



PERFORMANCE REPORT OFFICE OF THE PUBLIC DEFENDER

I. DEPARTMENT MANDATE AND MISSION

The Office of the Public Defender provides constitutionally mandated representation to indigent members of our local community who are facing charges in adult and juvenile criminal court in Contra Costa County. This mandate is governed by the Sixth Amendment of the United States Constitution and California Government Code Section 27706. Over 13,000 cases are referred to the Department each year for legal representation in criminal court as well as in various specialized legal areas, including those involved in conservatorship matters in Contra Costa County.

Public Defender clients are among the most vulnerable in our County. Many of those we represent suffer from behavioral health challenges and homelessness, and the vast majority are people of color. The Department's core mission is to provide high quality legal representation inside of the courtroom and our attorneys are recognized for providing vigorous, client-centered advocacy in each client's case. Our mission also requires us to address the root causes of our clients' system involvement and to connect our clients with community-based resources to help stabilize them. Our overriding goal is to serve the best interests of our clients in everything that we do.

II. MAJOR PROGRAM DESCRIPTIONS

1. Adult criminal - felonies
2. Adult criminal - misdemeanors
3. Death penalty cases
4. Felony supervision violations
5. State parole violations
6. Misdemeanor probation violations
7. Juvenile delinquency (misdemeanor and felony)
8. Juvenile cases for which the DA seeks transfer to adult court
9. Juveniles in post-disposition placement facilities
10. Youthful Offender Parole Hearings (YOPH)
11. Sexually violent predator petitions (SVP)
12. Civil commitments due to insanity (NGI)
13. Civil commitment - conservatorships (LPS)
14. Civil commitment - Incompetent to Stand Trial (IST)
15. Assisted Outpatient Treatment (AOT)
16. Habeas corpus petitions for life inmates denied parole
17. Representation for inmates seeking DNA testing

18. Clean slate relief (felony and misdemeanor)
19. Specialty courts
20. Petitions for Involuntary Medication
21. Post-Conviction Resentencing cases

III. DEPARTMENT ACCOMPLISHMENTS

A. CASE MANAGEMENT SYSTEM LAUNCH

In September of 2021, we launched our new case management system (CMS) Defender by Karpel (DbK). The launch of our new CMS was a major accomplishment for the Department and has allowed us to become more efficient and data-driven in our service to our clients. Our Department did not previously have a CMS and relied solely on the Superior Court's LJS database for client-related information. It was critical for our Department to launch our new CMS before the Court transitions to a new CMS in March of 2022.

B. FELONY AND MISDEMEANOR UNITS

The felony unit provides legal representation to individuals charged with felony offenses, including those charged with serious and violent offenses such as robbery, burglary, murder, manslaughter, sex crimes, fraud, aggravated assault, and narcotic offenses. The misdemeanor unit provides legal representation to those charged with misdemeanor offenses, such as theft, vandalism, domestic violence, driving under the influence, weapons, narcotic offenses, and assault and battery.

Despite the challenges presented by the ongoing COVID-19 pandemic, our felony and misdemeanor unit attorneys have continued to provide excellent vertical representation to our clients. The COVID pandemic impacted the local court's ability to move cases through the system which has resulted in case delays and backlogs. Despite the court slowdown due to a judicial extension order in place since 2020, we continued to advocate for our clients in the local courts by conducting multiple felony and misdemeanor jury trials during 2021. Our attorneys conducted 26 felony and 94 misdemeanor jury trials in 2021. In addition to trying cases, our attorneys continued to litigate motions amid COVID-19 and advocated for continued access to the courts during the pandemic ensuring that our clients' constitutional rights were upheld.

The pandemic also impacted our Department's ability to conduct in person visitation with our clients who are detained in the local jail facilities. This year, our Department continued to work closely with the Sheriff's Office to ensure that our attorneys maintained COVID-safe visiting access to their clients and could continue to conduct critical in person visits. The Sheriff opened the family visiting center at the West County Detention Facility to our attorneys so they could visit their clients in a COVID safe manner. Our attorneys also maintained confidential cost-free phone lines for client calls to ensure all Public Defender clients had continued access to their attorneys.

C. JUVENILE UNIT

The Juvenile unit includes specialized attorneys who represent children in juvenile delinquency court. In 2021, our Juvenile team closely collaborated with other County Departments and community-based organizations to transition our juvenile legal system to a more holistic and healing-centered approach. The unit's innovative approach included providing support to youth at all stages of a juvenile case, with specialized experts assisting with education advocacy, sealing of records, mental health and competency, and reentry success. Additionally, the unit provided 24 hours/day legal advocacy to all individuals under 18 who were subject to custodial interrogation by law enforcement through an attorney-staffed phone line.

The Juvenile unit, with the support of the Juvenile Justice Coordinating Council, launched a new, collaborative Youth Early Intervention Partnership (YEIP) in 2021 that provides early advocacy and service connection to at-need youth with the goal of minimizing formal justice system processing of youth. This year, the Juvenile unit also onboarded its first-ever dedicated Juvenile Social Work Supervisor to provide holistic social work services to youth eligible for a local "secure track" commitment in light of the impending closure of the state Division of Juvenile Justice.

D. MENTAL HEALTH UNIT

Our Mental Health Unit consists of specialized attorneys dedicated to the defense of individuals with mental health disabilities. These attorneys advocate for clients in various types of mental health proceedings including litigating on behalf of clients in the following areas: incompetency to stand trial proceedings, conservatorship proceedings, Assisted Outpatient Treatment Program (AOT or Laura's Law), and Mental Health Diversion. In 2021, our Mental Health unit referred a total of 75 clients for mental health diversion through AB 1810. The unit, with the support of the mental health Social Worker, put together a comprehensive packet of information and a treatment plan for each of these individuals. Of those, 29 are now actively engaged in mental health diversion; 11 referrals are still pending; and 35 referrals were denied or later terminated from diversion.

E. CLIENT SERVICES UNIT

Our Client Services unit is a team of forensic social workers dedicated to connecting our clients to community-based resources and alternatives to incarceration. This team reduces recidivism by providing continued support for our Department's clients in a multitude of ways, including connecting clients with community-based providers in order to access in-patient and out-patient treatment programs, housing services, and vital mental health services. This team's goal is to advocate for community-based solutions as alternatives to incarceration and to develop community reentry plans based on an assessment of clients' strengths and needs.

Last year, the unit worked extensively with hundreds of Public Defender clients connecting them with services, assessing their needs, and transporting them to residential treatment programs and other community-based resources. This team was able to work collaboratively and creatively with a network of government and community-based providers in order to ensure that, despite the challenges of the pandemic, the Department's clients could continue to access vital services.

F. EARLY REPRESENTATION UNIT

Our Department's Early Representation Program (EarlyRep) team works in partnership with law enforcement to increase the court appearance rate and to reduce the number of arraignment court failures to appear (FTAs) countywide. Our EarlyRep program provides legal assistance, information, and representation to individuals who have been arrested or cited for misdemeanor offenses from the time that they have had police contact and connection to resources to those arrested or cited for misdemeanors. We have continued to reduce the rate of FTAs in court and to provide pre-arraignment legal services.

Our EarlyRep team was integral in assisting the Department to handle a significant increase in the number of misdemeanor arraignments during the Fall of 2021. This team worked to contact every individual who had a pending misdemeanor case prior to their arraignment court date anywhere in the county, to conduct client intakes by phone, and to appear for individuals in misdemeanor arraignment court where they qualified for our services. Since the start of the pandemic, our team has appeared for many thousands of individuals at misdemeanor arraignment court, in place of those individuals physically having to come to court. This program has allowed the Department to increase safety for all in the arraignment courts and to avoid unnecessary bench warrants and the resulting incarceration for our misdemeanor clients.

G. HOLISTIC INTERVENTION PROGRAM

The Holistic Intervention Partnership (HIP) model is designed to improve coordination and early delivery of critical legal, housing, and behavioral health services after an arrest/citation and before charges are filed. We launched our HIP program on June 1, 2020 with grant funding from the Board of State and Community Corrections. Since the launch of the program, we have served 243 participants (97% of the 250-participant goal) and connected 91 participants with housing services (of which 51 were diverted from homelessness and 34 were permanently housed), 101 participants to civil legal representation, and 91 participants to community reentry navigation programs, linking them to other critical services. The HIP team has coordinated with other service providers to provide clients with a support network, as well as develop holistic plans to help our clients get back on the right track. Multi-disciplinary team (MDT) meetings have been instrumental in furthering these efforts by coordinating and leveraging the strengths of all our partners.

H. STAND TOGETHER CONTRA COSTA

Stand Together Contra Costa (“STCC”) is a collaborative legal services and public education partnership between the County (through the Office of the Public Defender) and local community-based organizations. STCC provides essential immigrant legal services, community outreach, and public education to ensure that immigrant families have access to accurate and trusted information about the rapidly evolving immigration legal landscape, are given access to free legal consultations to understand their array of options in immigration proceedings, and are provided due process through no-cost legal representation in deportation proceedings before the immigration court. STCC, through community engagement efforts and through the hotline, website, and social media presence, provided over 510 free legal consultations for immigrant families in Contra Costa County last year. STCC also continued to provide full-scope no-cost legal representation in over 140 cases for Contra Costa immigrant families in removal proceedings. STCC clients come from countries that span the globe, ranging from Uganda, Cameroon, Peru, Vietnam, Laos, Turkey and Nicaragua among many others. These Contra Costa immigrant families are seeking critically needed professional legal representation to present their cases to the complex immigration court system, predominantly via asylum applications during their deportation hearings.

STCC provides indigent Contra Costa immigrants with excellent no cost legal representation so that their constitutional right to due process can be fully exercised in immigration court. STCC is a demonstrably successful indigent legal services program, winning over 68% of the cases to date.

I. CLEAN SLATE UNIT

Our Clean Slate unit provides post-conviction relief by seeking expungement and other “clean slate” remedies to help our clients clear their prior records in order to overcome the barrier to employment, housing, education and public benefits that a prior record can present. Our Clean Slate unit engages in robust community outreach and education efforts through the County to reach those eligible for record clearance relief. In 2021, the Clean Slate unit conducted several COVID safe outreach events throughout the County in partnership with many county agencies and community-based providers. In addition to reentry services, these events provided access to COVID vaccines in partnership with Contra Costa Health Services.

In 2021, the Clean Slate unit expanded its post-conviction relief representation to add newly enacted legal remedies for our clients. This included filing probation termination petitions (AB 1950), expungements for incarcerated individuals who volunteered to fight wildfires (PC 1203.4b), and petitions to remove individuals from California’s tiered sex offender registration (SB 384). The Clean Slate unit’s advocacy resulted in the following achievements last year: early termination of felony probation for 1,074 individuals, SB 384 petitions that resulted in 5 clients being removed from the PC 290 registry, and 2 PC1203.4b expungements for clients who volunteered to fight wildfires while incarcerated.

Additionally, the Clean Slate unit filed nearly 1500 petitions for expungement relief, Certificates of Rehabilitation, and Proposition 47 petitions for reduction from felony to misdemeanor. Many of these petitions have been granted already while others continue to work their way through the court.

J. POST-CONVICTION UNIT

The newly formed Post-Conviction Unit (PCU) handles cases for individuals who suffered unjust convictions and resentencing for those serving lengthy prison sentences. The unit focuses on advocacy in the following areas: legally defective convictions related to one's immigration status, youth offender parole, aider and abettor resentencing, and sentencing recalls pursuant to Penal Code section 1170.03. In 2021, the Department secured state grant funding from the Board of State and Community Corrections through the California County Resentencing Pilot Program to further expand the post-conviction unit's capacity. The Department used its allocated funding to hire a resentencing attorney to identify candidates for resentencing and to advocate on behalf of individuals who have been recommended for resentencing by the District Attorney's Office or CDCR. To date, the PCU has represented individuals in 100s of post-conviction resentencing cases. Our Client Services team worked in collaboration with community partners to ensure these resentencing clients were supported in their reentry back into the community after their releases from state prison.

IV. DEPARTMENT CHALLENGES

A. RACIAL JUSTICE ACT

The landmark California Racial Justice Act (RJA) took effect on January 1, 2021. This legislation allows the defense to challenge criminal charges and sentences, and to potentially vacate certain convictions where demonstrated racial discrimination or bias, direct or implicit, played a role in prosecution. This legislation creates a complex new legal mandate for the Department and adds significantly to our workload on the many cases where our clients would benefit from this litigation. The RJA represents a momentous sea change in the way defense attorneys must address racial injustices in our criminal system and is a powerful new legal tool for public defenders. Our Department is working to build capacity to handle this new legislation so that all our clients can benefit from it as legally mandated.

B. MANAGING CASELOADS

Our office continues to face the challenge of insufficient attorney and investigative staff to consistently handle all cases referred to our office for representation. COVID related court closures, jury trial suspensions, and the ongoing court extension orders of our clients' speedy trial rights have further intensified the continuing caseload demands that our attorneys and investigators face.

C. CONTINUING CUSTOMIZATION AND TRAINING FOR NEWLY IMPLEMENTED CMS

As mentioned above, the implementation and launch of our new CMS was a major accomplishment for the Department. In the year to come, we must work to ensure our CMS receives the ongoing customization needed to ensure that it is utilized to its full capacity and fully supports our Department’s workflow. Our new CMS requires ongoing staff training, troubleshooting of the many daily CMS issues that arise from our approximately 150 CMS users, and further customization to ensure it supports our internal processes.

V. PERFORMANCE INDICATORS

| <i>Type of Case</i> | <i>Cases Referred in Calendar Year 2021</i> |
|----------------------|---|
| Felonies | 3239 ¹ |
| Misdemeanors | 4681 ² |
| Juvenile | 298 |
| LPS | 341 |
| Revocations | 2344 |
| Clean Slate | 2569 |
| Immigration | 140 |
| Miscellaneous | 166 |
| Total cases referred | 13,778 |

¹ Of these, 491 (15.1%) were referred out to the Criminal Conflicts Panel for representation due to excessive caseloads in the Public Defender’s Office.

² Of these, 681 (14.5%) were referred out to the Criminal Conflicts Panel for representation due to excessive caseloads in the Public Defender’s Office.