Chris Asplen:

Good afternoon, everyone. My name is Chris Asplen, and I am the Executive Director of the National Criminal Justice Association. It is my pleasure to welcome you today to our webinar on, Supporting Indigent Defense Programs During Times of Crisis. We've done a number of webinars in assessing the use of CESF funds, or the Coronavirus Emergency Supplemental Funds. We encourage you to visit our website to check them out if you have interests in other areas and how to utilize those funds. Watch your inbox for future webinars.

But before we get started, let me go through the usual rules that apply. First, we will be recording today's session, the recording and the slides from this session will be emailed to everyone who registered, and it will be posted on the NCJA website.

Now, due to the number of people joining us today, we have muted all the participants to reduce background noise. If you have questions, we encourage you to submit them using the Question & Answer box at the bottom of your screen. Feel free to do that throughout the presentation and we'll try to answer them at the time in writing, if we can, or we'll certainly try to get to them at the end of the presentation.

If you would like to communicate to NCJA staff during the webinar, please submit your comments using the chat feature. Finally, at the end of the session, we will be launching a short poll. We encourage you to fill this out to help us continue to improve our webinar offerings.

We have a number of really excellent speakers today, and we really appreciate them joining us, particularly, our friends, Steven and Cathleen from Guam. It is very early in Guam this morning, which is why it's late in the afternoon for us. We appreciate them getting up early and heading into the office to join us.

But let me start by way of introduction of Marea Beeman. She is a nationally recognized expert on Indigent Defense System reform. Ms. Beeman spent 16 years with the Spangenberg group, which conducted research, provided technical assistance, and performed evaluations to improve Indigent Defense and civil legal aid programs.

There, she wrote extensively about Indigent Defense and worked on numerous statewide and county level evaluations of Indigent Defense Systems. She joined NLADA after engagements with the Harvard Kennedy School program in Criminal Justice Policy and Management and the Justice Management Institute.

She currently leads NLADA's Training and Technical Assistance for BJA's Sixth Amendment Initiative, as well as NLADA's efforts to increase the capacity of defender organizations, to use research and data to assess and improve services. I can say that we at NCJA are proud partners with NLADA in that Sixth Amendment program, and they really do a fantastic job.

Next, we have Chris Kervick, who is the Executive Director of the Delaware Criminal Justice Council, where he has spent nearly 20 years. In this position, his duties include the development, implementation, and administration of all criminal justice grant funds and programs in the state of Delaware totaling approximately $30 million in various federal block grant areas.

Under the past two administrations, Mr. Kervick served as the Deputy Director of the Delaware Criminal Justice Council and implemented tens of millions of dollars of criminal justice programming in the fields of juvenile justice, law enforcement, corrections, victim services, and reentry.

In 2009, he implemented the American Reinvestment and Recovery Act Grant program statewide, as well as oversaw the daily operations of the agency. He has authored several publications on youth violence, crime, and delinquency. He is also the current President of the board of the National Criminal Justice Association.

Stephen Hattori, is an alumni of Hastings College of Law. He has been living the dream as a public defender with the Public Defender Service Corporation since 1998. He had been the director since 2016. Being the sixth of nine children, he is come in useful as he manages an indigent service provider to the most overlooked and neglected segment of our population.

Cathy Moylan, is a law school graduate that works as a program coordinator. She has worked in the legal field her entire career. She's raised the bar of the office by securing technical assistance grants, resulting in a strategic plan performance standards for their juvenile and adult divisions and tirelessly works towards the office goal of providing holistic services to their indigent constituents.

Finally, Jonathan Sacks, is a career public defender. He is the Director of the Michigan State Appellate Defender's office. Before then he served as the first Executive Director of the Michigan Indigent Defense Commission. Jonathan has also worked as a Deputy Director and Assistant Defender at SADO, and a major trial attorney rotating felony trial supervisor at the Defender Association of Philadelphia.

So to get us started on today's discussion, what I'd like to do is give a little bit of a primmer on Byrne JAG funds in general, but also on the CESF program. Now, I know that a number of folks on the call may have heard this a couple of times if you've heard some of our other webinars, but I know that a number of folks, particularly from the indigent defense community, may not understand a lot of the details of the CESF funding.

Let's talk about Byrne JAG in general first. Byrne JAG, or Bryne Justice Assistance Grants are those grants that are allocated from BJA, to the individual states every year, based on a formula that has to do with population and crime statistics. That is way too complicated for me to understand or to explain.

But it is a grant that is intended specifically to be very flexible. It is intended to encourage best practices. It is intended to encourage new programs and flexibility in any given state's criminal justice system.

Again, it is a recurring grant as you know. It is state specific though. So what is really important for folks on this call to understand, particularly from the indigent defense community is, is that if you were interested in funds from your SAA, who is the administer of those Byrne JAG funds, really important to get to know them, and we can help you with that.

As we go along in the conversation today, if you feel like getting to know your SAA would be good for you, if you already don't, or you want some ideas as to how to do that, or if you want some ideas as other programs that Byrne JAG funds can be used for, please reach out to us and we will help connect you with your SAA.

Now, the SAA stands for State Administering Agency. And as you'll hear more from Chris Kervick, who is the SAA in Delaware, he'll explain how that works in Delaware and the connectivity between the SAA and indigent defense work in that particular state.

But again, the value of Byrne JAG funding, and annually that can range anywhere from a $360 million to $380 million across the country. Again, the value is flexibility. Another important thing to understand is that State Administering Agencies now have to strategically plan for the use of their funds, and that is now legislatively mandated. In other words, in order for states to receive their funding, they have to have a plan stretching out about five years. And part of that plan must include input from the defense community.

So if you have an opportunity, please take that opportunity to get involved in the strategic planning process. If you haven't had the opportunity, I suggest that you see if there's a way to get yourself involved in it.

Byrne JAG funds can certainly be used for indigent defense work. Let me talk about the CESF funding and the supplemental to what is regular Byrne JAG. As part of the CARES Act this year, the Coronavirus Response Stimulus Package, the CESF funding or the Coronavirus Emergency Supplemental Funding was instituted in the amount of $850 million.

Now, that money was sent out pursuant to the Byrne JAG formula, and it was sent out through the SAAs. Now, that's not to say that it is exactly Byrne JAG money. It's the same formula, it is the same administering agency, but a lot of the restrictions do not apply. So what's important to understand about the CESF funding is that it must be used for specifically to prevent, prepare for, and respond to the coronavirus, either domestically or internationally.

So what NCJA has been doing is helping the State Administering Agencies, number one, apply for that money. Those application deadlines to get the money in the first place have already passed. However, we've also been helping them identify applicable uses for the funds. And to be very clear, indigent defense work is one of those applicable uses.

Moving forward, what we'd like to do is explain how it works in a couple of different places. Again, so Chris is going to give you an example, and Jonathan's going to give you an example, and Marea is going to talk about some of the needs that exist out there. And then Steven and Cathleen are going to talk about their experience in Guam.

But we recognize very specifically that coronavirus has impacted the indigent defense community significantly as it has the rest of other criminal justice system, but there are applications that can be applied for. I also want to make this point that while the current funding, whether or not there is currently available money in an individual state, is dependent upon that particular state.

What we've tried to do is encourage SAAs to plan for the future. The money has to be spent in two years. But what we've tried to do is to encourage states to realize that for whatever the emergency needs are right now, six months, to a year, to 16 months, there are still going to be a lot of needs, including with your clients. And so there are a lot of needs that have come up.

One thing to think about is that there may be subsequent emergency funding. There may be another stimulus package. Now, we don't know for sure. But if there is, there may be more money out there available for indigent defense work, if there isn't any currently right now.

So to summarize, I want to emphasize two points. Number one, for general Byrne JAG funding purposes, get to know your SAA. Recognize that indigent defense work is an allowable use for Byrne JAG money generally. But in particular, also for CESF funding, there may be money there now. You'd have to apply through your SAA, but also keep your eyes open if there is another stimulus package, because there may be some money in the future.

With that being said, let me turn it over to Marea. She'll talk about some of the issues that have arisen out of the COVID issue.

Marea Beeman:

All right. Thank you, Chris so much. I just really want to emphasize, thank you so much to you and all of NCJA for putting on this webinar. It's really tremendously valuable for those in the defender community to hear directly from you the experts about Byrne JAG, and about CARES Act resources.

To kind of put this needs question for indigent defense in perspective, public defenders represent somewhere around 80% of all people accused of crimes. And they perform a really key function in our country's frontline pandemic response. We've all seen that jails and prisons lack adequate sanitary and social distancing measures, and they pose a substantial risk to the health of anyone who enters, whether it's staff, or detainees, or visitors.

Defenders are essential to reducing the spread of the virus by decreasing unnecessary incarceration. Back in March, defenders' work shifted from addressing new and pending cases in their usual traditional fashion, to also digging in deep and to new and over cases, to identify an advocate for clients who can be appropriately released pretrial or paroled early, and in so doing, protect client's health, as well as out of jail and prison staff.

So since passage of the CARES Act, I've been reaching out to defender offices to encourage them to apply for CESF. And the fact is that there are far more funds that were made available through that appropriation in the CARES act than ever before made in an annual year for Byrne JAG on an annual basis.

My message to defenders who have maybe not been successful in the past securing Byrne JAG funds has been now is the time to try. Try now, because there are available resources. So try now to try to secure some needed federal resources.

Along the way, I've heard some struggles in accessing those resources and also some successes and I think that they're both worth learning from. So I'm most recently working with the Center for Court Innovation. I sent out a short survey to defender programs that receive Training and Technical Assistance services through the BJA Sixth Amendment Initiative. We just asked them, "Did you apply? What types of needs did you request assistance for and what was the outcome?"

And so based on some of those results, as well as just outreach around the country, I would say there's kind of four main areas of need that have been identified and that defenders have requested funds for. The first area is technology needs. Defenders need technology resources in order to work from home and stay remotely connected to staff, and clients, and jails, and courts.

And so defenders have requested CESF funds to fill technology gaps, including needs for cell phones, and for laptops, and for video conference licensing and for secure internet access. So getting the VPN so that you can protect client confidentiality when working online. That's one area.

A second area is for people. Defender offices have needs for people, particularly attorneys and social workers to respond to the pandemic. Some defenders have requested one or more attorneys. You're going to hear from Jonathan about a marvelous program that leverages the power of dozens of volunteer lawyers working to get sentenced individuals released early, and he requested funds for just one or two attorneys to manage and direct the efforts of many, many more.

Social workers are integral to identify in-community supports that judges insist on being in place before they're going to agree to release people pretrial or on early parole. Social workers locate housing and secure housing, and they get access to mental health and medical treatment and food and other resources for clients. The goal is to help clients remain safely in their communities and comply with the requirements of their release.

A third area is for adequate physical space. As defender offices reopen, they have to be equipped to do so without putting staff and visitors to the office in peril. So for many offices, this necessitates capital outlays. They've needed to reconfigure existing space or needed to acquire additional space.

And then the fourth area that we've seen is PPE, Personal Protective Equipment. Some defender offices have been supplied PPE by their counties or their states. And apparently, FEMA has resources available and all of that is great. But sometimes if that is not successful, those resources are available through CESF CARES Act Funds. And as long as this pandemic continues, you are going to have needs for familiar face masks, and shields, and gloves, and sanitizer, and everything needed to meet safely with clients, family members, district attorneys, experts out in the field with their investigator, anybody person to person.

I would say those are the main areas that we've seen of need that people have been requesting resources for.

Chris Asplen:

Thank you, Marea. Director Kervick, would you like to talk about the experience of the SAA and indigent defense in Delaware?

Chris Kervick:

Yes, sir. I'm on board. Okay. Good afternoon. As Chris said, my name is Chris Kervick. I am the Executive Director of the Delaware Criminal Justice Council, and for a few more months, the president of NCJA. I'm here today to give you the State Administering Agency perspective and how we work with our public defender partners.

So thank you all for taking time today to discuss the important topic. I hope everybody's well, obviously my colleague from Guam looks like he's in great shape. But first I want to take a second and thank Chris Asplen, and the team at NCJA and the folks at NLADA for putting together this webinar. And also thanks to my fellow presenters for taking [inaudible 00:22:15]. I know this new normal of Zoom meetings and webinars can be daunting. So thanks for teaming up with us today.

For those of you who are not familiar with the work of a State Administering Agency, let me assure you that each state has one. They're oftentimes situated in the executive branch somewhere close to the governor's office, or somewhere where the officers can put folks in there that they need to get things taken care of.

Our job is to serve as a basic clearing house for federal dollars that come into the states from the U.S. Department of Justice, most often the Office of Justice Programs. You might've heard Chris talk a little bit about, we use a series of strategic plans to fund criminal justice programs across criminal justice landscape, including the work of indigent defense.

Most of the conversation today is going to rely on Byrne JAG and you're going to hear us refer to Byrne JAG and CESF. But the strategic plan processes in place, no matter what area you fund in the criminal justice system, whether you do your three-year plan for juvenile justice, your four-year plan or five-year plan for VOCA or domestic violence, or Victims of Crime Act.

So strategic planning is a big part of what we do. The topic of indigent defense and the work of the public defender isn't only important to us in Delaware during a crisis like the current pandemic. But in Delaware, working with defense services is as normal to me as an SAA director, as working with law enforcement, or [inaudible 00:23:50] services, juvenile justice [inaudible 00:23:52], or any of our criminal justice partners.

From the governor's office on down, we ensure that the Office of Defense Services is part of every planning and funding strategy. We put together every working group, every committee. The state public defender has a seat on our Juvenile Justice Advisory Group, our Domestic Violence Coordinating Council, our Reentry Committees, Human Trafficking Committees, and I can give you a list of 20 subcommittees. But we don't do anything unless we have the public defender's office with us.

In fact, here in Delaware for the past two decades, the public defender has been a chair of one of our most significant funding subcommittees of the council. And that's the Byrne JAG funding subcommittee, the Drug and Violent Crime Advisory Committee. And to take it one step beyond that, our current state public defender, Brendan O'Neill, is the chair of both the Byrne JAG subcommittee, and now he's the chair of our Criminal Justice Council board of directors. So you can see how we've worked pretty [inaudible 00:24:46] indigent defense in our planning and funding efforts in Delaware.

The COVID-19 pandemic, and more importantly the response to the pandemic, has given us a pretty good roadmap to look inside our partner agencies and their operations. It kind of lets us look behind the curtain so we can develop creative ways to help as an SAA. I think we can agree we're in uncharted territory as we figure out how to do our jobs via computer screen and phone calls. So it would be an easy way for us to take millions of dollars in CESF money and just simply buy personal protection equipment, mere sanitizers, other items easily. We could easily buy new laptops and cameras so people could work from home, and that would just be an easy way to use the funding.

But because my office has a great relationship and the Delaware Office Defense Services is so advanced, we were able to add to the solutions by enhancing their staff, adding to their ability to meet clients in the community. We worked with Mr. O'Neill and his leadership team to develop a plan so his office could meet the courts and the prosecutors and law enforcement on a level playing field, playing as safe and as productive as possible.

Now, a word of caution to you as a public defender and those who are charged with protecting the rights of the engineer, when you go looking for resources in a climate like this during a crisis or a state of emergency, it's going to be difficult if you don't already have an existing relationship with your State Administering Agency. But it's not impossible. Like Chris said, contact your SAA now. If you don't know your SAA, [inaudible 00:26:25], reach out to me, reach out to Chris. I know my 50 plus colleagues, and I can put you in touch with your folks. Because I got to tell you, if they're doing things the way we're doing them in Delaware, we basically used the Byrne JAG formula to put the CESF money on the street.

But even in our Byrne JAG strategy, we hold money back for the unknown over the next 16 to 18 months. We don't know what this virus is going to do to us a year from now. We don't know what opening reopening the courts. We think we know what it is today, but we're not going to know what it is in six months. We're not going to know what needs we have in nine months or 12 months. So we held some money back and it's in our coffers, but we'll be able to RP it out or provide it to the nonprofit community should they need it or our partners if they need it.

So, don't think it's too late that you missed the bus. Go ahead and reach out to your SAA. I know my colleagues would be glad to talk to you.

Let me just switch gears for a minute and talk about some of the examples of how we funded defense programs over the years. I don't want to go too in-depth. There's a list of a mile long, but let me just talk about some of the things we've done over the past two decades, all of which I've had the pleasure of being at the Delaware Criminal Justice Council.

Way back in the early 2000s, we were funding a Public Defender's Office and supporting their DNA projects, helping train attorneys on the use of DNA and augmenting the cost of expert witnesses. That was a big boost to the Criminal Justice Agency that's got to go up against the Department of Justice and they're experts.

There was a program funded in 2003, where we provided forensic nurses to assist public defenders to provide forensic evidence and defense presentations for plea deals in trials. In 2005, our office funded paralegals and psycho forensic evaluators to work on a responsible release program to reduce the pretrial detention population. So as far back as 2005, we were already working on helping pretrial detention populations get reduced by releasing those people who were low risk. These just as pre risk assessment times.

We provided a funding for two mitigation specialists for the Public Defender's Office to assist with capital cases back when that was a possibility in Delaware. Then later on, we supplemented the programs so funds could be used to bring outside mitigation experts in for death felony cases.

In 2008, through a juvenile accountability block grant, our office created a juvenile mental health court in conjunction with the Department of Justice to courts and public defender. All the funds provided staff and support for the whole project. We knew whatever we did for the Department of Justice and the courts, it wouldn't make sense if we didn't do it for the public defender, because you had to have equality there or you'd throw the case loads out of whack.

You heard Chris mention the Recovery Act back in 2009. We were situated in a way where we could ensure for every job we saved at the Department of Justice, we could save a job for the Public Defender's Office, and we made sure that was equal. We learned that we couldn't throw the system off by providing more positions to one agency over the other.

In 2013, our office partnered with the public defender to fund attorneys that were working on statutory changes that allowed discretionary registration [inaudible 00:29:42] removal for juvenile sex offenses

So you can see we've been across the board, not only in Byrne JAG, but in juvenile justice, reentry, there's been all kinds of funding that we've been able to get to our public defenders. Most recently, Mr. O'Neill spearheaded a program that brings partnerships and justice into Delaware, an organization [inaudible 00:30:01] to provide a force multiplier for his team and provide defense services to a lot more clients in the community.

Just a few examples of how we have worked with Office of Defense Services in Delaware, and I can go on and on and on, but I wanted to give our other speakers a chance to chime in.

What I can leave you with would be things that you can do. I want to take a special second. I don't know if she's on the call, but Lisa Minutola, from our Office of Defense Services, her and I have worked on this presentation, I think over the last 10 years. We've given public defender presentations all across the country. Hers is the latest PowerPoint, she just sent to me this week for me to tweak. So I appreciate it, Lisa, if you're on there.

But the most important thing you guys can do is to be involved with your SAA, get vocal with them, tell them who you are, what county you represent, where you are in the process, lobby for your agency to be a part of their strategic plan, especially if you're dealing with a special population or a difficult community, your SAA needs to know about that.

Make sure you know the ins and outs of the Byrne JAG Grant solicitation and other solicitations. I challenge people in our state all the time to come up with a discretionary grant or competitive grant that you want to team up with us and we'll write it together for Washington. We've been very successful pulling in millions of dollars in discretionary grants.

If you don't know how to write a grant, look at grant writing training, look inside your state. We have all kinds of training in state and out of state. And that's important stuff. When you can talk that lingo, you can explain why you need the money. Show how your agency is going to be a partner in the criminal justice [inaudible 00:31:43]. collaborate.

I think the most important thing that a public defender's office can do in terms of making the argument to fund their office is to show why funding indigent defense services improves the overall criminal justice system. It reduces costs. It increases speed of your cases. It allows for shorter pretrial detention. There's better outcomes for individuals. So when you can sell that, when you can sell that as a package to somebody it's almost impossible not to fund your programs.

So with, I give back the rest of my time to the rest of the presenters. I'll stick around and answer any question anybody has about SAAs. So feel free to email me, chat me, or just ask Chris.

Chris Asplen:

Thanks for that, Chris. To kind of emphasize a point that Chris made, there are a lot of agencies asking for money. Understandably, a lot of agencies need the money. I think it's probably fair to say that there's a perception maybe, that those monies, that the Byrne JAG funds are "law enforcement funds" or something like that. And yeah, a lot of it does go to law enforcement, a lot of it should. But don't look at Byrne JAG as only law enforcement funding.

Understand that the jurisdiction of SAAs runs in terms of the jurisdiction of the money that flows through them to the system, runs the entire spectrum of the criminal justice system. It's from law enforcement, through prosecutors, indigent defense, reentry programs, all the way out the other side. And so I think that it's easy to get caught up in the belief that Byrne JAG is just for law enforcement work. It's not.

With that, let me turn it over to Steven and Cathleen, and for them to tell us about their experience in Guam. Again, good morning.

Steven Hattori:

Yes. Good morning. I mean, it is 6:30 in the morning here about, but at least it's Thursday, so we're one day closer to the weekend than you guys are. Let me share my screen here and we'll get our program started hopefully. You guys, you're able to see that?

Chris Asplen:

Yup. That's great. Thank you.

Steven Hattori:

Okay, great. Half a day from Guam, that's how we say hello from Guam. I'm Steven Hattori, the current Executive Director of the Public Defender Service Corporation. We are a governmental corporation task force representing indigent clients in criminal and civil matters. I would like to thank you for allowing us to share our experiences.

We are definitely building awareness of indigent defense as a Byrne JAG Grant priority. In these COVID-19 times, every little bit counts. When the pandemic first started back in March, my concern was the impact of COVID-19 on our representation of our clients.

We knew early on that the new normal would require social distancing with PPEs, and video conferencing with Zoom cameras and internet connectivity. We also knew that public defender organizations are habitually underfunded and that our offices would bear the brunt of the necessary changes. We knew that the CARES Act would provide funding. We also are aware of FEMA as well.

During this time we were in contact with [inaudible 00:35:11], and Jack Cutrone from the NCJA regarding a strategic plan and attorney performance standards. It turns out Jack Cutrone also was a former SAA himself. And so he made us aware that the Byrne JAG Grant, was available for indigent defense.

We also came across the NCJA article about the use of the Byrne JAG Grant for public defense by different jurisdictions. This was very inspirational. Those initial contacts planted the seeds of awareness, which we are now trying to cultivate.

Inspired, we undertook to explore what is available for public defense. We learned what an SAA is, it's the State Administering Agency for overseeing the Byrne JAG Grant. On Guam, our SAA is the Bureau of Statistics and Plans. Our director is Tyrone Taitano. They play a significant role in determining how the monies are allocated.

Jack said to make the SAA your best friend, and as of yesterday, my Facebook friend request with Tyrone Taitano was still pending, but I remain optimistic he's going to accept my friend request and we'll be able to communicate more effectively.

Now, Cathy will share more background and some information. Thanks.

Cathleen Moylan:

In April of this year, we participated in an NLADA's webinar with Jack, Accessing Resources for Public Defenders. The webinar highlighted the new guide, accessing federal grants, foundation funds, and other supplemental resources, and addressed how to decide on a project, talked about project planning and sources of federal grants.

We learned about the two types of Byrne JAG Grants. There's the discretionary grant administered by the Bureau of Justice Assistance, and there's also the formula grants administered by the SAA.

We also learned about the Coronavirus Emergency Supplemental Funding program. At the time of the presentation with Jack, the solicitation had just been released and the deadline was May 29th. Jack's presentation as we've mentioned earlier, highlighted applying for and managing the funding.

One piece of advice had one slide of its own, which was making your SAA your best friend. He recommended meeting with your SAA, learning the process, attending meetings, getting to know the projects funded and whether they have funded indigent defense.

So after the webinar, we did some research and learned about Guam's allocation, which is 2.9 million. As Jack suggested, we began our efforts to build our relationship with our SAA. We did our introductions. We expressed our interest in applying for the program, and at the time that was April 13th, our SAA responded fairly quickly and notified us that the application had already been submitted.

The budget included PPE and sanitisation supplies for Guam's first responders, medical staff, criminal and law enforcement officers, and the Department of Corrections. They also included ambulances to respond to coronavirus cases and a nurse practitioner for our Department of Youth Affairs.

We informed our SAA that we were looking at CESF as an option to fund video conferencing equipment, mobile internet access, PPE, and laptops. In response, our SAA said they should be able to support PPE as the items were listed in the budget. There were some discussions about whether our office was considered law enforcement and whether we had the authority to arrest.

We responded that JAG funds are generally available to defender offices in addition to law enforcement. Thereafter, we received confirmation from our SAA that PPE and sanitizing supplies will be provided to us. To date we've received disposable masks and boxes of gloves, about $930 in value. We were also told that we will be getting hand sanitizers and wipes via the program.

Our SAA also informed us that they did not identify video conferencing equipment, mobile internet access, and laptops under CESF, but that they should be able to address video conferencing in collaboration with our judiciary here on Guam. They invited us to submit a proposal, which we submitted shortly thereafter.

Our SAA also shared they were also conducting its public review for Guam's fiscal year 2020 Byrne JAG program narrative, and recommended we address mobile internet access and laptops in our submission of public comments. We did this and addressed internet access and laptops, as well as indigent defense and including it in the criminal justice process.

We also recommended PPE telework and virtual court hearing equipment. We used in reference NLADA's article, prioritizing indigent defense, and NCJA's article how states invest Byrne JAG in public defense in our writeup.

Our SAA responded that the Bureau will include video conferencing under its planning evaluation technology improvement program since it was an approved priority program under its multi-year strategy. We're excited about this and remain hopeful for the proposal we submitted.

With regards to indigent defense, in its fiscal year 2020 JAG program narrative, the SAA noted that although indigent defense is one of the allowable program areas, unfortunately it did not fall under one of the approved priority programs in Guam's fiscal year 2019 through 2022 strategy.

Our SAA explained to us that the multi-year strategy was developed with input from a broad range of identified stakeholders who ranked and voted on the program areas to be addressed and for the grant awards, and our agency was represented at this meeting. The priority areas that were voted on were technology improvement, treatment and rehabilitation, law enforcement prevention and education, and corrections and community corrections.

The SAA noted that just as prosecution and core programs were not ranked and voted as a priority, the SAA is not able to address indigent defense in the fiscal year 2020 Byrne JAG program narrative at this time.

The SAA noted that it will begin its planning process in fiscal year 2021, and begin a stakeholder engagement to address proposed priority program areas for the new fiscal year 2023 through 2026 strategy. They encouraged our office to take part in the stakeholder meetings and to be an advocate for indigent defense in the new strategy under the prosecution and court programs purpose area.

In summary, during these past three months, we saw the value of connecting with our SAA. We saw in this timeframe how both the CESF program and the Byrne JAG program can be used to support indigent defense. We also learned that only a few states choose to spend grants for indigent defense.

In an article from the Brennan Center, entitled, A Fair Fight: Achieving Indigent Defense Resource parody in 2016, states allocated just 1.8 million of Byrne JAG Funding to indigent defense compared to 17 million for prosecution and court initiatives.

A federal survey also found that only half of public defender offices were even aware they were eligible for these grants. As the article notes, the federal government should earmark funds specifically for indigent defense to ensure the money is spent that way.

In the meantime, here on Guam though, at public defender, we will continue our efforts to work with our SAA towards building awareness and hopefully funding more projects that support indigent defense as a priority.

Steven Hattori:

Once again, thank you for allowing us to participate. Creating awareness among public defenders is essential. Once the course of public defender entities raises to fever pitch level, hopefully we can get our fair share of federal funding. I mean, we public defenders are frontliners. We're expected to set up Zoom meetings for clients to attend court hearings at our offices. We are expected to set up video conferencing to meet our confined clients. We're expected to work with our other criminal justice stakeholders to ensure that our system of justice continues to operate, and we should expect to get our fair share of funding as well.

Also for the other public defender agencies out there, if you are a government entity and all else has failed, consider applying for FEMA reimbursement. We received really zero CARES Act money from our government, they used some of it to fund other agencies. We received about a thousand dollars in CESF assistance. Right now we're trying to explore getting FEMA reimbursement for our other video conferencing related expenses.

Thank you for the time. So here's to the next step of building awareness.

Chris Asplen:

Thank you, Steven and Cathleen. It's a great example of, number one, getting a little win, and something is better than nothing on the PPEs. So congratulations on that. But also, kind of leveraging this CESF experience to learn about the system and to leverage that to get connected to the SAA. And to get on the SAAs agenda, and to get in front of them, is the old squeaky wheel theory. To plant the seeds now for success later, even if today's successes are little, next year successes or the year after that might be much bigger.

So again, thank you so much for conveying that experience to us. So with that, let me turn it over to Jonathan Sacks to explain to us a very successful program in Michigan.

Jonathan Sacks:

Thank you. I'm just going to sort out the quick screen sharing. I'm not as good as the Guam folks at this piece. One second. There we go. All right. That should do it. Thank you. Thanks, Chris and Marea for putting this together and for your team for inviting me. And thanks to Steven and Cathleen for the Guam presentation, and it's absolutely correct as part of the strategy and that the perception we need to demonstrate is just how we are frontline workers and our work is on an equal footing with other actors. Thanks, Chris for expressing that and obviously achieving that in Delaware.

I'm going to speak a little bit about our project that we started, not with funding on the mind, but just as something we felt we needed to do with the COVID-19 crisis. And then how that's sort of has turned into a potential COVID-19 relief funded project. I should say that application process is still in the works, but that we believe money has been allocated to continue funding the projects.

As with a lot of other states and other areas, and I apologize, my slides are a lot less sophisticated than others, we realized immediately when the COVID-19 crisis hit, that the people who were really going to get hurt here were by and large our clients. That people all over obviously were impacted and hurt, but that our clients were in a special category. And a major reason for that is they were incarcerated in jails and in prisons where it was extremely unsafe. And we all know the reasons why, the lack of opportunity for social distancing, the lack of good hygiene. We knew it would be an incredible challenge.

We sort of brainstormed to figure out what we could do as an appellate office about this crisis. Michigan has an unusual dynamic where of the folks who are in jails, 50% of them are serving sentences. Whereas in a lot of other states, it's more like 70% of people in jails are in pretrial process, and only 25% or so is serving sentences. But in Michigan, a lot of work has been done recently on the pretrial process and on jail populations, and it turns out 50% of the folks here are serving sentences.

What that means we realized is that there's a really large group of individuals whose lives were at risk from COVID-19 and who did not have counsel. Half of the people in jails had counsel, they were represented by their attorneys who could immediately file bond modification motions as a result of COVID-19. But the other half were serving short sentences where there were legal mechanisms to modify those sentences, especially in a COVID-19 emergency, it was a special executive order. But there was no representation of counsel, no opportunity for folks to benefit from that potential process.

We spoke to a number of chief judges in different places, and we ended up setting volunteer projects up in Southeast Michigan, in three different counties, in Wayne County, where Detroit is, and in Oakland and Macomb County, which are counties outside of Detroit.

What we did is we were appointed as an office. We received a blanket appointments to clients sentenced in those jails for a COVID-19 related advocacy. So once that happened, that sort of gave us the authority to start representing people serving sentences. We implemented a program where a combination of our attorneys worked with volunteers, and I'm sure everywhere, there are a lot of lawyers looking to do really good work now with a COVID-19 crisis and who were willing to give us volunteer time.

The nature of the work meant it was volunteer time that folks were able to do with relatively little, implementation problems. People were able to do the work remotely, and it was all through virtual advocacy.

Our lawyers and a team of volunteers spent a lot of time. We have law students volunteers also organized at looking at lists of populations in county jails, categorizing the people who were serving sentences, and then basically assigning them to our attorneys and to volunteer attorneys. Then we had virtual meetings, and it was a different process in different counties, but virtual meetings with our new clients serving sentences.

Then we filed pleadings that talked about the particular health risks that our clients might have, particular re-entry issues and plans or employment sources or places to live that they would have, and some details about their offenses and their sentence and their adjustment. And depending on the county and the process, judges either ruled on those motions directly, or we had virtual court hearings.

It was a really good process for our volunteers and for other attorney volunteers to come together. The results have been really good. In Macomb County, we filed 76 early release motions and of those 76, 77 were granted. 77 of our clients were released and nine were denied. In Wayne County, we sort of piggybacked on an administrative release process that was going on and of 252 people that were part of that administrative release process, who were serving sentences, we assigned all of them to attorneys and either through that process or through this advocacy, at this point, all but 20 of those folks have been released. In Oakland County a much tougher County in terms of prosecutor opposition, we filed about 60 motions, 19 as of now have been granted and 31 have been denied.

We're very excited by those results and by the release of our clients, but we know it's not sustainable. There are 80 more counties in Michigan. And even in those three counties, there are a lot more people serving sentences since we started this work. So we realized to keep this going, and also for our own lawyers who had their own case loads, we needed to get some sort of individual funding source. And that's where we realized that COVID-19 gave us an opportunity.

Now that I've talked about that project, I'll talk a little bit just about the basic steps that have led to us potentially receiving funding here. And here, I think it's pretty basic things, but by talking about how it worked out in Michigan, may inform people in other places.

So first is we worked, as we realized this is something we needed and we needed this funding source to continue, we thought it was really important to match the narrative. In Michigan, a lot of work had been done on jail release and pretrial legislative reform to the point that the Chief Justice and the Supreme Court issued a press release saying everyone should apply for COVID-19 funding to help release people from prisons and jails, and it included a quote, "I command local law enforcement for steps they've taken to reduce jail populations and this funding can help do even more to save lives."

So that for us was an opportunity to say, "We have a project that very much suits this message." We reached out to the Supreme Court and they were on board. We said, "Look, we're also doing something that saves lives through reducing jail population. Would you support us if we applied for some of this money?" And the answer was, yes.

That sort of brings us to the second piece, which is how important the relationships are, and Steven, and Chris, and Chris have all talked about this as well. Once we had the Supreme Court's support, we reached out to the State Budget Office and also to the SAA, which in Michigan is the Michigan State Police, and talked to them about the fact that we had a project and it might be a match.

I think we didn't sort of make an advocacy push so much because we weren't really sure to be honest who the deciders were, but we thought it was really important to talk to the people who we had good relationships with, and in the case of the SAA who'd administered a number of projects for us already and talk to them about what we were doing and why it would be a good match.

Then down the road as the funding process was put together, we did receive, and sorry, this is my terrible stock footage side of relationships, we did receive the news that some money had been allocated for us there.

It was a combination of having a project, seeing that that project potentially met the COVID-19 criteria. And I should say that project won't meet the sort of local requirements, so will be a contracting project rather than hiring attorneys and will likely include some COVID-19 direct equipment and supplies as well. And then using that message that's out there and those relationships. We're hopeful that that will be successful for us.

Chris Asplen:

Thank you, Jonathan. It's a great example of again, leveraging this CESF funding, but at the same time emphasizing the importance of that relationship. I know that in Michigan, you've got a great SAA there in Nancy Becker Bennett, who is very helpful up there.

Jonathan Sacks:

They're great. I should say the SAA Michigan is great and our work with them has been really good to do.

Chris Asplen:

That's great. It sounds like the program you've created in Michigan may be applicable elsewhere in the country. It sounds like the kind of thing that could really catch on elsewhere.

Let me emphasize a couple of things before we get to a couple of questions. I don't want to lose a slight of a comment that Chris Kervick made, when he talked about discretionary funding also.

That's different than the Byrne JAG Funding. What Chris is referencing, is the idea of going to BJA with a different idea than the Byrne JAG Funding. But coming up with a program, and an idea that BJA might wish to fund under some other program, under a discretionary program.

Again, thinking even beyond Byrne JAG Funding, that relationship with your SAA, could be really, really important and provide a lot of opportunities for you. We have on our website, we've been asked a couple of questions about who the SAAs are in the various states. On the ncja.org website, we have a directory, where you can identify who your SAA is, and we're more than happy to help connect you to them.

With that, let me look at some of the other questions here. One of the questions is, is there a deadline for applying for CESF? In terms of the applications to your SAA, that's going to be very state specific. Your SAA has control over what those deadlines look like, how much money they've held in reserve for again, throughout the next two years worth of COVID response. That will be a state specific proposition when that deadline actually fits.

We have a question about the SAA in Georgia gave administration of your CESF funding to the governor's office. I don't know the answer to that question, but I will find it out for you, Carrie. We'll get in touch with you. We'll contact the SAA in Georgia and see what the situation is there.

Let me see if there any other. Are you required to have a contract for institutional defense to be eligible for Byrne JAG funding? Now, what you need to be, in most instances is a nonprofit. A few for-profit organizations can get it, but for the most part, you need to be a nonprofit. So I'm not terribly sure what the scenario is that you're talking about if you don't have a contract, but it is most likely that you would have to have some relationship, some contractual relationship or grant relationship in order to be eligible for the Byrne JAG funding.

I don't know if anybody else on the panel, Chris, if you have an idea or a thought on that, please feel free to chime in.

Chris Kervick:

Chris, I think you're right. In order for us to fund someone, they're either part of the state public defender's office, which also includes the Office of Conflicts Counsel that sometimes those contractual obligations with private defense bars. We don't get into the inner workings of how they spend their money, but if they need resources for contractors, we can help with that. But I don't assume anything I can think of is how we can fund that or a nonprofit.

Chris Asplen:

Are there any other questions that folks might have? Before we finish up, I would like to say that we're going to open up a short poll for you to take. We would ask that you do that to help improve our work that we do. And it also helps us to show BJA that we're doing this work. So we appreciate that.

Another question came in. Some cities have public defender's offices outside of county or state government. So do these offices qualify to apply? Again, if it's a contracted agency that provides those services, my guess is that the answer is, yes. Rosalie Joy, if you'd like to contact us directly, we can look into the specific jurisdiction that you're asking about, and we can help track down that answer for you, more than happy to do that.

Marea Beeman:

Chris, I think the question might be about, not to speak for Rosalie, but she works with me. For instance, in New York City, they have a bunch of institutional defenders that are not-for profits, as opposed to governmental entities. Would they be eligible for Byrne JAG and CESF resources?

Chris Asplen:

I'm sorry. Can you say that again, Marea?

Marea Beeman:

Yeah. So in New York City, the New York Legal Aid Society, and five or six other indigent defense providers, public defense providers, they're not governmental entities, they are actually not-for-profits, and a number of organizations are set up that way throughout the country that provide public defense services. So they're like a 5.1C3. They're not a governmental entity, assuming they're also eligible to apply.

Chris Asplen:

Particularly, in the CESF funding, it was specifically noted that nonprofits are eligible for funding. There's one other question. There's a new solicitation, Edward Byrne JAG Assistance Grant for 2020 local formula solicitation application deadline is 19. Chris, do you see that?

Chris Kervick:

Yes. [crosstalk 01:01:51].

Chris Asplen:

I'm sorry, go ahead.

Chris Kervick:

Let me see that the question is, can public defenders apply for that? I'm sorry. I'm in the wrong section.

Chris Asplen:

So, [crosstalk 01:02:05]. No, go ahead, Marea.

Marea Beeman:

I think that the question is it kind of gets to this confusion area of how do defenders access these resources? You don't apply to BJA if you're a defender organization, you apply to your SAA. The SAAs get the money from the federal government, which disperses the federal money at the state and local level. So you want to apply to that solicitation. Only the SAAs will be responding to that solicitation.

But the defender organization would get in touch with the SAA in their state. And there's also local entities in addition to the SAAs that have some ability to provide federal to the same pot of money.

Chris Kervick:

Yeah. Let me just jump on for one second there with that. So you're looking at, there's actually two Byrne JAG solicitations. One is for the State SAA, the State Administering Agency to apply for, and then there's one for local jurisdictions, which is actually a county that has a certain size population and statistics. And those local jurisdictions are dictated by the U.S. Department of Justice, and if you look in this solicitation, there'll be a link in there to tell you only which counties can apply. I think there's only one in Delaware that can apply, New Castle County, and that is usually coming from the Law Enforcement Agency of that county.

I am unaware if a local JAG solicitations can fund public defense service. If it's written like the statewide Byrne JAG system, then it can. So a local, a county public defender could apply to that county for a sub grant. But it tells you who applies to BJA. So public defenders can apply directly to Washington.

Marea Beeman:

We're going to circulate some fact sheets about this. It has a little bit of information of how you would locate who is your local entity, and you could contact them directly to say, "Is this something we could apply for?" So ways to contact the SAAs and the local entities will be distributed.

Chris Asplen:

Again, let me finish up again by thanking our speakers today. We appreciate your time. We appreciate your expertise and your experience. Understand again, that this is one of many webinars that we have. We do have a number of resources on our website. We will be sending them out to folks who have registered for the webinar.

We are here not just for the SAAs, we are here to help everybody on this call to access the CESF funding and the Byrne JAG funding, and we would hope that you would utilize the resources that we have.

Again, thank you so much for being here. We're proud to work with NLADA and our other partners, and we hope that all of you out there stay safe and stay well. Thank you very much. Thank you all. So we just couldn't get off now. Thanks guys.

Marea Beeman:

Yeah. Great to hear from you guys. Thank you.