved in other ways toward the long-term goal of improving public defense services statewide; included in the latter efforts was our work with the Campaign for an Independent Public Defense Commission.

More detailed descriptions of these long-term efforts and our daily work appear below.

The Public Defense Backup Center

The Backup Center conducts regional and statewide training; publishes a newsletter; and maintains a large, constantly updated website (www.nysda.org) and an in-house clearinghouse of information about substantive and procedural law (including a case digest system), public defense services, and related matters. With these resources as a foundation, the Backup Center legal staff consults with and sometimes conducts research for lawyers facing sudden or unusual legal issues. NYSDA staff also assist public defense program administrators and local government officials who need to know and understand case law, statutes, rules, and
standards governing public defense services.

A Broad Range of Training

Beginning in Saratoga

The 41st Annual Meeting and Conference in Saratoga Springs last July gave lawyers a full year’s worth of mandatory Continuing Legal Education (CLE) credits in topic areas relevant to public defense practitioners. In addition, the conference showcased other NYSDA services and, at the Awards Banquet, achievements of the communities we serve.

Before the CLE sessions, the heads of public defense offices around the state attended a Chief Defender Convening. They discussed substantive and procedural legal developments regarding DWI cases and clients designated violent felons. They shared administrative concerns about part-time public defenders’ participation in the state retirement system. They learned about the appointment of a New York State Bar Task Force on Wrongful Convictions, and aired opinions about reform issues including the progress toward a state-run public defense system. And they heard a presentation about the effect of active military service on individuals who become public defense clients. NYSDA has continued its efforts to secure funding to launch a Veterans and Military Defense Project; meanwhile, we strive to increase awareness in the defense community of the unique challenges and opportunities that may be present in these clients’ cases.

Beyond Saratoga

For those unable to come to Saratoga for two days, and for those willing and able to advance their skill and knowledge further, NYSDA offered other training events throughout the past year. We presented a large number of CLE training events, including eight seminars on New York’s new drug laws and seven on immigration consequences of criminal cases. Some trainers were co-sponsored with the Federal Defender for the Northern District of New York, the Appellate Division, Fourth Department, the Assigned Counsel Plan for the Second Department, The Ontario County Defenders Association, the Cayuga County Criminal Defenders, and the NYU School of Law Immigrant Rights Clinic. NYSDA training occurred across the state, often in local public defense offices. As in past years, our training was praised by participants and defender offices for relevant, timely presentations by some of the most experienced presenters in the state. At membership renewal time, one member made a financial contribution in addition to paying the dues amount, saying “…in honor of Charlie O’Brien & Diane Geary for outstanding 11/14/08 Poughkeepsie program.”

In June 2009 NYSDA’s weeklong Defender Institute Basic Trial Skills Program (BTSP) returned after a one-year hiatus. The break resulted in an all-new case problem and a revised syllabus. Coached by trial lawyers and communications experts from around the nation, the defenders who attended BTSP made great strides in skill and confidence. The use of carefully selected and highly trained actors, the
participation of non-lawyer jurors, and experienced and support coaches made this year’s program among the very best NYSDA has conducted. The exercises participating defenders completed involving technical legal lessons, along with the client-centered approach for which the Institute has received national recognition, will improve the representation their clients receive.

In addition to CLE training, we held a second Chief Defender Convening on December 11, 2008. At this meeting we invited candid suggestions for increasing and improving our assistance to public defense lawyers and programs representing adult respondents in family court. Following that meeting we sought additional funding to increase staff support in this area; given the economic climate, such funding has yet to materialize. We have committed to directing more attention and resources to this area of representation.

The Public Defense Backup Center REPORT

All NYSDA members – lawyers, prisoners, and other individuals who support the right to counsel – receive a printed copy of the Association’s newsletter, the Public Defense Backup Center REPORT. NYSDA also mails the REPORT to all public defense programs and all prison law libraries, and posts it on the Association’s website. Summaries of selected criminal law and family law court decisions and news items regarding public defense, legal developments, and other topics of interest appear in every issue. The REPORT also publishes periodic in-depth practice tips, an annual summary of relevant legislation, and much more. A prisoner spoke for many when he wrote that, after having read the REPORT for some time, he appreciated and commended what NYSDA made available to the legal community and to prisoners such as himself.

Backup Center Clearinghouse

NYSDA’s vast in-house collection contains new materials, primarily in electronic form, and a large legacy collection from the print-only era. The Backup Center’s Legal Information Services staff continually

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“The information that you provided for me was excellent and very helpful. I had a deep conversation with the local Bureau Chief of the D.A.’s office.... I quoted some of the cases that you provided.... Thank you for your prompt and complete response to my request.”
update the collection and provide notices to the legal staff about new information. Coupled with the institutional memory of NYSDA’s staff and Internet research capabilities, the Clearinghouse enables legal staff to respond to inquiries about past practices as well as cutting-edge issues.

The Backup Center’s Information Systems staff have the major task of maintaining the software and hardware necessary to the virtual portions of the Clearinghouse and the many other functions of the Backup Center. They do a tremendous job enhancing and maintaining the Backup Center’s technology to improve public defense efficiency with an ever diminishing budget. They also labor tirelessly to keep our computer systems secure and free from viruses and spam attacks.

Over the past year, NYSDA has been working closely with the Monroe County Public Defender Office to produce an extraordinary full-text searchable, remote accessible brief bank for that office. Containing thousands of documents, many converted from print to PDF, this database allows any public defender in the Monroe County office, via the Internet, to search hearing and trial transcripts, training materials, pretrial and post-conviction motions and much more. Most notably, it will preserve and make available Monroe County’s institutional knowledge in a completely new way. While the database is not available for outside use, this project has offered NYSDA significant insights into development of such collections.

www.nysda.org
The Association’s website, www.nysda.org, offers 24-hour access to some of NYSDA’s clearinghouse holdings and provides links to relevant information on the Internet. From Breaking News and detailed information under Hot Topics to Publications and NYSDA Resources, the site offers current, enduring, and historical information. Lawyers, county officials, reporters, and others often can find everything they need about a particular topic on the website, or may contact the Backup Center for additional assistance.

Juxtaposed against the available tools and resources that could improve representation for a particular client if a lawyer downloads and uses it are recurring references to the ongoing crisis in the state’s public defense system as a whole. In NYSDA publications, other state and national reports, and news items, descriptions of underfunding leading to excessive caseloads and resulting problems with the quality of representation repeatedly appear. Before and after the 2006 final report of now-retired Chief Judge Judith S. Kaye’s Commission on the Future of Indigent Defense Services, studies show major problems in New York’s public defense system. This documented evidence of systemic failure underlies NYSDA’s commitment to systemic reform.

“I appreciate all the help I have received from your staff, specifically Mr. Ken Strutin…. When I had a question he provided me with an answer and documents. I would have been lost without him and your organization.”

The Advisory Board section under “About NYSDA” on the website includes “Client-Centered Representation Standards” developed and promulgated by the Advisory Board and approved by the Association’s Board of Directors in 2005. These standards exemplify NYSDA’s efforts to develop expertise in measuring client satisfaction, a vital but often overlooked aspect of improving public defense services. The

“This was a really big help. (Although the judge has yet to sign the order!)”

The Advisory Board section under “About NYSDA” on the website includes “Client-Centered Representation Standards” developed and promulgated by the Advisory Board and approved by the Association’s Board of Directors in 2005. These standards exemplify NYSDA’s efforts to develop expertise in measuring client satisfaction, a vital but often overlooked aspect of improving public defense services. The
Advisory Board section of the website also provides basic information about obtaining legal representation and other information of interest to clients and the public.

“You helped me with a double jeopardy question…. back in March. I just got the decision today, and we won!.... Thank you so much for your help, which I (and the client) greatly appreciate.”

Direct Defender Services

From providing the citation for a new case that someone “just heard about” to doing extensive research on an issue of first impression, NYSDA’s legal staff provide a variety of information to those who contact the Backup Center. Recipients of direct defender services often express the value of the materials they obtain. Some, particularly attorneys in small, overworked public defense offices or in solo assigned counsel practices, also find value in collegial discussion about issues. In the words of one, it is good to have NYSDA “because it’s nice to have someone to talk to about these things.”

Technical Assistance

Whether daunted by the forms that must be filed for counties to receive ILSF distributions from the State or besieged by the complexities of managing a public defense office caseload, county officials and public defense office personnel can turn to the Backup Center. Through email, the Backup Center has a direct line of communication to chief defenders across the state. This year chiefs received timely information about the ILSF distribution, defender loan forgiveness, and Rockefeller Drug reform legislation among other important topics.

Public Defense Case Management System

NYSDA designed and supports a public defense case management system (PDCMS) now operating in 35 public defense offices in 28 counties. From generating required reports to flagging conflicts of interest soon after a case is assigned, the PDCMS allows offices to more effectively and efficiently respond to client needs.

Version 10 is ready and has been installed in about half the offices currently using the system. Seeking to speed implementation of this critically needed resource, the Association sought but has not received additional funding to boost PDCMS staff support. Meanwhile, existing staff continue the high-quality work that won the Best of New York Demonstrated Excellence in IT Operations, Support and Service Award three years ago. Their efforts and the PDCMS itself constitute an example of how centralized but flexible services can improve public defense services across the state.

Collaboration with Others on Justice Issues

Devoted to the principle that the defense function must be independent of improper influences and stand on equal footing with the prosecution and judicial functions, NYSDA brings a defense perspective to a variety of collaborative projects. In the last year, NYSDA or its staff participated in meetings, events, or activities of the following:

- Office of Court Administration’s Committee on the Criminal Procedure Law;
• NAMI-NYS (National Alliance on Mental Illness) Family Advocacy Project Advisory Board;
• Reentry Net Steering Committee;
• State Bar Criminal Justice Section;
• Ontario County Bar Association;
• Tompkins County Indigent Representation Task Force;
• Mental Hygiene Legal Service;
• First Department Indigent Defense Organization Oversight Committee; and
• National Legal Aid and Defender Association (NLADA) and its American Council of Chief Defenders (ACCD).

Members of NYSDA's Client Advisory Board also meet, upon request, with chief defenders wishing to set up local advisory boards.

NYSDA welcomes and invites opportunities to take part in policy discussions affecting the justice system. In addition to the list above, we presented testimony before the Assembly Standing Committees on Judiciary and Codes at a hearing concerning Jury Pool Diversity in New York City and took part in discussions with the Division of Criminal Justice Services and others regarding implementation of legislation concerning the management of sex offenders.

Such activities serve dual purposes; in addition to their intrinsic value, they model for others the inclusion of public defense providers in policy discussions. NYSDA advocates for greater public defense participation— or for some defense participation where this perspective has been shut out completely— in relevant decision making at every governmental level.

Availing itself of opportunities to exchange information with others knowledgeable about state public defense issues and to learn about possible new avenues for improvement, NYSDA took part in several national events this past year.

The Director of Legal Information Services presented “Databases, E-Discovery, and Criminal Law” (associated with the publication of an article on the same topic) at the Richmond School of Law Second Annual E-Discovery Symposium in Richmond, VA, on April 21, 2009. NYSDA representatives participated in the American Bar Association Standing Committee on Legal Aid and Indigent Defendants 5th Annual Indigent Defense Summit in Boston and an ACCD Advocacy Conference in Washington, DC at which

Advocacy for Change

In addition to participating in ongoing committees and projects relating to specific aspects of public defense and criminal justice, to specific geographic areas, and to national trends, NYSDA continued to review, assess, and analyze New York’s public defense system itself. In compliance with our state contract we also made recommendations for change to solve the problems we found.
Deficiencies in defense representation are known to be a cause of wrongful convictions. With that in mind, NYSDA presented testimony at a hearing of the New York State Bar Association’s Task Force on Wrongful Convictions on February 24, 2009. We commended the Task Force’s quick and fine work reflected in its Preliminary Report and thanked them for recommending that organizations operating a resource center for public defense lawyers should receive additional resources to aid defense attorneys statewide. The Final Report of the Task Force, released in April 2009, reiterated the State Bar’s support for the Kaye Commission reforms.

Building on past studies and using the most current information, NYSDA completed an “Analysis of the Indigent Legal Services Fund Maintenance of Effort Provisions” in March 2009. This publication described the lack of meaningful oversight that has accompanied distribution of State funds to localities through the ILSF since its inception. Our report observed: “The existing ILSF measures intended to improve the quality of public defense in New York State are broken both in principle and in practice.” The analysis, sent to all members of the State Legislature and the Governor, is posted on the NYSDA website:


The failure of the ILSF to bring about meaningful improvement in public defense statewide militates for systemic reform. Where circumstances prevent the State’s acceptance of full fiscal responsibility, the State should at least take on full administrative responsibility and cap localities’ financial obligation as to constitutionally and statutorily mandated legal services. This position is discussed in greater detail in our ILSF analysis and elsewhere.

At a February 2009 hearing before the Assembly Standing Committees on Codes, Judiciary, Governmental Operations, and Correction on the “Impact of the State Budget on Access to Justice,” NYSDA provided joint testimony with the Campaign for an Independent Public Defense Commission (CIPDC). That testimony recounted the stagnation and even deflation in various programs providing state funds for public defense. It pointed out the lack of oversight to ensure effective use of what state funds were disbursed. Describing known public defense problems that are bound to intensify absent reform, our testimony then stated:

Every further deprivation of funding for public defense services will increase the likelihood that innocent people will be convicted, that clients entitled to competent assistance of counsel will get little or no assistance at all, and that community trust in our justice system, already damaged, will plunge further.

We recommended that the Legislature make a modest investment from the ILSF to institute change by creating the Independent Public Defense Commission. The
Commission would be empowered to carry out necessary planning for the State to take over administration of public defense services and cap the expenses of counties and New York City.

“Thank you and God bless you all at NYSDA. You do an outstanding job on all of our behalvs.”

Members of NYSDA’s Client Advisory Board have been active in the Campaign for an Independent Public Defense Commission, which NYSDA has endorsed. Advisory Board members participated in the annual Black and Puerto Rican Legislative Caucus weekend, the Somos El Futuro conference, and the Gideon Day observance in 2009, raising legislative and public awareness of the crisis in public defense and the need for statewide reform.

NYSDA will continue advocating for statewide reform. Because every day, as Backup Center staff assist some public defense lawyers, others face overwhelming caseloads and insufficient resources alone as they try to represent their clients. For every public defense lawyer that can take the time to attend NYSDA or other high-quality, relevant CLE training, many more will meet their mandatory CLE requirements with credits from courses unrelated to public defense work. Without reform, in another year, NYSDA’s review of the existing system will show more of the same problems that have plagued the system for years.

“I want to thank you for all the assistance you have given me for this Attempted Murder case I just finished trying today.... I used the materials you forwarded to me extensively.... Most importantly your assistance calmed me down and helped me focus on preparation.”

At forty-two, NYSDA has the experience, skill, and knowledge to provide answers to many questions. We hope that our answer to “What should New York State do to fix public defense?” – create an Independent Public Defense Commission – is soon put to the test.
THE PEOPLE OF NYSDA

People. NYSDA is its members—lawyers, clients, concerned citizens. NYSDA is its staff. NYSDA is its Board of Directors and Client Advisory Board. NYSDA is the contributors who help make its work possible. NYSDA is also all those who seek its services and all those who benefit indirectly from its work. While not named below, they are present in every page of this report.

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Joseph F. DeFelice
Christian D. deFranqueville
Brian P. Degnan
Clare Degnan
Edward J. Degnan

Barry S. Dolgoff
Darlene A. Dollard
Timothy P. Donaher
Darlene L. Donald
Alan Donatelli
Edward Donlon
James F. Donlon
Mary M. Donogher
Lawrence Donovan

Louis A. Ecker
Eric Edwards
Aaron Edwards
Ellen E. Edwards
John S. Edwards
Ingrid Effman
Norman P. Effman
Harold Ehrentreu
Andrew Ehrnpreis
Andrew H. Eibel
Peter O. Einset
Gary Elliot Eisenberg
David P. Elkovitch
James Ellerby, Jr.
A. Irene Elliott
Lawrence Elmen
Keliann M. Elniski
Laura J. Emerson
Steven B. Epstein
Nancy Eraca-Cornish
Tara S. Evans
Maxwell Christopher
Fabricant
Lynn W. L. Fahey
Scott P. Falvey
Frank S. Falzone
Joe Fama
Thomas C. Farley, Jr.
David C. Farman
Gary Farrell
Jennifer S. Farrell
Barbara E. Farrell-Gallagher
David J. Farragia
Konstantinos G. Fatsis
James A. Fauci
Michael S. Fauci
James L. Feck
Karen B. Feger
Mary Beth Feindt
Michael A. Feit
Wayne C. Felle
Kenneth S. Feraru
David R. Ferguson
Noemi Fernandez-Hiltz
Michael A. Ferraro
James P. Ferratella
M. Kreg Ferullo
Bridget Field
Leanne M. Fields
Walter Fields, Jr.
Shannon E. Filbert
Gregory A. Fina
Andrew C. Fine
Robert A. Fiordaliso
Elizabeth Fischer
Jonathan S. Fishbein
Charles Grosso
David L. Gruenberg
Paul L. Gruner
John A. Guarneri
Harold I. Guberman
Vincent F. Gugino
Benedict S. Gullo, Jr.
Darrell Gunn
Madhureema Gupta
Albert K. Gustafson
Richard M. Gutierrez
Mark J. Hackett, Jr.
Paul H. Hadley
Lyle T. Hajdu
Reginald W. Haley
Ronald J. Hall
Robert B. Hallborg, Jr.
Thomas P. Halley
C. Joseph Hallinan, Jr.
Nellie R. Halloran
Michael Halpert
Denice A. Hamm
Edward R. Hammock
Frank J. Hancock
Joseph A. Hanshe
James P. Harding
Michael L. Harding
William James Hardy
Jake Harper
M. Jerald Harrell
James P. Harrington
Jeffrey M. Harrington
Russel Harris
Charles William Hart
James M. Hartmann
Tina L. Hartwell
Karine M. Haselbauer
Tim L. Havas
M. Alan Hays
Eric Headwell
Robert L. Healy
Lionel Lee Hector
Edward K. Hedberg
Thomas Hegeman
Peter W. Henner
Daniel Henry, Jr.
Warren C. Herland
Julio Hernandez, III
Michael H. A. Heron
Adam S. Heyman
Nicholas W. Hicks
David M. Higgins
Melvin T. Higgins
Sean Dennis Hill
Joseph Frank Hillegas
James S. Hinman

Marvin Hirsch
Andrew J. Hobika
Joseph J. Hodan
Jeffrey A. Hoerter
Jason Hofelich
Jack S. Hoffinger
Alan S. Hoffman
David A. Hoffmann
John Hogan
Leroy Hoover
Timothy W. Hoover
Jeffrey A. Horn
Michael D. Horn
Susan R. Horn
Davim L. Horowitz
Leah Horowitz
Gary A. Horton
Mark D. Hosken
Frank Housh
Todd E. Houslanger

Anita L. Howard
Michael C. Howard
Moses Mark S. Howden
Donald Howell
Samuel A. Howell
Jessica D. Howser
Yorden Huban
Jessica Hugel
Dorothy E. Hughes
Stathos Huginnie
Elizabeth A. Hume
Mary R. Humphrey
Marsha A. Hunt
Craig Huntsman
Paul V. Hurley
Thomas Hurley
Phillip R. Hurwitz
Heidi A. Husser
James W. Hyde, IV
Anthony Iannarelli, Jr.

Frank Ieraci
Anastasia Ilándose
Edward Incle
Michele Marte Indzonka
Joseph M. Ingarra
Michael J. Ingham
John Ingrassia
Michael Isgur
Kevin Jackson
Michael A. Jacobs
Erik P. Jacobsen
Barry S. Jacobson
Elena Jaffe Tastensen
Joseph Jaffe
R. Joseph Jalbert
Seymour W. James, Jr.
Terry Jamison
John J. Janiec
Joseph T. Jarzembek
David G. Jay
Andre Jenkins
Eric Jenkins
Frederic Jennings
John Jenny
Joseph Joch, Jr.
Leona D. Jochnowitz
Alba Susana Johnson
Christopher J. Johnson
Christopher G. Johnson
Nathan Johnson
Peter R. Johnson
Robert P. Johnson
Stephen A. Johnston
E. Stewart Jones, Jr.
Michael B. Jones
Peter H. Jones
Rick Jones
John K. Jordan
Alan L. Joseph
Cyrus Joubin
Mark A. Juda
Peter T. Juliano
Michael D. Jurena
Matthew Kadushin
Carol Kahn
Joseph Kalinowski
Ivan Kalter
Barry Kamins
Bella Kang
Stuart Kanoff
Tina Kansas
Susan Marie Karalus
Nigos Karatas
Daniel Karlin
Elizabeth Kase
Kathryn M. Kase
Photographs

Cover:
2009 Defender Institute Basic Trial Skills Program

Mission Statement (clockwise from top):
Exoneree Martin Tankleff giving the keynote speech at NYSDA's 41st Annual Meeting & Conference Awards Banquet
NYSDA Client Advisory Board member Darryl King
Coach Bert Nieslanik during 2009 Defender Institute Basic Trial Skills Program
Elon Harpaz and Kerry Elgarten, Staff Attorneys, The Legal Aid Society, Criminal Appeals Bureau and Parole Revocation Defense Unit, accepting the 2008 Service of Justice Award
Asha Smith accepting her certificate at the completion of the 2009 Defender Institute Basic Trial Skills Program
Participating defenders during the 2009 Defender Institute Basic Trial Skills Program
Page 1:
The NYSDA seal at the Backup Center in Albany
A moment of levity at the 2009 Defender Institute Basic Trial Skills Program
Page 2:
Post-presentation discussions at the 2008 Annual Meeting and Conference with:
Presenter Mark Hosken
Presenter Joan Griffin
Page 3:
Patricia Warth presenting at “Cutting Edge Criminal Defense” in Binghamton in April 2009
Participating defenders pose at the 2009 Defender Institute Basic Trial Skills Program
Page 4:
Coach Thomas Giovanni of Neighborhood Defender Service of Harlem (r) interacts with a participating defender at the 2009 Defender Institute Basic Trial Skills Program
Wrapping up after the 23rd Annual Metropolitan New York Trainer (from left): NYSDA Managing Attorney Charlie O’Brien; Staff Attorney Susan Bryant; Board President Ed Nowak; Assistant Training Coordinator Diane Geary; Criminal Defense Immigration Project Director Joanne Macri
Page 5:
Presenter Michael Ross at the 23rd Annual Metropolitan New York Trainer
Page 6:
NYSDA Research Director Melissa Mackey
Andre A. Vitale, Staff Attorney, Monroe County Public Defender Office (l) receiving the 2008 Kevin M. Andersen Memorial Award from Gary Horton, Genesee County Public Defender and NYSDA Director
Page 7:
NYSDA Board members Lisa Schribersdorf (l), and John Ciulla (r) talk with Andy Kossover.
2009 Defender Institute Basic Trial Skills Program coaches Skip Gant (c) and Richard Rich (r) conversing with a participating defender
Page 8:
Presenter Brian Shiffrin (l) receives assistance checking audio visual equipment from Charlie O’Brien
Client Advisory Board Chair Jay Coleman
Page 9:
Participating defenders, coaches, NYSDA staff, and other supporters at the 2009 Defender Institute Basic Trial Skills Program
Page 10:
NYSDA Business Manager/Accountant Mary Durgee
Page 11:
NYSDA Director Norm Effman
Page 12:
Daniel E. Barry, Jr., Staff Attorney, Public Defender Unit, Legal Aid Bureau of Buffalo, accepting the 2008 Wilfred R. O’Connor Award
Page 13:
Presenter Donald Thompson (seated) engaged in discussion at the "Cutting Edge Criminal Defense" in Binghamton in April 2009
Page 14:
NYSDA Criminal Defense Immigration Project Director Joanne Macri describes an issue to Board President Ed Nowak
Page 15:
Coaches Andy Correia (c) and Leigh Strimbeck (r) share a light moment with a participating defender at the 2009 Defender Institute Basic Trial Skills Program
Page 16:
NYSDA Office Coordinator Dawn Allert
Page 17:
NYSDA Directors Susan Horn (l) and Marsha Weissman (r) at a Board meeting at the Backup Center
Page 18:
Andy Davies says goodbye when leaving his position as Research Associate
Page 19:
Coach Jamie Kunz (l) with participating defenders at the 2009 Defender Institute Basic Trial Skills Program
NYSDA Membership Application

I wish to join the New York State Defenders Association and support its work to uphold the Constitutional guarantees of all citizens accused of crimes to legal representation and to advocate for an effective system of public defense representation for the poor.

Enclosed are my membership dues: ☐ $75 Attorney ☐ $15 Law/Other Student/Inmate ☐ $40 All Others

Name _________________________________________ Firm/Office _________________________________
Office Address __________________________________ City __________________ State __ Zip ____________
Home Address __________________________________ City __________________ State __ Zip ____________
County __________________ Phone (Office) (_____) _______ (Fax) (_____) _______ (Home) (_____) _______
E-mail Address (Office) ___________________________ E-mail Address (Home) _______________________

At which address do you want to receive membership mail? ☐ Office ☐ Home

Please indicate if you are: ☐ Assigned Counsel ☐ Public Defender ☐ Private Attorney
☐ Legal Aid Attorney ☐ Law Student ☐ Concerned Citizen

Attorneys and law students please complete: Law School__________________________ Degree ________
Year of graduation _______ Year admitted to practice _______ State(s) _____________________________

I have also enclosed a tax-deductible contribution: ☐ $500 ☐ $250 ☐ $100 ☐ $50 ☐ Other $___________

Checks are payable to New York State Defenders Association, Inc. Please mail coupon, dues, and contributions to:

To pay by credit card: ☐ Visa ☐ MasterCard ☐ Discover ☐ American Express
Card Billing Address: ________________________________________________________________
Credit Card Number: __ __ __ __ __ __ __ __ __ __ __ __ __ __ __ __ Exp. Date: ___ / ___
Cardholder’s Signature: ____________________________________________________________________
Annual Report of Directors
Pursuant to Not-for-Profit Corporation Law 519

Pursuant to Section 519 of the Not-for-Profit Corporation Law, the Board of Directors herewith submits to the membership the Corporation’s most recent certified financial statement.
NEW YORK STATE DEFENDERS ASSOCIATION, INC.

AUDITED FINANCIAL STATEMENTS

Years ended December 31, 2008 and 2007
## NEW YORK STATE DEFENDERS ASSOCIATION, INC.

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INDEPENDENT AUDITOR’S REPORT

To the Board of Directors
New York State Defenders Association, Inc.

We have audited the accompanying statements of financial position of New York State Defenders Association, Inc. as of December 31, 2008 and 2007, and the related statements of activities and changes in net assets, and cash flows for the years then ended. These financial statements are the responsibility of the Association’s management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of New York State Defenders Association, Inc. as of December 31, 2008 and 2007, and the changes in its net assets and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

UHY LLP

Albany, New York
April 13, 2009
NEW YORK STATE DEFENDERS ASSOCIATION, INC.
STATEMENTS OF FINANCIAL POSITION
December 31, 2008 and 2007

<table>
<thead>
<tr>
<th>ASSETS</th>
<th>2008</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash</td>
<td>$1,477,544</td>
<td>$35,777</td>
</tr>
<tr>
<td>Grant and other receivables</td>
<td>68,171</td>
<td>1,081,727</td>
</tr>
<tr>
<td>Deposits</td>
<td>9,770</td>
<td>9,570</td>
</tr>
<tr>
<td>Prepaid expenses</td>
<td>17,833</td>
<td>17,140</td>
</tr>
<tr>
<td>Furniture and equipment, less accumulated depreciation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2008, $332,871; 2007, $312,374</td>
<td>73,368</td>
<td>64,771</td>
</tr>
<tr>
<td>Total assets</td>
<td>$1,646,686</td>
<td>$1,208,985</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LIABILITIES</th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Note payable-bank</td>
<td>$</td>
<td>$120,000</td>
</tr>
<tr>
<td>Accounts payable and accrued expenses</td>
<td>11,194</td>
<td>56,989</td>
</tr>
<tr>
<td>Accrued salaries and vacation pay</td>
<td>99,064</td>
<td>93,670</td>
</tr>
<tr>
<td>Deferred grant and contract revenue and advances</td>
<td>600,197</td>
<td>175,258</td>
</tr>
<tr>
<td>Deferred membership dues</td>
<td>48,918</td>
<td>46,370</td>
</tr>
<tr>
<td>Total liabilities</td>
<td>759,373</td>
<td>492,287</td>
</tr>
</tbody>
</table>

| COMMITMENTS AND CONTINGENCIES                      |         |         |

<table>
<thead>
<tr>
<th>NET ASSETS</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Unrestricted</td>
<td>887,313</td>
<td>716,698</td>
</tr>
<tr>
<td>Total liabilities and net assets</td>
<td>$1,646,686</td>
<td>$1,208,985</td>
</tr>
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</table>

See notes to financial statements.
NEW YORK STATE DEFENDERS ASSOCIATION, INC.
STATEMENTS OF ACTIVITIES AND CHANGES IN NET ASSETS
Years Ended December 31, 2008 and 2007

<table>
<thead>
<tr>
<th>Revenue:</th>
<th>2008</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>New York State appropriation</td>
<td>$1,331,654</td>
<td>$1,396,456</td>
</tr>
<tr>
<td>Other grants and contracts</td>
<td>444,225</td>
<td>303,085</td>
</tr>
<tr>
<td>Membership dues</td>
<td>92,525</td>
<td>94,352</td>
</tr>
<tr>
<td>Interest</td>
<td>8,894</td>
<td>2,428</td>
</tr>
<tr>
<td>Contributions</td>
<td>6,730</td>
<td>9,649</td>
</tr>
<tr>
<td>Conferences, publications and other income</td>
<td>309,086</td>
<td>322,197</td>
</tr>
<tr>
<td>Management fees</td>
<td>76,699</td>
<td>67,450</td>
</tr>
<tr>
<td><strong>Total revenue</strong></td>
<td><strong>2,269,813</strong></td>
<td><strong>2,195,617</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Expenditures:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>1,062,518</td>
<td>1,042,692</td>
</tr>
<tr>
<td>Payroll taxes and unemployment benefits</td>
<td>84,712</td>
<td>85,796</td>
</tr>
<tr>
<td>Other employee benefits</td>
<td>185,544</td>
<td>183,430</td>
</tr>
<tr>
<td>Office and computer supplies</td>
<td>42,127</td>
<td>48,371</td>
</tr>
<tr>
<td>Conference facilities and travel</td>
<td>98,444</td>
<td>151,232</td>
</tr>
<tr>
<td>Occupancy</td>
<td>137,224</td>
<td>134,456</td>
</tr>
<tr>
<td>Telephone and communications</td>
<td>28,954</td>
<td>25,158</td>
</tr>
<tr>
<td>Library and professional dues</td>
<td>36,383</td>
<td>30,497</td>
</tr>
<tr>
<td>Equipment rental and maintenance</td>
<td>12,498</td>
<td>13,757</td>
</tr>
<tr>
<td>Printing and publications</td>
<td>37,625</td>
<td>43,119</td>
</tr>
<tr>
<td>Postage</td>
<td>19,439</td>
<td>22,023</td>
</tr>
<tr>
<td>General insurance</td>
<td>11,745</td>
<td>10,449</td>
</tr>
<tr>
<td>Depreciation</td>
<td>21,607</td>
<td>16,215</td>
</tr>
<tr>
<td>Contracted services</td>
<td>303,730</td>
<td>285,212</td>
</tr>
<tr>
<td>Interest</td>
<td>1,360</td>
<td>11,305</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>15,288</td>
<td>18,902</td>
</tr>
<tr>
<td><strong>Total expenditures</strong></td>
<td><strong>2,099,198</strong></td>
<td><strong>2,122,614</strong></td>
</tr>
</tbody>
</table>

Change in net assets           | 170,615    | 73,003     |

Net assets, beginning   | 716,698    | 643,695    |

Net assets, ending          | $ 887,313  | $ 716,698  |

See notes to financial statements.
NEW YORK STATE DEFENDERS ASSOCIATION, INC.
STATEMENTS OF CASH FLOWS
Years Ended December 31, 2008 and 2007

<table>
<thead>
<tr>
<th>CASH FLOWS FROM OPERATING ACTIVITIES</th>
<th>2008</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Change in net assets</td>
<td>$ 170,615</td>
<td>$ 73,003</td>
</tr>
<tr>
<td>Adjustments to reconcile change in net assets to net cash provided by operating activities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depreciation</td>
<td>21,607</td>
<td>16,215</td>
</tr>
<tr>
<td>Changes in:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grant and other receivables</td>
<td>1,013,556</td>
<td>(47,289)</td>
</tr>
<tr>
<td>Prepaid expenses and deposits</td>
<td>(893)</td>
<td>(2,389)</td>
</tr>
<tr>
<td>Accounts payable and accrued expenses</td>
<td>(45,795)</td>
<td>33,234</td>
</tr>
<tr>
<td>Accrued salaries and vacation pay</td>
<td>5,394</td>
<td>19,743</td>
</tr>
<tr>
<td>Deferred contract revenue and advances and membership dues</td>
<td>427,487</td>
<td>16,947</td>
</tr>
<tr>
<td>Net cash provided by operating activities</td>
<td>1,591,971</td>
<td>109,464</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CASH FLOWS FROM INVESTING ACTIVITIES</th>
<th>2008</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase of furniture and equipment</td>
<td>(30,204)</td>
<td>(48,637)</td>
</tr>
</tbody>
</table>

| Net cash used in investing activities | (30,204) | (48,637) |

<table>
<thead>
<tr>
<th>CASH FLOWS FROM FINANCING ACTIVITIES</th>
<th>2008</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net (payments) proceeds on line of credit</td>
<td>(120,000)</td>
<td>(60,000)</td>
</tr>
<tr>
<td>Net cash (used in) provided by financing activities</td>
<td>(120,000)</td>
<td>(60,000)</td>
</tr>
</tbody>
</table>

| NET INCREASE IN CASH | 1,441,767 | 827 |

<table>
<thead>
<tr>
<th>CASH:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning of year</td>
<td>35,777</td>
<td>34,950</td>
</tr>
<tr>
<td>End of year</td>
<td>$1,477,544</td>
<td>$35,777</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION</th>
<th>2008</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash payments for interest</td>
<td>$ 1,360</td>
<td>$ 11,305</td>
</tr>
</tbody>
</table>

See notes to financial statements.
NEW YORK STATE DEFENDERS ASSOCIATION, INC.
NOTES TO FINANCIAL STATEMENTS
December 31, 2008 and 2007

NOTE 1 — ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization

New York State Defenders Association, Inc. ("The Association") is a not-for-profit organization which is exempt from Federal income taxes under Internal Revenue Code Section 501(c)(3). The Association was incorporated in 1967 for the primary purpose of promoting an interchange of ideas and experiences concerning functions in the field of criminal defense. The Association has an agreement with the New York State Division of Criminal Justice Services ("DCJS") whereby New York State will fund the Association to provide various back-up services required by public defenders, legal aid society attorneys, and private defense attorneys who volunteer to accept assignments to represent public defense clients.

A summary of the Association's significant accounting policies follows:

Revenue Recognition

All revenues and expenditures are recorded on an accrual basis. Appropriations and grant revenues(125,372),(921,998) are recognized as income when related qualifying costs are incurred. Deferred contract revenue and advances represent revenue received in advance. Deferred membership dues represent membership dues received in advance.

Furniture and Equipment

Furniture and equipment are recorded at cost. Depreciation is recorded on the straight-line basis over estimated useful lives ranging from three to seven years.

Estimates

The preparation of financial statements in accordance with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts. Actual results could differ from those estimates.

Net Assets

Net assets are classified as unrestricted, temporarily restricted, or permanently restricted depending on the existence and/or nature of any donor imposed restrictions. The Association's net assets were all unrestricted as of December 31, 2008 and 2007.

Cash

The Association places its cash with a high quality credit institution. At times such deposits may be in excess of the FDIC insurance limit.

NOTE 2 — DEFERRED REVENUE/APPROPRIATIONS RECEIVABLE (ADVANCED)

The Association's Public Defense Backup Center ("Center"), funded through DCJS, has a budget of $1,316,000 extending from April 1, 2008 to September 15, 2009 ($1,400,000 extending from April 1, 2007 to September 15, 2008, which was received in 2008). New York State makes periodic advances to the Association for operating costs incurred. Funds of $1,316,000 were approved during 2008 for the budget period ended September 15, 2009. Funds of $1,316,000 were advanced during 2008 for the budget period ended September 15, 2009. No funds were advanced during 2007 for the budget period ended September 15, 2008.
NOTE 2 — DEFERRED REVENUE/APPROPRIATIONS RECEIVABLE (ADVANCED) (Continued)

Expenditures associated with this program were $1,331,652 for the year ended December 31, 2008 ($1,396,457 in 2007). Management and general expenditures were $125,913 for the year ended December 31, 2008 ($137,082 for 2007).

Expenditures for other programs during 2008 were $641,631 ($589,075 in 2007).

NOTE 3 — NOTES PAYABLE — BANK

The Association has a line of credit with First Niagara Bank, with a maximum of $500,000 as of December 31, 2008 and 2007, and an interest rate of prime plus 1%, which expires in June 2009. The line is secured by all business assets. As of December 31, 2008, there was no outstanding balance on this line of credit ($120,000 in 2007).

NOTE 4 — LEASE OBLIGATION — ALBANY, NEW YORK

The Association entered into an operating lease agreement for office space in Albany, New York effective February 15, 1999 and amended in February 2001 for a term of seven years, with an option to renew for an additional five-year period and a second option for an additional three-year period. The Association exercised the first option to renew the lease for the five-year period commencing March 1, 2006. Rent expense for the office location was $105,495 for 2008 and $103,880 for 2007. Future annual minimum rental payments under this lease are $105,386 for each year from 2009 to 2010 and $17,564 for 2011, totaling $228,336.

NOTE 5 — LEASE OBLIGATION — NEW YORK CITY

Effective July 1, 2005, the Association entered into a one year license agreement for office space in New York City at an annual rent of $24,750. This license agreement was terminated on July 9, 2007. Expense under the license agreement was $12,375 in 2007.

The Association entered into an operating lease for new office space in New York City effective July 9, 2007 for a term of one year. Rent expense for this location was $23,923 for 2008 ($11,255 for 2007). This month to month lease was cancelled in January 2009 when the Association transferred certain programs to an unrelated nonprofit agency.

NOTE 6 — TAX DEFERRED ANNUITY PLAN

The Association established a tax deferred annuity plan in accordance with Section 403(b) of the Internal Revenue Service Code during 1994. The employer contribution is determined by the Board of Directors annually, but will not be less than 3% of employee compensation. The employer's contribution, included in other employee benefits, was $52,737 for 2008 and $47,962 for 2007.
NOTE 7 — RELATED ORGANIZATION

Five members of the Board of Directors of the Association currently serve as members of the Board of Directors of New York State Defenders Justice Fund, Inc. (Justice Fund). Justice Fund is a separately incorporated New York not-for-profit organization exempt from federal income taxes under section 501(c)(4) of the Internal Revenue Code. The purpose of Justice Fund include, among other things, to heighten public awareness as to issues of public defense services and to advocate and lobby for improvements in the criminal justice system generally and public defense services in particular. The organizations employ some of the same employees and the Association provides management services to the Justice Fund in accordance with a cost allocation plan and fee agreement which is approved by the Association and the Justice Fund. In 2008, the Justice Fund paid the Association a management fee of $76,699 ($67,450 in 2007) and reimbursed costs of $211,920 ($153,268 in 2007) which were incurred on behalf of the Justice Fund.

NOTE 8 — CONTINGENCIES

The Comptroller of New York State has the right to audit expenditures for prior periods relating to the Association's Public Defense Backup Center and pass-through federal funding. In the opinion of management, all expenses covered by such contracts meet the requirements of the grant and adjustments, if any, that may result from such future audits would be immaterial.