

**The New York State Assembly Standing Committees on
Veterans' Affairs and Local Governments**

**Hearing to examine the quality and effectiveness of
veterans' benefit claims representation
before the U.S. Department of Veterans Affairs**

**Written Testimony Presented By:
Nancy J. Farrell
Director
Veterans Defense Program
of the New York State Defenders Association**

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On behalf of the Veterans Defense Program of the New York State Defenders Association (NYSDA), I want to thank you for the opportunity to testify about the quality and effectiveness of veterans' benefit claims representation before the U.S. Department of Veterans Affairs.

NYSDA established the Veterans Defense Program (VDP) almost eleven years ago to provide specialized legal assistance to attorneys representing veterans and active military members in criminal and family court matters. We receive referrals from Veteran Justice Outreach (VJO) specialists, Veteran Service Officers (VSOs), counselors at the VA, and other veteran-affiliated organizations, as well as defense attorneys and other veterans who have benefited from our services. The VDP's services include connecting veterans with attorneys; obtaining, digesting, and interpreting military and VA records; preparing military mitigation reports; educating defense attorneys, prosecutors, and the judiciary about veteran cultural competency and the impacts of military service on physical and mental health; and making referrals to programs that can assist veterans with other immediate needs such as housing, employment, mental health and substance use treatment, discharge upgrades, and benefit claims representation. Our case managers also provide peer-to-peer mentoring to veterans who are struggling to understand and cope with the civilian legal system. We are grateful to the Assembly for its support of the VDP over the past decade.

The veterans we serve come to us with a variety of needs; many of them need assistance with or representation in VA benefits claims and discharge upgrades. These matters can be time-consuming and complex, and success is often dependent on having a representative who is well-trained and experienced navigating the VA claims process. Veterans rely on discharge upgrades to secure critical health benefits and treatment and VA financial benefits help ensure that veterans are able to support themselves and their families; these claims also give veterans the opportunity to be recognized for the service they provided to their country and the impact that their service has had on their physical and mental well-being.

The VDP does not have the funding or organizational capacity to provide this representation, but we are able to provide general information and guidance regarding benefits claims and discharge upgrades and our standard practice is to make referrals to and work closely with individuals who are accredited by the VA to provide help and representation, particularly county VSOs. We follow up with the veterans we refer to VSOs to make sure that the connection has been made and our case managers often provide peer support during the claims process.

One county VSO that the VDP works closely with recently told us that he worked with approximately 3,851 veterans last year on benefits-related matters. Of those veterans, approximately 5% used a private attorney for their initial benefits claim. Unfortunately, in this VSO's experience, a majority of attorney-prepared claim submissions lack critical information, and the VSO had to submit supplemental information in support of those claims.

The VDP has found that most county VSOs provide excellent services with benefit claims and discharge upgrades. As you can imagine, many veterans who are going through the benefits claim process are suffering from untreated PTSD and/or a Traumatic Brain Injury (TBI), each of which can impact their ability to trust others, remain patient, engage in critical thinking, and

respond to requests for information in a timely manner. A well-trained, experienced VSO understands these challenges and has developed ways to deal with them and keep the veteran engaged in the process. Unfortunately, there has been significant turnover in county offices, often because of low salaries and high caseloads. The loss of experienced VSOs affects the office's ability to provide consistent, high-quality representation.

The VDP has been fortunate to work closely with Benjamin Pomerance, Deputy Counsel for the NYS Department of Veterans' Services. Benjamin has been instrumental in advocating for our veterans with the VA. His knowledge and navigation of the VA is unprecedented, and we need more people like him to help our veterans. I want to share one example of the help that Benjamin has been able to provide. The VDP was working with a veteran whose VA benefits were being withheld because the VA had misinformation about the veteran's criminal matters. While I worked to get the correct information from the criminal court, Attorney Pomerance navigated the appeal to the VA regarding the veteran's benefits. It was a slow process and the veteran's mental health declined substantially, and he talked about ending his life. He was on the brink of losing his VA housing because the appeal process was taking so long despite all of Attorney Pomerance's efforts. At one point the veteran left goodbye messages for Benjamin and me, and we thought we had lost yet another veteran to death by suicide. Luckily, both of us responded to his voicemail immediately, and this veteran is still alive today and his benefits have been fully restored.

Sadly, improper benefit claim representation can have serious and deadly consequences for our veterans. It is critical for the State to increase funding for county VSO offices so that they can hire additional VSOs, increase salaries to encourage retention of experienced VSOs, and, most importantly, provide training to new and experienced officers.

I appreciate your time today and hope you will consider additional funding of county VSO offices in the State Budget for FY 2025-2026.