



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:**  
**Placement:** Administrative  
**Estimated Time:**  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors

**FROM:** Department Tracy M. Macuga, Public Defender X83494  
Director(s)  
Contact Info: Deepak Budwani, Chief Financial & Administrative Officer  
X83589

**SUBJECT:** Acceptance of Board of State and Community Corrections (BSCC) Award of \$637,000 for an Indigent Defense Grant Program

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

- a) Adopt the Board Resolution in Attachment A approving, ratifying, and authorizing the Public Defender, or designee, to execute a Grant Agreement with the Board of State and Community Corrections (BSCC) accepting \$637,000 for the County of Santa Barbara Office of the Public Defender to enhance our content management system (eDefender); enhance data reporting, leading to data-driven decision making; migrate digital storage completely to the Cloud (Box.com); and create a Post-Conviction/Re-entry Unit for the twenty-nine month period of February 15, 2021 through June 30, 2023 (BSCC Grant Agreement); and
- b) Approve and authorize the Public Defender, or designee, to make amendments that do not change the amount or substantive terms of the BSCC Grant Agreement based upon review and legal concurrence of County Counsel and review by Auditor-Controller; 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:**

The Budget Act of 2020 (Senate Bill 74) established the Indigent Defense Grant Program and appropriated \$10,000,000 in funding. Per the Budget Act, \$9,800,000 is available for grants to county Public Defenders and up to \$200,000 may be allocated for an evaluation of the Indigent Defense Grant Program.

Funds awarded under the Indigent Defense Grant Program must be utilized to address the staffing, training, case management needs, or other attorney support of Public Defender Offices. The Office of the Public Defender was eligible for \$637,000 of program funding. The Indigent Defense Grant Program shall be used to support new program activities or to augment or expand existing program activities but shall not be used to replace existing funds.

The Public Defender has designed a project to meet our needs in response to the changing technological landscape of public defense. We envision empowering the Department through innovative solutions that promote progress through technology and provide transparency and mobility, enabling staff to be an effective and efficient steward in delivering quality services to our clients. Central to that is implementing a state-of-the-art web-based case management system. Augmenting the workload demands will require identifying and developing automated processes to improve efficiency. The entire case management system needs to be rebuilt to allow for a paperless cloud-based evidence management solution. Additionally, continuing to meet ever-expanding Constitutional and Ethical duties will require the creation of a Post-Conviction/Reentry unit.

The Indigent Defense Grant Program for funding period February 15, 2021 through June 30, 2023 requires a Local Evaluation Plan (LEP) to ensure projects funded by the Board of State and Community Corrections (BSCC) can be evaluated to determine their impact and effectiveness. The LEP is a written document that describes how the project will be monitored and evaluated and shows how evaluation results will be used for project improvement and decision-making. All grantees are required to submit a LEP by 5 p.m. on August 30, 2021.

The Indigent Defense Grant Program for the funding period February 15, 2021 through June 30, 2023 requires a Local Evaluation Report (LER) to identify whether the project was successful in achieving its goals and objectives. This LER must be based on the original Local Evaluation Plan (LEP). Any modifications to the LEP must be explained in the LER. All grantees are required to submit a LER to the BSCC no later than 5 p.m. on December 31, 2023.

## **Background:**

The Office of the Public Defender is eager to adopt technology to advance initiatives, improve efficiency and enhance indigent defense services. Implementation will require assistance to build on existing systems, support additional IT infrastructure and create bandwidth to maintain and support these changes. Current efforts must be viewed in conjunction with a cohesive plan for long-term solutions, as “Digital/Electronic Courts” are, undoubtedly, the direction for the present and the future. Year after year, indigent defense falls further behind the 8-ball in response to the digital tsunami that has overtaken the criminal justice arena. While our attorneys, holistic advocates, LOPs, and investigators will always remain the heart of our practice, IT is now the engine of the organization. To balance digital transformation and to be ready for the tech-driven demands currently present, the Public Defender’s IT staff has been looking to enhance our current case management system (eDefender) and technology expertise in the following areas:

### **IT Staffing**

The Department IT Staff needs a full overhaul of the case management system, eDefender. The goal is to move towards data-informed decision-making to support client, program and policy advocacy. A complete eDefender redesign will allow for enhanced reporting and data analysis, increased efficiency due to automation of certain tasks, and work queues and business intelligence tools. As part of the overhaul and design, the Department needs to hire a part-time content management system consultant for a period of two years. Additionally, overhaul will require a full-time data analyst for a period of one year. The data analyst will work to enhance data and reporting, and will be dedicated exclusively to data analysis and report generation. This individual would be responsible for developing performance KPIs; building evidence-based practice that can be linked to policy decisions; assisting to create standard operation procedures (SOPs); and building client advocacy metrics.

### **Digital Transformation Tools**

**Electronically-Stored Information (ESI)/Cloud Based Storage (Box.com):** The Department is transitioning to a fully paperless case management system. As the transition from paper to paperless continues, additional server space will be needed to host expanded growth and to maintain our digital client files. Box.com is a cloud content management tool that would allow the Public Defender to be compliant with CJIS/HIPAA requirements, develop available storage to store all files digitally, develop a collaborative platform, create workflow automation, build APIs to eDefender and allow governance. Currently, the Department has the thirty-six (36) terabytes of data it needs to transition to the cloud; yearly consumption is currently twelve (12) terabytes and increasing exponentially every year. The Public Defender plans to leverage Box.com to build necessary infrastructure and support our network needs. Yearly licensing costs will be \$42k with another one-time cost of approximately \$55k to design the integration needs of Box with other tools within the Public Defender's Office.

**Computers & Hardware** With the transition to a paperless office, new devices are needed for all of our support staff and holistic defense staff. Current equipment is six years old and out of cycle. New computers are needed to meet the demands to allow support staff to take all of the paper and make it paperless which creates our digital files. Our holistic defense staff are in the field and, with the transition to a fully paperless office, need reliable equipment to access their files, which then allows them to advocate on behalf of our clients.

### **Post-Conviction Unit**

Public defense has been redefined over the years since the Gideon decision. Abolishing public defender fees, Franklin, Miller, Padilla, Humphrey, SB1810, PC section 1170.95, PC section 1001.36 and AB 1950 are all examples of recent legislative changes impacting public defense budgeting. Criminal Justice Reform will continue to trend in this manner. Attorneys find themselves consistently reacting to the rapid changes and unable to be proactive in anticipating the effects of the changes on our cases. Recent legislative changes affecting sentencing laws, that apply retroactively, have increased the need for the creation of a Post-Conviction/Re-entry Unit. The Post-Conviction/Re-entry Unit will be comprised of one (1) full-time DPD II (Extra-help) and one (1) full-time LOP I (Extra-help). The majority of work to address recent legislative changes related to post-conviction relief is finite in nature. Indigent Defense Grant funding will help address impacts related to, for example, Veterans Resentencing (Penal Code 1170.91), Probation Reform (AB 1950); Felony Murder Resentencing (Penal Code 1170.95), Resentencing (Penal Code 11170(d) and Penal Code 1170.126) and Tiered Registration (Penal

Code 290). If the Public Defender’s Office recognizes a continued need for post-conviction litigation support, it will be addressed through the FY 2022-23 budget process.

**Training**

The current training budget is inadequate to meet the specialized training required to maintain credentials to handle certain types of cases. Technology needs are also changing, such as understanding forensic evidence and digital evidence. Training funds will focus on increasing capacity to adapt to virtual advocacy and 6<sup>th</sup> Amendment training; certification on Axiom software; a cell phone/forensic evidence tool; and developing an in-house learning management system.

**Contract Renewals and Performance Outcomes:**

The Office of the Public Defender will be required to report data and outcomes to the BSCC by identifying measurable goals and objective:

<b>(1) Goal:</b>	Enhance content management system (eDefender)
Objectives	<p>A. Update, upgrade, configure and automate the current content management system to accommodate the changing needs of the office.</p> <p>B. Updates to the system will allow the office to track important data points, which are crucial to grants, funding sources and data-driven decision making.</p> <p>C. The move towards data-informed decision-making to support client, program and policy advocacy. A complete eDefender redesign will allow for enhanced reporting and data analysis, and increased efficiency due to automation of certain tasks, work queues and business intelligence tools.</p>

<b>(2) Goal:</b>	Enhance data reporting, leading to data-driven decision making
Objectives	<p>A. Assist with the data collection and analysis to accommodate the addition of multiple grants and data-driven programs in which our Office is participating.</p> <p>B. Assist with data collection and analysis to support data driven decision-making and staff re-allocation. As more staff members are remote and the scope of the Courts is changing, data and analysis is needed to make sure the most effective and efficient decisions are being implemented.</p>

<b>(3) Goal:</b>	Migrate digital storage completely to the Cloud (Box.com)
Objectives	<p>A. Increase accessibility to all documents within the office to accommodate a remote work environment.</p> <p>B. Ensure all staff has consistent access to documents within the office, regardless of location, connection or device. Box.com provides this with a CJIS and HIPAA security layer.</p>

<b>(4) Goal:</b>	Creation of Post-Conviction/Re-entry Unit
Objectives	<p>A. Establish a functioning Post-Conviction/Re-entry Unit to create templates, establish workflows, conduct legal research, and provide communication with, representation to, and litigation for both incarcerated and formerly incarcerated clients seeking post-conviction expungement and resentencing relief.</p> <p>B. This Unit will replace the Office's current ad hoc system of assigning these cases to trial-level deputy public defenders who lack the expertise needed to effectively and efficiently represent this client population.</p>

**Fiscal and Facilities Impacts:**

Budgeted: No

**Fiscal Analysis:**

<b>Grant Period: February 15, 2021 to June 30, 2023</b>	
<b>Budget Line Item</b>	<b>Total</b>
<b>1. Salaries and Benefits</b>	\$417,000
<b>2. Services and Supplies</b>	\$175,500
<b>3. Professional Services or Public Agency Subcontracts</b>	\$0
<b>4. Non-Governmental Organization (NGO) Subcontracts</b>	\$0
<b>5. Equipment/Fixed Assets</b>	\$44,500
<b>6. Project Evaluation</b>	<b>\$0</b>
<b>7. Other (Travel, Training, etc.)</b>	\$0
<b>8. Indirect Costs</b>	\$0
<b>TOTAL</b>	<b>\$637,000</b>

**Narrative:**

This Board letter seeks authorization for the Office of the Public Defender to sign an agreement with the BSCC accepting BSCC grant funds in the amount of \$637,000 over the twenty-nine month period of 02/15/2021 through 06/30/2023 to address case management, technology and the creation of a post-conviction unit.

**Key Contract Risks:**

Indident Defense Grant BL FY 20-21

The BSCC Grant Agreement includes a budget contingency clause in Exhibit B, Section 3, which provides that the grant agreement is valid through Indigent Defense funding, generated from the General Fund. The BSCC's obligation to pay any sum to the grantee under any provision of this agreement is contingent upon the availability of sufficient funding granted through the passage of the Budget Act of 2020 (Senate Bill 74). It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Grant Agreement does not appropriate sufficient funds for the program, this Grant Agreement shall be of no further force and effect. In this event, the BSCC shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Agreement and Grantee shall not be obligated to perform any provisions of this Grant Agreement.

Supplanting is the deliberate reduction in the amount of federal, state, or local funds being appropriated to an existing program or activity because grant funds have been awarded for the same purposes. Supplanting is strictly prohibited for all BSCC grants. The Indigent Defense Grant Program shall be used to support new program activities or to augment or expand existing program activities but shall not be used to replace existing funds. It is the responsibility of the grantee to ensure that supplanting does not occur. The grantee must keep clear and detailed financial records to show that grant funds are used only for allowable costs and activities.

The Grantee shall be paid in one lump sum by submitting an invoice (Form 201) to the BSCC. Grantee shall only use grant funds for allowable costs and shall provide statements of expenditures and supporting documentation to the BSCC upon request and on a quarterly basis.

**Staffing Impacts:**

Grant program staffing will not require new legal positions and will consist of extra-help positions: 1.0 EXH CSS I, 1.0 EXH DPD II, 1.0 EXH LOP I, and 1.0 EXH DBS I.

**Special Instructions:**

Please email one (1) copy of the minute order to Deepak Budwani, Chief Financial and Administrative Officer.

**Attachments:**

Attachment A: Board Resolution

Attachment B: BSCC Grant Agreement, Indigent Defense Grant

**Authored by:**

D. Budwani