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NYSDA
Improving the Quality of Public Defense Through Training

An Accredited Provider of Continuing Legal Education (CLE), NYSDA presents CLE training across the state.
THE mission of the New York State Defenders Association (NYSDA) is to improve public defense services. The varied services described in this report, which are provided to individual defenders, public defense offices, governmental bodies, and many others, support that mission.

Client-Focused Advocacy Supports the Mission

One of the many ways that NYSDA supports its mission is by advocating for laws and policies that improve the justice system itself, securing the ideal of justice for all. Historic legislative reforms achieved in the past year are the highlights of this report.

Landmark Criminal Justice Reform Law

Groundbreaking bail, discovery, and speedy trial reform laws that were enacted this year (Laws of 2019, Chapter 59) are a giant leap forward for fairness and equality, and address fundamental problems that have plagued our clients and impeded the administration of justice. The discovery reforms lift the blindfold and require that prosecutors disclose their evidence to the defense in a timely and meaningful way. The bail reforms guarantee that many people will no longer be jailed before trial simply because they cannot afford bail, and, for charges where bail is still an option, the reforms require judges to consider the least restrictive bail options, including bonds. The speedy trial reforms enact common sense measures to ensure that people do not languish in jail awaiting trial. Over time, the ripples of justice emanating from these laws will be felt by millions of people.

NYSDA is extraordinarily grateful for the leadership of the following policymakers on these historic reforms that bring us closer to the promise of equal justice under law: Governor Andrew Cuomo, Senate Majority Leader Andrea Stewart-Cousins, Assembly Speaker Carl Heastie, the NYS State Senate, especially Senators Jamaal Bailey, Luis Sepulveda, Michael Gianaris, Brad Hoylman, and Liz Krueger, and the NYS Assembly, especially Assemblymembers Joseph Lentol, Latrice Walker, Jeffrion Aubry, David Weprin, Jeffrey Dinowitz, and Philip Ramos. The package of bills in the Fiscal Year 2019-2020 State Budget passed on April 1, 2019.

MISSION STATEMENT

NYSDA’s mission is to improve the quality and scope of publicly supported legal representation to low-income people.

Five Criminal and Parental Justice Bills Pass Both Houses

The Legislature also passed five major criminal and parental justice bills at the end of the 2019 legislative session which together will bring justice and fairness to millions of our clients in the criminal and family law systems (see details below). These bills will be sent to Governor Cuomo over the next six months for his consideration. In this watershed year, other initiatives passed, including a law repealing the ban on gravity knives, which has already been signed by the Governor.

NYSDA thanks the following partner groups who worked tirelessly for the Bail, Discovery & Speedy Trial laws, and these five important bills: Brooklyn Defender Services, The Bronx Defenders, Chief Defenders Association of NY, Center for Family Representation, Citizen Action, Genesee County Public Defender, Katal, The Legal Aid Society, Legal Aid Society of Nassau County, Legal Aid Society of Suffolk County, Legal Aid Society of Westchester County, Madison County Bail Fund, Neighborhood Defender Service of Harlem, NYS Association of Criminal Defense
Lawyers, NYS Bar Association, NYC Bar Association, NYS Council of Churches, NY County Defender Services, NYS Magistrates Association, Parent Legislative Action Network, Preserving Family Bonds, Repeal the Blindfold, Tompkins OAR Bail Fund, and others. Thanks also to the NYSDA Team that helped bring home these bills:

Susan Bryant, NYSDA Executive Director, Al O’Connor, NYSDA Litigation Counsel, Anne Rabe, NYSDA Organizing Coordinator, and Artie Malkin and Christine Tramontano, Malkin & Ross. Last, but not least, 65 groups, including NYSDA, succeeded in stopping proposals that would have weakened the bail reform law.

Message from the Executive Director

In my new role as Executive Director, I am proud to work alongside our committed and experienced staff and Board of Directors to carry on NYSDA’s mission.

We are entering a new phase of public defense, one where there is greater recognition of and fiscal support for the work defenders do every day to represent clients. The legislative reforms discussed in this report, which primarily relate to the criminal arm of public defense, provide strength as we move forward. This year we saw a large-scale positive shift toward fairness. At the same time, there is more work to do with respect to criminal laws, parole, incarceration, and other issues. We must increase recognition of clients’ humanity and understanding of the ways our current system fails them, families, communities, and society, and counter efforts to rollback gains.

We are slowly building upon the existing committed defense community, encouraging new attorneys, social workers, investigators, and other professionals to work in public defense. In this new phase, we must do more to ensure that defenders and defense colleagues have the support they need to remain in this field. Public defense independence must also be maintained and enhanced.

Over the past year, we have been happy to see a greater focus on family defense, particularly at the state level. Too often family defense has been treated as separate from and less important than criminal defense despite the crucial roles it plays in the overarching public defense system. The liberty interests at stake in Family Court are enormous, from potential loss of all parental rights to a diminution of involvement in the lives of one’s children, and lawyers representing parents and other respondents make up a large portion of the attorneys who provide mandated legal representation to litigants who cannot afford counsel. The work we do to elevate and support family defense is summarized in this report.

While celebrating these changes, we have also been mourning the loss of two dear colleagues this last year, Ken Strutin and Jay Coleman. Their dedication and passion remain an inspiration to all of us. They are sorely missed.

Along with our staff and Board, I look forward to strengthening our current work and creating new ways to help grow and strengthen public defense. NYSDA remains dedicated to its mission and to serving our Association’s members, the defense community, and public defense clients.

—Susan C. Bryant
• **Defender Access to Criminal History Reports:** S. 2198 (Bailey) & A. 7644 (Lentol) adds “public defenders, legal aid societies, and assigned counsel administrators” to the list of qualified agencies to give defenders direct access to their client’s state criminal history report information.

• **Wrongful Conviction Prevention Act:** S. 3672 (Bailey) & A. 748 (Cook) will decrease wrongful convictions by authorizing payment to assigned appellate lawyers when they raise claims of ineffective assistance of trial counsel. Counties seeking to comply with the NYS Office of Indigent Legal Services (ILS) Appellate Standards, which are consistent with this bill, can include the minimal expenses in their county improvement public defense plans funded by the Justice Equality Act of 2017, wherein the State incrementally increases funding, resulting in $250 million annually by 2023.

• **Charitable Bail Fund Reform Act:** S. 494 (Rivera) & A. 6980 (Blake) removes the geographical restriction that a Charitable Bail Organization (CBO) may only offer bail in one county outside of New York City so that more efficient regional CBOs can be created, and allows CBOs to provide up to $10,000 in bail for both felonies and misdemeanors.

• **Child Abuse State Central Register Reform Act:** S. 6427-A (Montgomery) & A. 8060-A (Jaffé) brings the Statewide Central Register of Child Abuse & Maltreatment (SCR) in line with other states that tailor the impact of indicated findings to the individual’s record. It changes the standard of proof from “some credible evidence” to a “preponderance of the evidence” for placement on the SCR. It ensures fairness and due process for people who face diminished employability for up to 28 years, eliminates harsh and disproportionate consequences by eliminating duplicative proceedings, limits employment consequences for cases that do not involve alleged abuse, and updates the statute to reflect current procedures.

• **Preserving Family Bonds Act:** S. 4203-A (Savino) & A. 2199-A (Joyner) grants family court judges the discretion to order continued visitation and/or contact between children and their birth parents and/or their siblings after a parent’s rights have been terminated. This may be done at the dispositional hearing in a termination of parental rights proceeding when the court deems such contact to be in the child or children’s best interests.

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**Advocacy in Other Forums**

NYSDA advocates in many forums besides the Legislature for policies that promote client-centered representation and benefit the client community. In the last year, highlights of such advocacy included efforts to ensure fair treatment of youth and families.

NYSDA signed on to an amicus brief about an interpretation of the Raise the Age legislation passed in 2017. The brief, in which NYSDA joined four New York City public defense offices, argued that a young defendant was improperly denied removal to Family Court based on the actions of alleged accomplices. The Appellate Division found that the issue in *Matter of A.P. Jr. v Roberts* should be raised on direct appeal.

In a very different forum, in 2018 the Association presented testimony to the New York State Unified Court System Commission.
on Parental Legal Representation. Fundamental points made about the provision of public defense services to parents in Family Court (and in all courts) include the need for: independence; sufficient resources and time; timely access to counsel; and holistic representation. NYSDA urged the Commission not to rush its recommendations but rather to engage in a thorough study like that underlying the 2006 Kaye Commission report about public defense representation in criminal courts. In issuing an Interim Report in February 2019, the Commission implicitly acknowledged that repairing decades of neglect with regard to parental representation requires detailed, ongoing work.

A portion of NYSDA’s annual budget testimony also related to representation in Family Court, urging the State Legislature to provide funding requested by ILS for Parent Representation Caseload Relief and Quality Improvement.

NYSDA signed on to an amicus brief on a criminal issue filed in a federal appellate court in July 2018 about use of surveillance with masking technology in attorney-client booths in the Richmond County Courthouse. In Grubbs v Brown, 18-670-pr (12/3/2018), the Second Circuit ruled favorably on the position taken by the amici.

As always, the Association maintained its advocacy for continued or increased funding for a variety of services relating to public defense in criminal courts. NYSDA greatly appreciates existing state support of its services and those of other groups seeking to ensure quality public defense representation, but notes that stagnant funding in many areas threatens the progress that NYSDA has helped bring about.

### Helping Individual Defenders Provide Improved Representation

In addition to improving public defense systems and training lawyers, described elsewhere in this report, NYSDA also offers concrete assistance to individual defenders who are fighting in real time to secure the best possible result for their clients. These direct defender services fill a need statewide.

Lawyers call the Backup Center for quick research to rebut last-minute assertions by adversaries or judges that contradict a defense theory. Occasionally, a defender still faxes a document, perhaps to ask if it meets the sometimes obscure requirements of the Criminal Procedure Law or Family Court Act. Often, attorneys email their questions to the Backup Center.

“I used your point about opposing counsel’s ‘opportunity to respond’ in my memo and the judge made reference to that in his decision.”

—Attorney receiving direct defender services

In responding to email inquiries, and in using research resources online, NYSDA attorneys keep in mind the confidentiality issues that modern methods of communication pose. And to ensure that legitimate questions reach the Backup Center but ransomware and excessive spam do not, NYSDA relies on Director of Information Technology Dave Austin, who keeps up on cybersecurity issues as part of his many duties in maintaining NYSDA’s networks and computer systems.

NYSDA maintains extensive in-house databases holding hundreds of thousands of items. A network of servers puts all this information within easy “reach” of NYSDA’s legal staff. This information, plus a library of relevant treatises and the experience of NYSDA’s legal staff, helps ensure that lawyers receive needed assistance quickly.
For small county defender offices or solo practitioners to obtain individually the human and office resources required to meet their research and consultation needs would be redundant and financially prohibitive. The Backup Center is an efficient means of ensuring public defense lawyers have what they need. Helping ensure that efficiency is Business Manager Joel Rosenberg, who directs and manages NYSDA’s financial and human services.

**Supporting Assigned Counsel in Multiple Ways**

In every county of New York, defenders include private lawyers who handle some portion of public defense cases. These assigned counsel, also called 18-B attorneys for the County Law article that governs their appointment, constitute a vital component in the State’s provision of mandated legal representation. These attorneys face time and resource demands that differ from those of their institutional defender colleagues.

“*This was great training. It’s wonderful to be made aware of resources available to support Assigned Appellate Counsel.*”

—Attendee at “Assigned Counsel Appeals Training”

NYSDA’s direct defender services, above, provide 18-B lawyers with opportunities for brainstorming difficult cases, identifying and accessing experts, and researching new or unique issues—support that can be especially crucial when a conflict prevents discussing these matters with other local lawyers.

Assigned counsel compensation, set by statute, must cover the overhead costs associated with 18-B lawyers’ public defense cases as well as their time. When 18-B rates stagnate, attorneys cannot afford to continue to accept appointments. The resulting shortage creates a crisis for counties, courts, and public defense clients. Information on the need to increase current fees, and NYSDA’s support for that and for maintaining appropriate assigned counsel rates, are noted in the February-April 2019 issue of the Backup Center REPORT.

Factors other than fees also contribute to a scarcity of 18-B attorneys in rural areas, which face a dropping number of lawyers in general. As noted on the Stateline page of the Pew Charitable Trusts, on June 26, 2019, rural “legal deserts” exist across the nation. An April 2019 Albany Law School Government Law Center study reported survey results that warn of worsening access to legal services in rural areas absent an increase in younger lawyers willing to replace retiring attorneys or other innovative solutions. NYSDA distributed the report, “Rural Law Practice in New York State” to Chief Defenders, and is working with them and others to encourage law graduates to consider public defense careers as noted below.

Confronting lawyer shortages and ensuring quality representation by assigned counsel requires empowered, well-resourced Assigned Counsel Programs (ACPs). NYSDA works with individual programs as well as with ILS, counties, and others to improve ACPs across the state. For example, NYSDA provided technical assistance to ILS through the active participation of Senior Staff Attorney Mardi Crawford in the drafting of the newly promulgated ILS Standards for Establishing and Administering Assigned Counsel Programs. NYSDA encourages 18-B lawyers, ACP Administrators, government policy-makers and funders, and ILS itself to use these new standards to secure quality representation for every assigned counsel client in every court.

“These CLE’s are excellent. As an 18-B attorney in a solo office. I appreciate the opportunity to brainstorm with other attorneys. These types of CLE’s for Criminal Law would also be extremely helpful.”

—Attendee at “Family Court, Article 10: Intensive Skills Module 2”
Technical Assistance Helps Improve Public Defense

Since its beginnings on Long Island in 1978, and certainly since the State began funding it in 1981, NYSDA’s Public Defense Backup Center has offered technical assistance to improve public defense across the state. To do that, the Association has developed its own expertise, collected knowledge from others, and then shared the information and tools with many entities and individuals.

Aiding Chief Defenders

For over 35 years, NYSDA has invited the head of every public defense program in the state to periodic meetings at which NYSDA provides information and these Chief Defenders have an opportunity to share strategies and questions about current issues. One such Convening is held in conjunction with the Annual Meeting and Conference. Last year a second Convening was held in December. Executive Assistant Diane DuBois is responsible for organizing the Convenings, and for many other duties that keep the Backup Center running, like managing the work to fulfill state reporting requirements and of course supporting the work of the Executive Director.

The Backup Center also sends blast emails to Chiefs about developments affecting public defense programs, including breakdowns of the state budget. NYSDA provides its publications to all Chiefs and fields Chiefs’ inquiries.

NYSDA also works with the Chief Defenders Association of New York (CDANY). For example, NYSDA cosponsored two public defense career fairs with CDANY in the last year to help recruit attorneys. One, also cosponsored with the University of Buffalo Law School, was held in October 2018. The other, also cosponsored with Albany Law School, occurred in April 2019.

Public Defense Case Management System

The most “technical” of NYSDA’s technical assistance is its Public Defense Case Management System (PDCMS). This software, designed with public defense providers, has undergone major upgrades to improve its core functions and to provide additional features requested through NYSDA’s recent PDCMS User’s Survey. The most-requested feature, the ability to send batch text and/or email reminder messages to clients regarding upcoming court appearances, will be piloted by the Monroe County PD office in August. This was one of the new features demonstrated at the December Chief Defender Convening when the PDCMS team presented an “Overview and New Functionality Demonstration.” Darlene Dollard, the Director of Software Development, and Mike Mayer, the Systems Administrator, presented and were assisted by Dandre Wheeler, an Information Systems Specialist. The map of current PDCMS installations appearing below is also courtesy of Dandre.

As that map shows, 77 public defense offices in 48 counties now use the PDCMS. To meet the support needs of its growing user base, the PDCMS team has added another valuable member, Information Systems Specialist Asaph Ko. This team additionally supports RIAC, the Regional Immigration Assistance Center software developed by NYSDA to help those centers track requests from defense attorneys around the state.
Other Organizations

NYSDA participates in a variety of committees and groups that address issues affecting public defense and the client community. Sometimes, NYSDA is the sole voice for public defense in the room. Other times, it offers to defense colleagues a depth of knowledge based on its long-standing, state-wide involvement in efforts to improve public defense. A sampling of NYSDA’s liaison roles in the last year include participation in the following: Office of Court Administration’s Advisory Committee on Criminal Law and Procedure; NYS Office of Mental Health and the NYS Conference of Local Mental Hygiene Directors, Inc. Competency to Stand Trial/Competency Restoration Learning Collaborative (grant funded by the federal Substance Abuse and Mental Health Services Administration GAINS Center); NYS Bar Association Committee on Mandated Representation and its Mental Health Subcommittee and Task Force on Incarceration Release Planning and Programs; Board of the NYS Association of Criminal Defense Lawyers; and Supreme and County Court (Criminal) Advisory Committee on electronic filing.

NYSDA also participates in a number of ILS advisory bodies and groups, including the Appellate Defender Council; Parental Representation Advisory Group, Criminal Defense Advisory Group, and the Hurrell-Harring Assigned Counsel Summit.

Restorative Practice

NYSDA provides technical assistance and other services to help defenders provide the best representation possible in the adversary systems that exist in criminal and family courts. But public defense clients can also benefit from changes to those systems, and from being removed from those systems. NYSDA encourages development of alternatives to traditional court proceedings. Restorative Practitioner John Cutfro provides NYSDA’s staff and others with insights about the advantages that restorative practices can offer not only litigants but also their communities.
Improving Public Defense Through Training

NYSDA’s founders knew that improving public defense representation requires affordable, relevant, high-quality training. Early, informal sharing of information among motivated defenders through NYSDA, beginning in the 1960s, evolved into formal Continuing Legal Education (CLE) programs. Seeking to ever-more effectively improve defenders’ skills and knowledge, NYSDA continually encourages client-centered representation; provides information on developments in law, forensic science, and other relevant disciplines; and updates the content and structure of its trainings.

Public defense lawyers navigating systemic changes like those underway pursuant to the Raise the Age legislation of 2017 continue to turn to NYSDA for training. Among those helping make that training possible is Nancy Ginsburg, Director of the Adolescent Intervention and Diversion Project of The Legal Aid Society, Criminal Practice. For her work in making Raise the Age a reality and her dedication to high quality representation of young people, NYSDA presented to Nancy its 2018 Wilfred R. O’Connor Award.

Throughout the last year she has continued helping attorneys and Chief Defenders understand the implications and intricacies of Raise the Age, presenting at CLE sessions, sharing materials about developing caselaw, and being ever-ready to field questions.

“This is by far the best training I have been to on Raise the Age so far.”
—Attendee at “Raise the Age: Preparing for the Changes to Come”

Staples of NYSDA training like the two-day Annual Conference in Saratoga Springs and the Annual Metropolitan New York Trainer continue, updating hundreds of attorneys on legal changes, interdisciplinary practice, and other issues. NYSDA also brings its training expertise to collaborations with others; ILS and NYSDA have cosponsored events intended to meet the quality improvement requirements of the Hurrell-Harring settlement and its statewide expansion as well as events intended to ensure justice in the provision of counsel. Such cosponsored trainings included, in the last year, “Doing Bail Better: Using CPL 520.10 and 510.30 to Make Fairer Bail Decisions” and “Criteria and Procedures for Determining Financial Eligibility for Assigned Counsel Representation in Criminal Cases under County Law §722.”

“Excellent training — should present to DSS and CPS workers and Family Court judges.”
—Attendee at “Opioids and Pregnancy: Applying the Science to Family Court Matters”

NYSDA works to expand its use of hands-on and interactive training methods, a key aspect of the well-known Basic Trial Skills Program (BTSP). This year’s BTSP, held at Skidmore College in Saratoga Springs, gave its 46 graduates the intense immersion in preparing and presenting a public defense client’s case for which BTSP is well-known, with changes intended to improve the experience further.

Other NYSDA trainings address specific issues and clients with specific problems. This last year, such trainings included “Improving Skills for Handling Special Issues: From Non-Citizen Clients to Not Responsible Pleas”; “Negotiation Skills and Implicit Bias”; and “Opioids and Pregnancy: Applying the Science to Family Court Matters.” Many programs were presented regionally, at local defender offices or facilities, to make attendance possible for busy lawyers and maximize local public defense resources.

1 The new graduates receive a year’s membership in NYSDA; their names are noted with an * in the membership list beginning on p. 15.
Senior Staff Attorney Stephanie Batcheller has primary responsibility for planning NYSDA training. Her insights on what defense attorneys want and need, based on broad experience as both a trial and appellate defender in some very different jurisdictions, help maintain NYSDA’s reputation for training excellence. In November 2018, Stephanie was an invited speaker at the American Society of Criminology annual conference in Atlanta, GA, presenting “Trauma and the criminal justice system from a lawyer’s perspective” as part of a roundtable on “Criminalized and Harmed—Women in the ‘Criminal’ Justice System.”

Training Coordinator Alexandra Walters handles many of the logistical aspects of NYSDA’s CLE training; she was formerly the Program Assistant, a position that requires involvement in the detail work of training and many other NYSDA activities. Our new Program Assistant, K.J., has taken on those responsibilities.

Training offered to lawyers representing parents and other respondents in Family Court matters, described in more detail below, was very well received. So was training provided by NYSDA’s Veterans Defense Program, discussed at p. 10.

Elevating Public Defense in Family Court

Just over 10 years ago, NYSDA held a Chief Defender Convening primarily focused on public defense representation of adults in Family Court. Chiefs were encouraged to bring their primary Family Court lawyers to participate in a substantive discussion of issues. At that time, NYSDA had already been seeking funds to put an experienced Family Court attorney on staff. Consistent denial of such funding, like the refusal of the Kaye Commission to address the question of public defense in Family Court in its 2006 report, was emblematic of how representation of parents was being ignored.

“Res judicata training was particularly excellent; it was short, to the point and captivated the audience with its dramatic twists.”

—Attendee at “2019 Crimes and Immigration Seminar”

Continued efforts to elevate the Backup Center’s work in this area bore fruit. For several years, NYSDA has offered direct defender services and increased its training for family defenders, engaged in advocacy to elevate public and government awareness of public defense issues in Family Court, and collaborated with ILS and others on projects intended to improve the quality of Family Court representation.

In the last 12 months, several CLE events provided high-quality training specific to Family Court practice. The regional training on opioids and pregnancy noted above featured Bernadette Hoppe, who made extraordinary efforts to give family defense lawyers the tools they need. Those efforts were noted in the February-April REPORT item announcing her death from cancer. Three “Intensive Skills” modules focused on representation in Family Court Act article 10 (child protective proceedings); these were cosponsored by the Ontario County Public Defender’s Office. A joint Criminal and Family Defense Update and a program on the Intersection of Family Court and Immigration rounded out the list.
In addition to testifying before the Parental Legal Representation Commission, discussed above, last year NYSDA sought and received a New York Bar Foundation grant for a discrete Family Defense Project to gather information and assess family defense needs. This project is intended to inform NYSDA’s training efforts and complement the ongoing work of the Commission.

In 2019, the Backup Center welcomed Kimberly Bode as its new Family Court Staff Attorney, replacing Lucy McCarthy who now works at ILS. Kim spent more than a decade as a family court attorney with the Suffolk County Legal Aid Society, fighting every day to preserve her clients’ parental rights in virtually all types of Family Court matters. Attorneys with Family Court questions are encouraged to reach out to Kim at the Backup Center: 518-465-3524, kbode@nysda.org.

**Improving the Representation of Veterans: Veterans Defense Program**

NYSDA’s Veterans Defense Program (VDP) had a year of growth, with new staff and the creation of a Long Island office, resulting in increased support and legal assistance to public defenders with trauma-informed effective representation of veterans in the state’s criminal and family court systems. The VDP helps the most vulnerable of our veterans by assisting defense attorneys in providing justice to veterans with military-related mental health issues, such as PTSD, and facilitating treatment referrals to heal their war wounds. From 2016 to 2018, the VDP helped justice-involved veterans to be diverted into treatment and probation, and avoided a maximum total of 743 years of incarceration with a cost saving to the State of an estimated $44.5 million.

The following statement from a U.S. Marine Corps veteran exemplifies the life-changing work of the VDP. “I can’t thank you enough and am forever grateful for your help and guidance through one hell of a storm in my life. You were there when many turned their backs. I will never forget that.”

VDP has an office in Batavia, NY, as well as on Long Island and a presence in the Backup Center in Albany. The following is a list of VDP attorneys with their Judicial District (JD) coverage areas: VDP Director Gary Horton covers JD 7 & 8, Deputy Director Art Cody covers JD 1, 3, 9, 12 & 13, Staff Attorney Blair Hill covers JD 2, 10 & 11, and Staff Attorney Sandra Cassidy covers JD 4, 5 & 6. Mentoring, expert referrals, and support are provided by Program Coordinator Dee Quinn Miller, Case Manager Michael White, Case Manager Richard Henry, and Assistant Program Coordinator Barbara Lombardi.

Art Cody received the David S. Michaels Memorial Award during the New York State Bar Association Annual Meeting in January 2019. The awards program noted Art’s work, including training presentations nationally on veterans’ defense.

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“Excellent training! Very good to hear from a combat veteran as well.”
—Attendee at “Intensive Mitigation Training”
Distributing Information to Improve Public Defense

Every function NYSDA performs relies on the dissemination of information, from descriptions of new law to advocacy for new legislation. Some information is sent to targeted audiences, while some is offered to the public at large to simultaneously fulfill many needs.

The REPORT and News Picks from NYSDA Staff

NYSDA's newsletter, the Public Defense Backup Center REPORT, provides readers with descriptions of legal developments affecting public defense providers and clients, announcements of selected national and statewide conferences and seminars, and case summaries. Regular readers of the REPORT will have noted that, beginning in 2019, the format of case summaries changed. To get relevant appellate decisions to defenders more quickly and to avoid duplication of effort, NYSDA is now reprinting summaries from other defense organizations in addition to preparing some in house. The Association thanks The Legal Aid Society's Juvenile Rights Practice and Criminal Defense Practice, and ILS, for permission to use their summaries.

Electronic updates—News Picks from NYSDA Staff—appear more frequently than the REPORT and provide concise, current items selected from the flood of information that pours into the inboxes of Backup Center lawyers every day. Time-sensitive notices of proposed rules and hearings, announcements of new resources, and alerts about new laws are just some of the topics that are covered.

News Picks is just one example of the practical NYSDA services that now Senior Staff

Attorney Charlie O’Brien spurs the Backup Center to provide. Charlie was instrumental in bringing many of NYSDA’s services, from PDCMS to training, to the level of excellence for which they are known. In his current role he continues to inspire—and insist on—that excellence.

www.nysda.org and Social Media

Online searches for a variety of terms relating to public defense will bring web users to www.nysda.org. There, menu items let visitors learn “about us,” about “our work,” and about a variety of public defense resources. Resources include lists (under “pd info”) of public defense providers, standards—like the new ILS assigned counsel standards noted earlier—and links. Other resources appear under specific topics like “Criminal/Family Ct Immigration Resources.” Tweets and retweets from NYSDA are available on the homepage for those who themselves are not on Twitter. The Association also has a Facebook page.

NYSDA’s annual reports can be found on the website, along with membership information. Whether joining or renewing online or by use of a paper form like that found on p. 31, members will receive prompt acknowledgment thanks to the work of Senior Contact Manager Dawn Allert. Among her other duties are updating and maintaining the extensive contacts database and managing and supporting the membership program.

More information about all staff duties is available on the website. The people of NYSDA—its Board of Directors, Client Advisory Board, and staff—are listed beginning on p. 13. They make all the services described in this report possible.
Two Who Served NYSDA’s Mission in Different Ways: Ken Strutin and Jay Coleman

NYSDA experienced great sorrow and loss in the last year with the illness and death of two vital members of its staff. Each furthered NYSDA’s mission in his own way. Each leaves a legacy and a void with his passing.

Ken Strutin

Word that Ken Strutin had died shocked and saddened admirers across the state. Ken was Director of Legal Information Services at NYSDA for many years. His death was announced in a Dec. 4, 2018, New York Law Journal obituary, and in News Picks From NYSDA Staff on Dec. 21, 2018. Expanded details of his contributions to NYSDA and to justice appeared in the January 2019 issue of the Backup Center REPORT. Ken wrote extensively about technology’s uses and effects on the legal field, particularly in criminal defense. He also wrote passionately about the legal needs of people in prison, whom he often assisted by providing research and information. Ken’s writing, his research skills, and his compassion received praise from those reflecting on his life and work.

Over six months after Ken died, NYSDA received a letter from a person in prison who had just found out about Ken’s death: “[E]ven though I have not obtained any success through my legal battle, meeting Mr. Strutin via numerous correspondences was a blessing. This man helped me so much ....” The letter noted the “many articles [Ken] wrote advocating for prisoner’s rights and injustice.” The letter’s author added: “There is no doubt that Mr. Strutin will be missed by so many people not only outside of these walls, but also people like me that lack a voice out there. He was a great man fighting on our side.”

Jay Coleman

John “Jay” Coleman used his experiences as a formerly-incarcerated person to offer guidance to other people facing the challenges of prison life and life upon release. As NYSDA’s Client Coordinator, Jay was instrumental in creating and implementing the Prisoner Pre-Entry Mentoring Project (PPMP). This initiative sought to assist prison-bound individuals in making goal-oriented plans to help them lead productive, educational lives. At the time of his final illness, Jay was working with others on plans to replicate PPMP. He had been awarded the 2015 National Legal Aid and Defender Association’s Client Contribution Award.

Back when he was still incarcerated, Jay was a NYSDA member and provided valuable comments on drafts of the Client-Centered Representation Standards. Created in 2005 by NYSDA’s Client Advisory Board—which Jay went on to chair after his release—these standards were endorsed and approved by NYSDA’s Board of Directors. The standards are cited, among other places, in the commentary to the recently-issued ILS Standards for Establishing and Administering Assigned Counsel Programs discussed above.

Jay and his family shared the months of his final journey together. They also shared it with friends and anyone who might benefit from stories of love and redemption; Jay and his wife Alison Coleman were featured in a January 1, 2019, Times Union column that captured some of Jay’s work and spirit.
# NYSDA 2019: People Serving One Mission in Many Ways

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The work that NYSDA does benefits public defense lawyers, clients, and all who value justice. The people who assist NYSDA through membership and contributions help make that work possible. A strong membership aids in securing funding and strengthens advocacy efforts. Financial contributions increase the Association’s flexibility in addressing new or pressing issues. Membership and donation forms are available at pages 31 and 33 to make your continued support of NYSDA’s mission easy. The Association thanks everyone who joins, donates, or does both as noted below!

NYSDA also thanks the Legislature and the Governor for the funding that made possible much of the work described in this report. The Association has received state funding for the Backup Center since 1981, and for the Veterans Defense Program since 2015. NYSDA’s services help the State meet its constitutional responsibilities and assist localities in stretching local and state dollars.

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Photo Captions

Cover:
Four photos, from the top:
Susan Jacobs (r), founding Executive Director and current Special Counsel of the Center for Family Representation in New York City, received the 2018 Jonathan E. Gradess Service of Justice Award. Susan C. Bryant (l), then Acting Director and now Executive Director of NYSDA, presented the award at the Annual Meeting and Conference.

Alex B. Rosen, Bureau Chief of the Criminal Unit of the Dutchess County Office of the Public Defender (not pictured) was awarded the 2018 Kevin M. Andersen Memorial Award, created by the Genesee County Public Defender Office. Due to a scheduling conflict, the award presentation at NYSDA's Annual Meeting and Conference was made by Jerry Ader (l), Genesee County Public Defender, to Rosen's parents, Barbara (c) and Barry (r) Rosen.


Inside Cover:
Two photos (from right):
Jonathan E. Gradess (c), NYSDA's former Executive Director, was honored by the NYSDA Board in 2017 with the establishment of a fund to support NYSDA in his name. When NYSDA received a Certificate of Appreciation from the Coalition of Concerned Legal Professionals on Mar. 9, 2019, Gradess joined Susan Bryant (r), in accepting the recognition.

NYSDA Organizing Coordinator Anne Rabe displays a flyer featuring the Jonathan E. Gradess Peace and Justice Fund during NYSDA's 2018 Annual Meeting and Conference.

Page ii:
Five photos, clockwise from the top:
Kim Taylor was among the presenters at the “Assigned Counsel Appeals Training” that NYSDA cosponsored with the Appellate Division, Fourth Judicial Department, in Rochester in April 2019.

Sheila Shea (r), greets attorney Robert Linville (l), following the presentation by Shea and Christy Coe (not pictured) on “Combatting the Stigma of Mental Illness” at the 2018 Annual Conference.

Background:
The State Capitol Building and Legislative Office Building in Albany. NYSDA's work to improve public defense services statewide includes legislative advocacy. This year saw exciting legislative justice reforms, as described beginning on p. 1.

Page 6:
Evelyn A. Kinnah (seated), now Deputy Director of the Albany County Regional Immigration Assistance Center (RIAC), Region 3, speaks with attending lawyers including Sherri Brooks, Albany County Alternate Defender, at the 2018 NYSDA Annual Conference.

Page 9:
At the Public Defense Career Fair held in Albany on April 11, 2019, Lori Zeno (r), Executive Director of Queens Law Associates, stops at the NYSDA table staffed by Susan Bryant (standing) next to the table for the NYS Association of Criminal Defense Lawyers staffed by Jennifer Van Ort (seated).

Lance Salisbury was one of several presenters at “Best Practices in Early Entry Representation,” cosponsored by NYSDA and the Schoharie County Assigned Counsel Plan in January 2019.

David Weisfuse (standing) and Robert Dean presented on “The Trial Lawyer’s Responsibility to Effectuate the Client’s Criminal Appeal” held at the Legal Aid Society of Westchester County. The Conference Room is named for former NYSDA Board member Stephen J. Pittari, who headed the Society for many years.

Nora Christenson (r) and Nancy Ginsburg greet 2018 NYSDA Annual Conference attendees following their Raise the Age presentation.
Page 10:

Page 12:
First column: The late Ken Strutin, who was NYSDA’s Director of Legal Information Services, during a break at the 2014 Annual Meeting and Conference.

Second column: The late John (Jay) Coleman, who was NYSDA’s Client Coordinator and Chair of the Client Advisory Board.

Page 13:
Two photos, from top: Edward J. Nowak (l), NYSDA’s Board President, addressing the 2018 Membership Meeting, with Susan Bryant (r) on the dais.

Page 14:
NYSDA Vice President Norman P. Effman.

Two photos, from top: NYSDA Treasurer Richard (Otto) Rothermel.

Alexander Walters, seen here at last year’s Annual Conference, joined the Backup Center Staff as Program Assistant and is now NYSDA’s Training Coordinator.

Page 15:
The New York State Capitol and Legislative Office Building, seen from West Capitol Park, are only a few blocks from NYSDA’s office in Albany, NY.

Pages 16–27: People photographed during NYSDA’s 2018 Annual Meeting and Conference in Saratoga Springs, NY.

Page 28:
NYSDA Family Court Staff Attorney Kim Bode (l) and Executive Director Susan Bryant (c) accepted a New York Bar Foundation grant from James Barnes, Vice Chair of the Foundation’s Fellows, in April 2019.
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Credit Card Number: ________________________________
Exp. Date: _____ / _______ Cardholder's Signature ________________________________
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.
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Financial Statements
- Statements of Financial Position 2
- Statements of Activities and Changes in Net Assets 3
- Statements of Cash Flows 4
- Notes to Financial Statements 5
INDEPENDENT AUDITOR’S REPORT

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

We have audited the accompanying financial statements of New York State Defenders Associations, Inc., which comprise the statements of financial position as of December 31, 2018 and 2017, and the related statements of activities and changes in net assets, and cash flows for the years then ended, and the related notes to the financial statements.

Management’s Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor’s Responsibility

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 from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor’s judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity’s preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity’s internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

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, 2018 and 2017, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Albany, New York
May 10, 2019
NEW YORK STATE DEFENDERS ASSOCIATION, INC.

STATEMENTS OF FINANCIAL POSITION
December 31, 2018 and 2017

<table>
<thead>
<tr>
<th>ASSETS</th>
<th>2018</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash</td>
<td>$291,974</td>
<td>$559,346</td>
</tr>
<tr>
<td>Grant and other receivables</td>
<td>1,263,190</td>
<td>531,676</td>
</tr>
<tr>
<td>Deposits</td>
<td>8,776</td>
<td>8,526</td>
</tr>
<tr>
<td>Prepaid expenses</td>
<td>7,747</td>
<td>31,526</td>
</tr>
<tr>
<td>Furniture and equipment, less accumulated depreciation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2018, $266,428; 2017, $272,171</td>
<td>49,417</td>
<td>28,706</td>
</tr>
<tr>
<td>Total assets</td>
<td>$1,621,104</td>
<td>$1,159,780</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LIABILITIES AND NET ASSETS</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>LIABILITIES</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notes payable - bank</td>
<td>$250,000</td>
<td>$-</td>
</tr>
<tr>
<td>Accounts payable and accrued expenses</td>
<td>152,192</td>
<td>23,032</td>
</tr>
<tr>
<td>Accrued salaries and vacation pay</td>
<td>134,679</td>
<td>124,284</td>
</tr>
<tr>
<td>Deferred grant and contract revenue and advances</td>
<td>117,153</td>
<td>168,921</td>
</tr>
<tr>
<td>Deferred membership dues</td>
<td>12,228</td>
<td>36,388</td>
</tr>
<tr>
<td>Total liabilities</td>
<td>666,252</td>
<td>352,625</td>
</tr>
</tbody>
</table>

COMMITMENTS AND CONTINGENCIES

<table>
<thead>
<tr>
<th>NET ASSETS</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Without donor restriction</td>
<td>954,852</td>
<td>807,155</td>
</tr>
<tr>
<td>Total liabilities and net assets</td>
<td>$1,621,104</td>
<td>$1,159,780</td>
</tr>
</tbody>
</table>

See notes to financial statements.
NEW YORK STATE DEFENDERS ASSOCIATION, INC.
STATEMENTS OF ACTIVITIES AND CHANGES IN NET ASSETS
Years Ended December 31, 2018 and 2017

<table>
<thead>
<tr>
<th></th>
<th>2018</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New York State appropriation</td>
<td>$2,648,899</td>
<td>$2,651,954</td>
</tr>
<tr>
<td>Other grants and contracts</td>
<td>7,500</td>
<td>173,211</td>
</tr>
<tr>
<td>Membership dues</td>
<td>94,131</td>
<td>100,207</td>
</tr>
<tr>
<td>Interest</td>
<td>280</td>
<td>542</td>
</tr>
<tr>
<td>Contributions</td>
<td>9,492</td>
<td>28,469</td>
</tr>
<tr>
<td>Conferences, publications and other income</td>
<td>533,473</td>
<td>534,131</td>
</tr>
<tr>
<td><strong>Total revenue</strong></td>
<td>3,293,775</td>
<td>3,488,514</td>
</tr>
<tr>
<td><strong>Expenditures:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salaries</td>
<td>1,612,040</td>
<td>1,738,146</td>
</tr>
<tr>
<td>Contracted services</td>
<td>285,929</td>
<td>383,904</td>
</tr>
<tr>
<td>Other employee benefits</td>
<td>468,199</td>
<td>458,090</td>
</tr>
<tr>
<td>Conference facilities and travel</td>
<td>239,146</td>
<td>267,304</td>
</tr>
<tr>
<td>Occupancy</td>
<td>131,571</td>
<td>119,458</td>
</tr>
<tr>
<td>Payroll taxes</td>
<td>125,889</td>
<td>137,777</td>
</tr>
<tr>
<td>Printing and publications</td>
<td>45,802</td>
<td>49,247</td>
</tr>
<tr>
<td>Office and computer supplies</td>
<td>48,836</td>
<td>43,037</td>
</tr>
<tr>
<td>Library and professional dues</td>
<td>61,587</td>
<td>55,191</td>
</tr>
<tr>
<td>Postage and shipping</td>
<td>19,641</td>
<td>22,783</td>
</tr>
<tr>
<td>Depreciation</td>
<td>15,918</td>
<td>17,604</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>22,235</td>
<td>36,633</td>
</tr>
<tr>
<td>Telephone and communications</td>
<td>22,247</td>
<td>25,065</td>
</tr>
<tr>
<td>General insurance</td>
<td>14,599</td>
<td>12,815</td>
</tr>
<tr>
<td>Equipment rental and maintenance</td>
<td>22,255</td>
<td>17,153</td>
</tr>
<tr>
<td>Interest</td>
<td>10,184</td>
<td>7,249</td>
</tr>
<tr>
<td><strong>Total expenditures</strong></td>
<td>3,146,078</td>
<td>3,391,456</td>
</tr>
<tr>
<td><strong>Change in net assets</strong></td>
<td>147,697</td>
<td>97,058</td>
</tr>
<tr>
<td><strong>Net assets, beginning</strong></td>
<td>807,155</td>
<td>710,097</td>
</tr>
<tr>
<td><strong>Net assets, ending</strong></td>
<td>$954,852</td>
<td>$807,155</td>
</tr>
</tbody>
</table>

See notes to financial statements.
NEW YORK STATE DEFENDERS ASSOCIATION, INC.
STATEMENTS OF CASH FLOWS
Years Ended December 31, 2018 and 2017

CASH FLOWS FROM OPERATING ACTIVITIES

<table>
<thead>
<tr>
<th>Item</th>
<th>2018</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Change in net assets</td>
<td>$147,697</td>
<td>$97,058</td>
</tr>
<tr>
<td>Adjustments to reconcile change in net</td>
<td></td>
<td></td>
</tr>
<tr>
<td>cash (used in) provided by operating</td>
<td></td>
<td></td>
</tr>
<tr>
<td>activities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depreciation</td>
<td>15,918</td>
<td>17,604</td>
</tr>
<tr>
<td>Changes in:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grant and other receivables</td>
<td>(731,514)</td>
<td>483,397</td>
</tr>
<tr>
<td>Prepaid expenses and deposits</td>
<td>23,529</td>
<td>(19,269)</td>
</tr>
<tr>
<td>Accounts payable and accrued expenses</td>
<td>129,160</td>
<td>(19,341)</td>
</tr>
<tr>
<td>Accrued salaries and vacation pay</td>
<td>10,395</td>
<td>(4,031)</td>
</tr>
<tr>
<td>Deferred grant and contract revenue</td>
<td>(75,928)</td>
<td>(97,727)</td>
</tr>
<tr>
<td>and advances and membership dues</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net cash (used in) provided by</td>
<td>(480,743)</td>
<td>457,691</td>
</tr>
<tr>
<td>operating activities</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

CASH FLOWS FROM INVESTING ACTIVITIES

<table>
<thead>
<tr>
<th>Item</th>
<th>2018</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchases of furniture and equipment</td>
<td>(36,629)</td>
<td>(16,098)</td>
</tr>
<tr>
<td>Net cash used in investing activities</td>
<td>(36,629)</td>
<td>(16,098)</td>
</tr>
</tbody>
</table>

CASH FLOWS FROM FINANCING ACTIVITIES

<table>
<thead>
<tr>
<th>Item</th>
<th>2018</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proceeds from (payments to) line of</td>
<td>250,000</td>
<td>(95,400)</td>
</tr>
<tr>
<td>credit, net</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net cash provided by (used in)</td>
<td>250,000</td>
<td>(95,400)</td>
</tr>
<tr>
<td>financing activities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NET (DECREASE) INCREASE IN CASH</td>
<td>(267,372)</td>
<td>346,193</td>
</tr>
</tbody>
</table>

CASH:

<table>
<thead>
<tr>
<th>Item</th>
<th>2018</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning of year</td>
<td>559,346</td>
<td>213,153</td>
</tr>
<tr>
<td>End of year</td>
<td>$291,974</td>
<td>$559,346</td>
</tr>
</tbody>
</table>

SUPPLEMENTAL CASH FLOW INFORMATION

<table>
<thead>
<tr>
<th>Item</th>
<th>2018</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash paid for interest</td>
<td>$10,184</td>
<td>$7,249</td>
</tr>
</tbody>
</table>

See notes to financial statements.
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 assigned counsel lawyers who accept assignments to represent public defense clients.

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

Recently Adopted Accounting Standard

In August 2016, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) 2016-14, Presentation of Financial Statements of Not-for-Profit Entities. This ASU applies to not-for-profit entities and the users of their general-purpose financial statements. During the year ended December 31, 2018, the Association adopted this ASU and, in this regard, certain additional required disclosures are presented in Notes 7 and 8 to the financial statements.

Revenue Recognition

All revenues and expenditures are recorded on an accrual basis. Appropriations and grant revenues are recognized as income when related qualifying costs are incurred. Deferred grant and 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 of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and reported amount of revenues and expenditures during the relevant period. Actual results could differ from those estimates.

Net Assets

Net assets are classified as net assets without donor restriction or net assets with donor restriction, depending on the existence and/or nature of any donor imposed restrictions. The Association's net assets were all without donor restriction as of December 31, 2018 and 2017.

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 1 — ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES
(Continued)

Subsequent Events

In preparing these financial statements, management has evaluated events and transactions for potential recognition or disclosure through May 10, 2019, the date the financial statements were available for issuance.

Income Tax Positions

The Association recognizes the tax benefit from a tax position only if it is more likely than not that the tax position will be sustained on examination by taxing authorities based on the technical merits of the position. The Association’s income tax positions are that it continues to be exempt from income taxes and does not have net unrelated business income that would be subject to income taxes.

NOTE 2 — DEFERRED REVENUE/APPROPRIATIONS RECEIVABLE (ADVANCED)

The Association’s Public Defense Backup Center (“Center”) has a budget of $2,089,000 extending from October 1, 2018 through September 30, 2019. DCJS approved the Center in the amount of $2,089,000 for funding through March 31, 2019. In addition, the Association’s Veterans Program had a budget approved by Office of General Services (OGS) of $720,000 for the period April 1, 2018 through March 31, 2019.

The Center had a budget of $2,089,000 extending from October 1, 2017 through September 30, 2018. In addition the Veterans Program had an approved budget of $500,000 for the period April 1, 2017 through March 31, 2018.

Expenditures associated with these programs were $2,779,721 for the year ended December 31, 2018 ($2,863,938 in 2017). Management and general expenditures were $190,841 for the year ended December 31, 2018 ($150,402 for 2017).

Expenditures for other programs during 2018 were $175,516 ($377,116 in 2017).

NOTE 3 — NOTES PAYABLE – BANK

The Association has a $750,000 line of credit with Pioneer Savings Bank, with an interest rate of prime plus 1%. The line is secured by all business assets. The amount outstanding on the line as of December 31, 2018 is $250,000 ($0 as of December 31, 2017).

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 and March 2011 for an initial term of seven years, with an option to renew for two additional five-year periods. The Association exercised the first option to renew the lease for the five-year period commencing March 1, 2006 and the second option to renew the lease for an additional five year period commencing March 1, 2011.
NOTE 4 — LEASE OBLIGATION (Continued)

Albany, New York (Continued)

In October 2015, the Association entered into a lease amendment for office space to extend the arrangement for an additional five year period, commencing on March 1, 2016 and extending through February 28, 2021. Future annual minimum rental payments under this lease will be $109,090 for 2019, $111,185 for 2020, and $18,589 for 2021.

Rent expense for the office location was $106,996 and $104,901 for 2018 and 2017, respectively.

Batavia, New York

Effective March 15, 2014, the Association entered into a three-year operating lease agreement for office space in Batavia, New York for the Veterans Defense Program at an annual rent of $9,000. The lease expired in March of 2017 and continued on a month to month basis through December 31, 2017. Expense under this lease was $9,000 in 2017.

Effective January 1, 2018, the Association entered into a new three-year operating lease agreement for a different office space in Batavia, New York for the Veterans Defense Program, extending through December 31, 2020. Future annual minimum rental payments under this lease will be $12,300 for 2019 and $12,600 for 2020. Expense under this lease was $12,000 in 2018.

Long Island, New York

In July 2018, the Association entered into a new one-year operating lease agreement for office space at Touro College, Long Island, New York for the Veterans Defense Program, commencing on July 16, 2018 and extending through June 30, 2019. Future annual minimum rental payment under this lease will be $4,680 for 2019. Expense under this lease was $4,290 in 2018.

NOTE 5 — 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 contributions are determined by the Board of Directors annually, but will not be less than 3% of employee compensation. The Association’s contribution, included in other employee benefits, was $160,381 for 2018 ($157,033 for 2017).

NOTE 6 — 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. In the opinion of management, all expenses covered by such contracts meet the requirements of the appropriation and adjustments if any that may result from such future audits would be immaterial.
NOTE 7 — LIQUIDITY AND AVAILABILITY

The Association’s financial assets available within one year of the balance sheet date for general expenditures are as follows:

<table>
<thead>
<tr>
<th>Asset</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash and cash equivalents</td>
<td>$291,974</td>
</tr>
<tr>
<td>Grant and other receivables</td>
<td>1,263,190</td>
</tr>
<tr>
<td><strong>Net assets available for general expenditures</strong></td>
<td><strong>$1,555,164</strong></td>
</tr>
</tbody>
</table>

At December 31, 2018, the Association had $291,974 of cash available immediately and $1,254,305 in receivables available to meet cash needs for general operating expenditures. The Association additionally has $500,000 available on their line of credit as of December 31, 2018.

NOTE 8 — FUNCTIONAL CLASSIFICATION OF EXPENSES

As discussed in detail at Note 1, certain recently adopted accounting standards require the functional classification of the Association’s expenses. The Association’s current year (2018) presentation of functional expenses is as follows:

<table>
<thead>
<tr>
<th>Functional Expense</th>
<th>Total</th>
<th>Program</th>
<th>Administrative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and wages</td>
<td>$1,612,040</td>
<td>$1,563,192</td>
<td>$48,848</td>
</tr>
<tr>
<td>Pension plan accruals and contributions</td>
<td>160,381</td>
<td>155,507</td>
<td>4,874</td>
</tr>
<tr>
<td>Benefits and payroll taxes</td>
<td>433,707</td>
<td>430,943</td>
<td>2,764</td>
</tr>
<tr>
<td>Contracted services</td>
<td>283,389</td>
<td>215,809</td>
<td>67,580</td>
</tr>
<tr>
<td>Advertising</td>
<td>2,540</td>
<td>2,540</td>
<td>-</td>
</tr>
<tr>
<td>Office expenses</td>
<td>89,028</td>
<td>76,663</td>
<td>12,365</td>
</tr>
<tr>
<td>Information technology</td>
<td>26,747</td>
<td>22,484</td>
<td>4,263</td>
</tr>
<tr>
<td>Occupancy</td>
<td>131,571</td>
<td>131,571</td>
<td>-</td>
</tr>
<tr>
<td>Travel</td>
<td>9,502</td>
<td>-</td>
<td>9,502</td>
</tr>
<tr>
<td>Conferences, conventions, and meetings</td>
<td>234,824</td>
<td>234,824</td>
<td>-</td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>15,918</td>
<td>-</td>
<td>15,918</td>
</tr>
<tr>
<td>Insurance</td>
<td>14,599</td>
<td>12,260</td>
<td>2,339</td>
</tr>
<tr>
<td>Interest</td>
<td>10,184</td>
<td>6,000</td>
<td>4,184</td>
</tr>
<tr>
<td>Library and professional</td>
<td>61,587</td>
<td>59,015</td>
<td>2,572</td>
</tr>
<tr>
<td>Printing and publications</td>
<td>45,802</td>
<td>43,105</td>
<td>2,697</td>
</tr>
<tr>
<td>Other expenses</td>
<td>14,259</td>
<td>1,324</td>
<td>12,935</td>
</tr>
</tbody>
</table>

**Total**                                    | **$3,146,078** | **$2,955,237** | **$190,841**

Expenses are reported to each program and support function based on actual expenses incurred. Certain functional expenses, including Salaries and wages, Benefits and payroll taxes, and Pension expense are allocated to Administrative for any employee on an extended paid leave, based on active time versus time on leave. Management believes these allocations have been made on a reasonable basis.