

PERFORMANCE REPORT
OFFICE OF THE PUBLIC DEFENDER
Submitted March 12, 2018
By Robin Lipetzky, Public Defender

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.

The Contra Costa County Office of the Public Defender is dedicated to ensuring justice for indigent persons accused of crimes in Contra Costa County. Our overriding goal is to serve the best interests of our clients in everything that we do. We dedicate all available resources to our clients' cases, thereby ensuring that they receive excellent, individualized representation.

II. MAJOR PROGRAM DESCRIPTIONS

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

1. Adult criminal – felonies
2. Adult criminal – misdemeanors
3. Death penalty cases
4. Felony probation violations
5. Felony violations of Post Release Community Supervision
6. State parole violations
7. Misdemeanor probation violations
8. Juvenile delinquency (misdemeanor and felony)
9. Juvenile cases for which the DA seeks transfer to adult court
10. Juveniles in post-disposition placement facilities
11. Youthful Offender Parole Hearings (YOPH)
12. Sexually violent predators
13. Civil commitments due to insanity (NGI)
14. Civil commitment – conservatorships (LPS)
15. Civil commitment – Incompetent to Stand Trial (IST)
16. Assisted Outpatient Treatment (AOT)
17. Habeas corpus petitions for life inmates denied parole
18. Representation for inmates seeking DNA testing
19. Clean slate expungement motions (felony and misdemeanor)
20. Contempt cases in family court proceedings (OSC)
21. Specialty courts: Behavioral Health court; domestic violence court; drug court; FADS (felony alternative sentencing)

III. DEPARTMENT ACCOMPLISHMENTS

A. Secured Grants and Foundation Funding to Expand and Enhance Services

The Department continues to expand the services available to our clients with programs and assistance that enable them to succeed rather than recidivate. In recent years the Contra Costa County Office of the Public Defender has emerged as a leader within the State and beyond in developing and launching innovative and comprehensive public defense programs. Because of our reputation for excellent governance and grant management, we have been able to secure both government and foundation grants that greatly benefit the residents of Contra Costa County. Currently, we oversee the following programs, funded wholly or in part through non-County resources.

1. Stand Together Contra Costa: Immigration Defense

Launched on March 1, 2018 Stand Together Contra Costa is a rapid response, legal services, and community education project that supports safety and justice for immigrant families in Contra Costa County. The mission of Stand Together Contra Costa is to ensure that all people in Contra Costa County, regardless of immigration status or ability to pay are protected from actions or policies that result in disparate, discriminatory, or unlawful treatment. The 24/7 Stand Together Contra Costa hotline works to provide culturally competent verification and legal observation of Immigration and Customs Enforcement (ICE) activity in Contra Costa County. Other services include: legal representation in immigration proceedings, public education, outreach and community workshops, and legal clinics and trainings. This program is funded through private foundations, with matching funds from the County through AB109.

2. Youth Justice Initiative: Juvenile Justice Support—Youth Advocate

The Youth Justice Initiative, funded through a Department of Justice Byrne JAG grant, has entered the third successful year of its three-year grant. As one of the County agencies funded through this grant, the Office of the Public Defender provides a part-time attorney and a full-time youth advocate to provide extensive reentry services to juvenile clients. While in custody, YJI clients are supported in preparing for release back to the community. The YJI attorneys have been able to shorten the time clients are on probation and troubleshoot issues occurring while on probation. The youth advocate regularly visits clients, and assists them with school reenrollment, job placement and training, and community engagement.

3. DOJ Office of Juvenile Justice and Delinquency Prevention Grant: Juvenile Reentry Fellow

Last year the Department secured funding through a three-year DOJ Smart on Juvenile Justice grant to fund a Post-Disposition Reentry Fellow. The attorney in this position

continues to provide legal services to address barriers in employment and education that youthful offenders face in community reintegration following a juvenile delinquency placement or commitment. These services include education advocacy, housing, public benefits, and record sealing.

4. VanLobel Sels/Rembrock: Youth Advocate

The Contra Costa County Office of the Public Defender initiated the Community Lawyering for Youth Project (CLYP) in August 2014 as a pilot project designed to provide juvenile clients in West Contra Costa County with holistic, client-centered advocacy throughout their period of justice involvement. Since that time, we have received annual funding from the VanLobel Sels/Rembrock Foundation to provide a Youth Advocate (YA) to assist incarcerated youth with referrals for counseling, academic assistance, job training and employment assistance, after-school arts, leadership, and enrichment activities. The YA has made valuable contacts within the community and refers many clients to outside organizations for assistance. In addition, the YA o serves as a mentor to many of our clients. Once a child returns to his/her family, the YA s continues to check in periodically with the client to see how the client is doing back in the community.

5. DOJ Smart Defense Grant: Failure to Appear Reduction Program

This year we entered our second year of the DOJ Smart Defense Grant which funds our misdemeanor early representation program. This grant funds an attorney and a Legal Assistant to provide West County clients cited with misdemeanor offenses with immediate representation – before their cases are heard in court – to provide help with court appearances. In collaboration with the Richmond Police Department and the Office of the District Attorney, we have successfully cut in half the misdemeanor failure to appear rate in the Richmond Courthouse.

The department has further grown these efforts by collaborating with Uptrust, to provide text message reminders of upcoming court dates for defendants. The project, through its early outreach and through use of Uptrust, helped to prevent the arrests of individuals by making sure that they make it to their court dates and avoid bench warrants being issued.

6. Clean Slate Support: The California Endowment and the San Francisco Foundation

This past year we have continued to provide expanded Clean Slate services through grants from the California Endowment and the San Francisco Foundation. With these additional funds, we have been able to handle a high volume of cases. In addition to providing assistance with court filings and advocacy, we continue to conduct extensive community outreach, host countywide Clean Slate events, and form partnerships with various government departments and community-based organizations.

B. Expanded Services and Programs through AB109 Funding

This past year the Department continued to provide services and programs designed to reduce recidivism through funding from public safety realignment monies. These programs include:

1. Arraignment Court Representation (ACER)

The ACER program provides three attorneys and one legal assistance to provide representation at the first court appearance for all in-custody (and most out-of-custody) clients. By providing representation at the first appearance we can cut down on court appearances, make initial bail motions, and in some cases resolve cases at an earlier stage in the proceedings.

2. Clean Slate Services

We have one attorney and one legal assistant funded through AB109 to provide record clearance and record sealing services for our clients. These services are provided as part of the larger clean slate unit that supplemented through grant and foundation funding.

3. Client Services and Support

We have one fulltime social worker who provides support to the attorneys in compiling social histories as needed for case resolution or sentencing, as well as providing referrals for support services.

4. Reentry Coordination and Community Outreach

Our Reentry Coordinator, funded through AB109, engages in extensive community outreach efforts and collaborates with other county agencies and CBOs to enhance reentry services and support for our clients.

5. Misdemeanor Early Representation Program

Through AB109 funding we have been able to expand our misdemeanor early representation program to East County. As with the West County program, we have successfully reduced the failure to appear rate for persons cited for misdemeanor offenses by the Antioch Police Department.

C. Continued Partnerships with other County Departments

The Department continues to collaborate with a number of County agencies to provide services and support. These collaborations include a partnership with EHSD to provide clean slate services to persons referred for workforce development; coordination with Zero Tolerance for Domestic Violence assist in reducing recidivism for DV cases; and the ongoing partnership with Probation in supporting the Pretrial Services Program.

D. Developed Protocols for Youthful Offender Sentencing Hearings

In 2014, Senate Bill 260 created a new Youth Offender Parole Hearing (YOPH) process for prisoners who were under the age of 18 at the time of their crimes. The legislature has now expanded these protections to inmates who committed their crimes before the age of 25. A series of recent court cases have clarified that local trial courts must now hold a new, expanded sentencing hearing for these inmates.

Over the past year we have developed protocols and procedures for meeting this new obligation. We have dedicated a senior attorney to this task. To date, we have identified approximately 325 former clients, now serving prison sentences, who are eligible for a new hearing.

E. Provided Miranda Consultations for Detained Juveniles

The legislature recently enacted a new law which mandates that any juvenile 15 years of age or younger who is detained by law enforcement must be provided with any attorney consultation before he/she can be interrogated. To assist law enforcement with this new mandate, our Department developed a protocol for providing access to attorney consultations 24/7 through a dedicated phone line. We were proactive in getting this system up and running before the new law took effect to ensure that law enforcement had access to attorneys for all detained juveniles. We are staffing the access line with management attorneys at this point. At the six-month mark we will assess the feasibility of this approach as we monitor the volume and time demands of this new obligation.

F. Represented all Referred Felony Cases

To date this fiscal year, we have successfully taken on representation of all felony cases without the need to overload cases to the conflicts panel. While we continue to face challenges with high misdemeanor caseloads, we now have sufficient staff to handle all felony cases

IV. DEPARTMENT CHALLENGES

A. Bail Hearings

The recent Court of Appeal case of *In re Humphrey* has created significant new demands on the Department with regard to bail hearings. Going forward, we are now obligated to file and staff evidentiary bail hearings for large numbers of clients. We have created a new bail unit to address this new requirement. The court, the DA's office and our department will all be adjusting to this new reality in the coming year.

B. Misdemeanor Caseloads

Our excessive misdemeanor caseloads continue to pose a significant challenge. We continue to assess our misdemeanor caseloads on a weekly basis and overload cases to

the conflicts panel when necessary to maintain competent levels of representation. While we remain optimistic that we will see filings go down as we work with the new DA and her management team, so far we have not seen a significant reduction in misdemeanor filings.

C. Launch of New Juvenile Justice Office

In the coming year we will be relocating our juvenile unit to new office space adjacent to the courthouse in Walnut Creek. While this move is exciting and will ultimately provide much needed additional office space in our main office in Martinez, the transition to the new office space will pose a number of challenges over the coming year as we adjust to this change.

D. Delay in Transitioning to a Case Management System

Our department is still waiting for a much-needed case management system. Without a CMS, our office faces significant challenges in our ability to provide refined caseload and case outcome measurements.

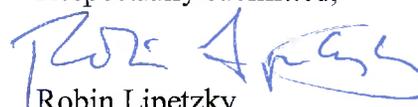
V. PERFORMANCE INDICATORS

<i>Type of Case</i>	Number of Cases Referred Calendar Year 2017
Misdemeanors	6834*
Felonies	3710**
Juvenile	558
LPS	313
Revocations	4704
Clean slate	2365
Miscellaneous	178
<i>Total cases referred</i>	<i>18,662</i>

*Of these, 1878 (27%) were referred out to the Criminal Conflicts Panel for representation due to excessive caseloads in the Public Defender’s Office.

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Respectfully submitted,



Robin Lipetzky
Public Defender