

**OFFICE OF THE PUBLIC DEFENDER
PERFORMANCE REVIEW REPORT
FY 2014-2015**

**Submitted March 6, 2015
Robin Lipetzky, Public Defender**

INTRODUCTION

This past year has seen significant changes to the office of the Public Defender. We have focused a great deal of attention on our investigative services, which has included the development of an investigator caseload/workload matrix and the restructuring of the investigator unit. We continue to expand and improve on all aspects of client representation, to include the addition of an immigration expert to our staff. The Department has also continued its involvement in county-wide criminal justice improvements, such as adding a reentry coordinator to our staff and spearheading the effort to secure funding for the Youth Justice Initiative. Finally, the changes brought about by Proposition 47 have created significant short term burdens and are expected to have long-term implications for felony and misdemeanor caseloads. Overall morale in the Department continues to be high and we continue to provide excellent representation for the clients we serve.

I. DEPARTMENT MANDATE

The Office of the Public Defender is mandated to provide competent legal representation for indigent persons charged with crimes in Contra Costa County. This mandate is governed by the Sixth Amendment of the United States Constitution and California Government Code Section 27706. In addition to the primary mandate to represent persons charged with criminal offenses, the Department is appointed to represent persons in an array of other circumstances in which their liberty is at stake.

II. MAJOR PROGRAM DESCRIPTIONS

A. PUBLIC DEFENDER

The categories of cases for which the Department provides representation are as follow:

1. Adult criminal (felony and misdemeanor)
2. Adult homicides (including death penalty cases)
3. Felony probation violations
4. Felony violations of Post Release Community Supervision
5. State parole violations
6. Misdemeanor probation violations
7. Juvenile delinquency (misdemeanor and felony)
8. Juvenile cases directly filed in adult court
9. Juveniles in post-disposition placement facilities
10. Sexually violent predators
11. Civil commitments due to insanity (NGI)
12. Civil commitment – conservatorships (LPS)
13. Habeas corpus petitions for life inmates denied parole
14. Representation for inmates seeking DNA testing
15. Clean slate expungement motions (felony and misdemeanor)
16. Contempt cases in family court proceedings (OSC)
17. Specialty courts: Behavioral Health court; zero tolerance for domestic violence court; Prop 36 drug court; and FADS court (felony alternative sentencing).

These services are provided to West County citizens in our Richmond office and to Central and East County citizens at our Martinez office.

B. ALTERNATE DEFENDER'S OFFICE

The Alternate Defender's Office (ADO) represents clients for whom the main office declares a conflict of interest. The most common examples of this are if two persons are charged on the same complaint with the same offense, or if the main office represents a witness in an ongoing case. The Alternate Defender handles adult felony cases, adult homicides and death penalty cases, juvenile delinquency cases, and a small number of misdemeanor cases.

C. EMPLOYEE DISTRIBUTION

Main Branch Employees

| CLASS | ALLOCATED POSITIONS |
|--|---------------------|
| Public Defender and Management Attorneys | 6 |
| Deputy Public Defender IV | 17 |
| Deputy Public Defender I-III (deep class) | 26 |
| Deputy Public Defender Special Assignment* | 14 |
| Investigators | 11 |
| Paralegals/Legal Assistants | 9 |
| Social Workers | 2 |
| Support Employees | 16 |

* PD Special Assignment positions are outside the merit system

Alternate Defender Employees

| CLASS | ALLOCATED POSITIONS |
|---|---------------------|
| Management Attorneys | 1 |
| Deputy Public Defender IV | 2 |
| Deputy Public Defender I-III (deep class) | 6 |
| Deputy Public Defender Special Assignment | 1 |
| Support Employees | 3 |

III. DEPARTMENT ACCOMPLISHMENTS - INTERNAL

A. Department Caseloads July-December 2014

The caseload numbers and trends are calculated for the first half of FY 2014-2015. As shown in the table below, for the first 6 months of the fiscal year the department was referred 2195 felonies cases, 2952 misdemeanor cases, and 354 juvenile cases. In addition, we handled roughly 2545 probation violation matters in this time period. The numbers we are seeing for this six month period as compared to the same six month period last year show a continued increase in felony referrals, and a downward trend in misdemeanor and juvenile referrals. These trends may reverse for the second half of the year as we see the impact of proposition 47.

| <i>Type of Case</i> | Number of Cases Referred First half of FY 2013-14 |
|------------------------------------|--|
| Misdemeanors | 2952 |
| Felonies | 2195 |
| Juvenile | 354 |
| LPS | 124 |
| Prob. violations | 2545 |
| Clean slate | 280 |
| Miscellaneous | 81 |
| <i>Total cases referred</i> | 8,531 |

B. Investigator Caseload/Workload Matrix

A significant accomplishment for this year was the formation of a caseload/workload matrix for our investigators. This endeavor was not easy. We found that few if any Public Defender offices have developed a useful system for maintaining accurate measures of investigator workload by type of case and complexity of investigative needs. Accordingly, we had to develop our own system from the ground up. This required extensive teamwork on the part of a small committee comprised of our lead investigator, a managing attorney, and a line attorney. The task was further complicated by the lack of a case management system. Nevertheless, we have now devised a matrix that will enable us to more efficiently and fairly monitor investigator workloads.

C. Investigator/Attorney Teams

In addition to launching a caseload/workload matrix for the investigator staff, we have restructured our investigator staff into a system of investigator-attorney teams. This new system was intended to foster greater communication and teamwork between attorneys and investigators with the ultimate goal of improving the efficiency and efficacy of case investigations. The new system also involved physically moving our investigator teams onto the floors with the attorneys. The new system went into effect in February; so far it seems to be a success.

D. Updated Website

One of our goals for this past year was to modernize and update our Department website. A small committee of attorneys, assisted by our IT Manager, has succeeded in bringing our website into the 21st century. At least I'm told that's the case. I still don't know how to access it.

E. Immigration Support

Recent Supreme Court decisions have clarified that effective indigent defense representation requires providing all non-citizen clients with comprehensive and accurate advice regarding the immigration consequences of resulting from their criminal case. In order to comply with this mandate we have now added to our staff a part-time attorney with expertise in this area who provides this support to our clients.

F. Proposition 47 Representation

The reforms brought about by the passage of Proposition 47 in November created an immediate and unexpected burden for our Department. The change in law, which went into effect the day after the election, required us to file petitions for relief on behalf of dozens of clients who were currently in custody and eligible for immediate release. Our office was able quickly and efficiently to mobilize a small team to work almost around the clock to get these clients released. This County was the first to secure release for all clients serving CDCR sentences. We are now turning out attention to those clients who are entitled to release from felony probation supervisions, as well as those former clients who can petition to have prior convictions reduced to misdemeanor status.

IV. DEPARTMENT ACCOMPLISHMENTS – External

A. Youth Justice Initiative

The Office of the Public Defender was instrumental in developing the proposal that landed the Justice Award Grant to launch a county-wide Youth Justice Initiative. A first of its kind in the state, this initiative will place Contra Costa County at the forefront of juvenile justice innovation and collaboration.

B. Proposition 47 Community Outreach

This Department was a state leader in its efficient and comprehensive response to Proposition 47. We were among the first counties in the state to develop a system-wide collaborative response to the initiative. In

addition, we have been able to develop educational materials to distribute to community organizations to inform people of the relief available under proposition 47. Our proposition 47 coordinator has conducted outreach and training on proposition 47 to community groups, shelters, and faith-based organizations.

C. On-going Leadership in AB109 Issues; Reentry Coordination and Community Outreach

I have continued to be involved in ongoing county efforts to facilitate the successful reentry of incarcerated people. For example, I serve on the steering committee for the West County Reentry Resource Center. In addition, through AB 109 funding, beginning in July our department will have a full-time reentry coordinator who will continue the reentry outreach and coordination for our Department.

D. Continued Participation in State-wide Community Corrections Committees

This past year I have continued to serve on several state-wide committees that are addressing broader issues regarding criminal justice policy in the state. These appointments include serving on the Board of State and Community Corrections Executive Steering Committee for AB1050, and the BSCC Executive Steering Committee for the Edward Byrne Memorial Justice Assistance Grant.

E. State-wide Leadership in Public Defender Issues

I continue to serve on the board of the California Public Defenders Association. In this role I chair the Committee on Public Defender Office Management and coordinate the annual conference of Chief Public Defenders. In addition, because of my extensive work in the areas of pretrial justice and bail reform, I was asked to participate as a panelist at the recent Pretrial Justice Summit sponsored by the Administrative Office of the Court. All of these activities help to promote the reputation of this Department as a model for effective indigent defense.

V. GOALS FOR THE COMING YEAR

A. Proposition 47 Representation

A major challenge for the coming year will be managing the additional workload brought about by Proposition 47. We will need to file hundreds of petitions for current clients and potentially thousands for former

clients. In addition, we are likely to see an increase in misdemeanor caseloads. Logic would suggest that we will see a concomitant decrease in felony caseloads, but it is too early yet to assess the trends. My goal is to get through the petitions for the current felony clients within the next several months, and then turn to the petitions for former clients. Without additional resources allocated for this new category of cases, we may need to look for help from the conflicts panel. I will work closely with the CAO's office to manage this ongoing challenge in the coming year.

B. Secure a Case Management System

In the coming year I will continue to work with the County to secure a desperately needed case management system for our Department. Hopefully this long-delayed project will get underway this year. Sound familiar?

C. Help Launch a Successful Laura's Law Program

I look forward to help the County launch a successful Assisted Outpatient Treatment program (Laura's Law). We will work collaboratively with the Court and County Counsel to ensure a smooth and efficient transition to this new initiative.

D. Successfully Launch the Youth Justice Initiative

This first year of the JAG Youth Justice Initiative will require intensive coordination and collaboration. This Department looks forward to the provisions that will directly impact our clients, specifically the Reentry Success Team (RST). This team will provide intensive reentry and advocacy services on behalf of an identified population of high-risk juvenile clients. We also look forward to participating in the JAG steering committee that will provide ongoing support, guidance and oversight to the Youth Justice Initiative.

Respectfully submitted,



Robin Lipetzky
Public Defender