



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Public Defender
Department No.: 023
For Agenda Of: August 22, 2023
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from:
Vote Required: 4/5

TO: Board of Supervisors
FROM: Department Tracy M. Macuga, Public Defender 805-568-3494
Director(s)
Contact Info: Deepak Budwani, Chief Financial & Administrative Officer 805-568-3589
SUBJECT: Create staffing for Community Corrections Partnership (CCP)-funded programs for the Office of the Public Defender (PD); Salary Resolution Amendment

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: Human Resources, CEO Budget

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- A. Approve Budget Revision Request No. 0009248 (Attachment A) to increase appropriations of \$656,200 in the Probation Department General Fund for Intrafund Expenditure Transfers funded by release of Restricted Local 2011 Realignment fund balance, and increase appropriations of \$656,200 in the Public Defender General Fund for Salary & Benefits (\$551,800) and Services & Supplies (\$104,400) funded by an Intrafund Expenditure Transfer from the Probation Department General Fund; and
- B. Adopt a Resolution (Attachment B) amending the Salary Resolution to allocate two (2) additional full-time (2.0 FTE) positions to the Public Defender's Office, effective August 21, 2023; and
- C. Determine that the above actions are government fiscal activities or funding mechanisms which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment and are therefore not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(4) of the CEQA guidelines.

Summary Text:

On June 2, 2023, the CCP approved one-time funding for both the Holistic Reentry, Early Access, and Diversion for You (READY) unit and for a Racial Justice Act (RJA) attorney. This item requests your Board to authorize the Public Defender (PD) to staff both the READY project and the RJA attorney positions by allocating two additional full-time equivalent (FTE) positions, to be funded with the approved CCP one-time funding for three years. The READY project will ensure faster access to fair early representation, which will help to appropriately manage the County jail population by reducing the number of unsentenced community members sitting in jails, through pre-trial supervised releases, early identification, and intervention of those with mental health and substance abuse needs. The RJA Attorney will assess cases and identify potential violations of the RJA in past and current cases to litigate. This attorney will also organize training for the PD's office and local California Bar Association and increase fairness in our legal system.

Background:

During the Fiscal Year 2023-24 Budget Workshops, your Board directed departments to explore alternative funding sources for their submitted expansion requests. The PD identified two expansion requests that met the criteria for one-time CCP funding. On June 2, 2023, the PD presented the below expansion requests to the CCP Executive Committee, and funding was approved for both requests. Due to timing of the CCP Executive Committee's meeting schedule, it was not possible for the PD to submit a final adjustment to include these adjustments in the Fiscal Year 2023-24 Adopted Budget. As a result, the above actions are being requested to establish two FTE positions described below funded by the CCP, through the attached salary resolution amendment and Budget Revision Request.

READY

The CCP is funding \$1,266,857 over three years and will fund a 1.0 Full-Time Equivalent (FTE) Deputy Public Defender (DPD) IV, a 0.75 FTE Investigative Technician, a Peer Navigator contracted through Good Samaritan, and 3% administrative costs. The overall cost of the project is \$1,981,857 over the grant project period of June 1, 2023 through June 30, 2026. This funding will be braided with the Board of State and Community Corrections (BSCC) Justice Assistance Grant (JAG) the PD was awarded this year as well. The JAG will fund data collection in partnership with the University of California of Santa Barbara (UCSB). These funds together will fully fund the READY project. The JAG is a vital federal program in the United States that provides financial support to state and local governments to develop and improve public safety. The PD applied for a competitive grant to support indigent defense through the proposed "READY" project and was awarded \$715,000 of JAG funding over three years which is being presented to your Board in a separate item.

READY will ensure faster access to fair representation, which will in turn reduce the number of uncharged community members sitting in our jails, allowing for pre-trial supervised releases, early identification, and intervention of mental health and substance abuse concerns. Prior California pilot programs regarding early representation demonstrated that when public defenders assisted clients before arraignment, it caused them to spend less time in custody and be more likely to be released on bail. These outcomes caused participating counties to benefit financially and achieve better outcomes for the community. The PD was previously awarded a grant through the Center for Justice Innovation (previously the Center for Court Innovation) that supports a design process for early representation throughout Santa Barbara County. While that grant focuses on technical assistance to design the infrastructure needed for a countywide early representation program, READY will focus on our population of most need, and those booked into jail in the northern part of Santa Barbara County.

Racial Justice Act

Implicit bias undermines the public’s confidence in the fairness of the administration of justice. A dedicated Racial Justice Act attorney will serve the Board of Supervisors’ strategic priority to improve public safety and enhance fairness within our justice system. It will further our County’s values of equity, inclusion, trust, and ethics. This is a monumental step for indigent defense as we navigate and continue fighting the racially disparate impact in our criminal justice system.

As our County moves forward supporting a robust indigent defense strategy addressing current and past concerns of the community laws at times push us to take leaps ahead. Assembly Bill 2542, also known as the California Racial Justice Act (RJA) has done just that. This bill took effect on January 1, 2021 and allows the defense to challenge criminal charges, trials, and prior convictions by demonstrating that racial discrimination or bias, direct or implicit, played a role in the prosecution. However, to obtain relief the defense is required to file a written motion and an evidentiary hearing must be held. At that hearing, the court considers the evidence presented by both the defense and the proecutor, including but not limited to statistical evidence, aggregate data, body-worn camera footage, court transcripts, 911 calls, expert testimony, and the sworn testimony of lay witnesses. After the evidentiary hearing, if the court finds a violation relief can be granted all the way up to and including dismissal of charges or a new trial.

Performance Measure:

READY

The PD will be required to report data and outcomes to the Board of State and Community Corrections (BSCC) through the following measurable goals and objectives:

This project will build upon past collaborative program evaluation work with the evaluator, Dr. Jill Sharkey, University of California, Santa Barbara. Dr. Sharkey has completed several evaluation projects funded by the BSCC including a four-year project to examine racial and ethnic disparities in juvenile justice and four California Gang Reduction, Intervention, and Prevention (CalGRIP) projects in various cities across South Santa Barbara County. Evaluations will address the following measurable program goals and objectives:

(1) Goal:	Reduce Recidivism for Adults Facing Criminal Prosecution
Objectives	<p><i>A.</i> 75% of people booked into jail will meet with READY within 48 hours of booking.</p> <p><i>B.</i> Time for resolution of cases will improve by 10% by June 2026.</p> <p><i>C.</i> 80% of people who meet with READY will engage in at least one evidence-based program with a community-based organization.</p> <p><i>D.</i> The recidivism rate of READY clients who engage in at least one evidence-based program will decrease by 10% by June 2026</p>

(2) Goal:	Reduce Racial and Ethnic Disparities
Objectives	<p><i>A.</i> The overall pretrial misdemeanor average weekly jail population over a three-month period will decrease to 70% or lower, from the current rate of 80%, by June 2026.</p> <p><i>B.</i> Rates of representation will be the same for clients of color as clients who are white.</p> <p><i>C.</i> Rates of READY engagement and outcomes will be equivalent for clients of color as for clients who are white, taking into consideration the type of offense</p>

(3) Goal:	Reduce Violence
Objectives	<p>A. 80% of clients engaged in READY will complete comprehensive intake and discharge assessments.</p> <p>B. Average jail days of READY clients who engage in at least one evidence-based program will decrease by 10% by June 2026.</p> <p>C. At discharge, 75% of clients will improve in the drug abuse domain, as measured by intake/discharge assessments such as the Virginia Pretrial Risk Assessment Instrument (VPRAI), a housing assessment, and a mental health screener</p>

(4) Goal:	Improve Well-Being
Objectives	<p>A. The rate of settlement at arraignment will improve by 10% by June 2026.</p> <p>B. 75% of clients engaged in READY will receive comprehensive treatment and support services through Multi-Disciplinary Teams (MDT) for six months or longer.</p> <p>C. At discharge, 75% of clients will have improved employment and housing.</p> <p>D. At discharge, clients will have higher scores on self-report protective factors (e.g., family satisfaction, mental health)</p>

Racial Justice Act

The RJA attorney will have measures that focus on review and assessment at this stage as there is no baseline for violations of the RJA until reviews begin. The measurable goals and objectives will be as follows:

(1) Goal:	Enhance Capacity to Review Cases for Violation of the RJA
Objectives	<p>A. 75% of clients of color represented by the office will have their convictions reviewed for potential violations of the RJA.</p> <p>B. Tools to analyze current clients’ cases will be developed internally.</p> <p>C. The RJA Attorney will create 5 training opportunities concerning racial bias, coded language, the use of social science studies, and how to litigate RJA issues.</p>

(2) Goal:	Reduce Racial and Ethnic Disparities
Objectives	<p>A. The number of discovery motions filed will be tracked and will increase by 100% compared to current rates of motion filing.</p> <p>B. Litigation/Negotiation will occur in all cases where a potential violation is identified and the number of motions filed, oppositions, and outcomes will be tracked.</p> <p>C. Rates of READY engagement and outcomes will be equivalent for clients of color as for clients who are white, taking into consideration the type of offense</p>

(3) Goal:	Streamline Review and Data Gathering for RJA Litigation
Objectives	<p>A. RJA attorney will track the amount of time needed to gather statistics, data, and historical information needed to litigate RJA claims.</p> <p>B. Average time required to analyze these claims and gather information will decrease by 10% due to the collection and aggregation of data gathered in other cases.</p>

	C. Issues of RJA claims and violations will be gathered to be shared with system partners to avoid similar actions that would violate the RJA in current cases, reducing duplicative requests for the same information.
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(4) Goal:	Improve the Appearance of Fairness and Actual Treatment of People of Color
Objectives	<p>A. Track and report on the demographics of those impacted by bias within Santa Barbara’s legal system to be able to focus on tailored solutions.</p> <p>B. Breakdown of the factors contributing to the racial, ethnic, and nationally-based disparities in the criminal justice system.</p> <p>C. Determine differences in the main cities in our county to correct for disparities in the treatment of traditionally marginalized communities in Santa Barbara County.</p>

Fiscal and Facilities Impacts:

Budgeted: No; recommend approval of BJE 0009248 attached.

Fiscal Analysis:

	FY 2023-24	FY 2024-25	FY 2025-26	3-Year Total
Costs by Object Level				
READY-DPD IV	\$233,200	\$241,800	\$254,200	\$729,200
READY-Invest. Tech.	\$67,500	\$67,500	\$67,500	\$202,500
RJA-DPD IV	\$235,000	\$235,000	\$235,000	\$705,000
Admin Costs (3%)	\$16,000	\$16,300	\$16,700	\$49,000
Total Salaries & Benefits	\$551,700	\$560,600	\$573,400	\$1,685,700
Public Defender-Mental Health Navigator through Good Sam	\$104,400	\$101,400	\$101,400	\$307,200
Total Services & Supplies	\$104,400	\$101,400	\$101,400	\$307,200
Total Estimated Cost	\$656,100	\$662,000	\$674,800	\$1,992,900

READY

This program will require 1.0 FTE Deputy Public Defender IV, 0.75 FTE Investigative Technician, and a contract with Good Samaritan Shelter for 1.0 Mental Health Navigator, for a total cost of \$414,100 in year one, with annual increases for the second and third year of funding for certain positions.

Racial Justice Act

This program will require 1.0 FTE Deputy Public Defender IV for a total cost of \$242,000 in year one, two and three of funding.

Staffing Impacts:

Legal Positions:

Add 2 new

FTEs:

Add 2.0

Two new legal positions will be established as a result of this Board action: two (2) 1.0 FTE Deputy Public Defender I/II/III/IV/Senior positions. Additional staffing that will not require new legal positions will consist of funding 0.75 FTE for an Investigative Technician for Public Defender.

Special Instructions:

Please return one (1) Minute Order to Deepak Budwani at dbudwani@countyofsb.org. Please also route one (1) copy of the minute order and one (1) copy of the fully executed Salary Resolution to Tracy Rogers, Workforce Planning Analyst, Human Resources Department at trogers@countyofsb.org.

Attachments:

Attachment A: Budget Revision Request No. 0009248

Attachment B: Salary Resolution

Authored by:

Deepak Budwani, Chief Financial and Administrative Officer, Public Defender's Office