

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

January 11, 2022

FROM

THOMAS W. SONE, Public Defender

SUBJECT

Grant Application with the California Board of State and Community Corrections for the Public Defense Pilot Program

RECOMMENDATION(S)

1. Approve and authorize the submission of a binding grant application to the California Board of State and Community Corrections in the amount of \$2,633,006 for the Public Defender's Second Chance Program to advance and effectuate State Legislature initiatives related to criminal sentencing and parole reform for indigent defendant services for the period of March 1, 2022 through February 28, 2023.
2. Authorize the Public Defender to submit the grant application and any non-substantive amendments related to the grant, subject to review by County Counsel.
(Presenter: Thomas W. Sone, Public Defender, 382-3950)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Create, Maintain and Grow Jobs and Economic Value in the County.

Operate in a Fiscally-Responsible and Business-Like Manner.

Provide for the Safety, Health and Social Service Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Agencies.

FINANCIAL IMPACT

Approval of this item will not result in the use of additional Discretionary General funding (Net County Cost). In Fiscal Year (FY) 2021-22, the County is eligible to receive \$2,633,006 for indigent defense services under the Public Defense Pilot Program, administered by the California Board of State and Community Corrections (BSCC). This grant funding will fully fund the salaries and benefits of the following existing Public Defender's (Department) Second Chance Program (Program) positions: seven Deputy Public Defender IV, three Office Assistant III, one Paralegal and one new Mitigation Specialist in the amount of \$2,145,000. Existing staff will initiate the program and the Department will return to the Board of Supervisors (Board) for approval of any future contract positions as may be needed. The grant funding will also fund services and supplies in the amount of \$203,205; travel and training expenses in the amount of \$21,700; and indirect costs of \$263,301. The Public Defense Pilot Program (PDPP) does not have a local match requirement though it does contain a supplanting prohibition, which requires the grant funds to be allocated to new programs or to augment existing programs. Although BSCC anticipates similar appropriations and county funding allocations in FY 2022-23 and 2023-24, funding is not guaranteed. Budget adjustment to the Department's 2021-22 budget is not requested at this time, but if necessary, will be included on a future quarterly countywide budget report presented to the Board for approval.

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BACKGROUND INFORMATION

California Senate Bill 129 Budget Act of 2021 appropriated \$49,500,000 for the PDPP to provide each county supplemental indigent defense funding to effectuate legislative reforms in criminal sentencing and parole. San Bernardino County's allocation, based on each county's share of the total adult population in the state, is \$2,633,006 for FY 2021-22. The allocation, which must be dedicated to support new program activities or to augment existing program activities, is reserved for indigent defense services for workload associated with Penal Code (PC) sections 1170(d)(1), 1170.95, 1473.7 and 3051. Recent amendments to these PC sections reflect the State Legislature's commitment to criminal sentencing and parole reform, as well as a responsible approach to decarceration.

Per the PDPP allocation requirements, the Department proposes to create a new Program, which consists of three distinct indigent defense units, each with dedicated full-time staff, to represent clients with interests affected by PC sections 1170(d)(1), 1170.95 and 3051. Existing Department staff will provide day-to-day support including training and supervision, doing so within their existing workload. Through the Program, the Department will pursue claims on behalf of indigent clients serving extreme sentences; pursue resentencing on behalf of indigent clients currently sentenced on designated homicide, attempted homicide and manslaughter cases; represent youthful offenders entitled to reconsideration of their currently imposed criminal sentence; and expertly pursue mitigation at the earliest opportunity in currently charged youthful offender cases. The Program, developed to pursue relief for both adult and youthful offenders serving unjust sentences, supports the principle of equitable treatment for all County residents, ensuring that sentencing is commensurate with culpability. Equitable treatment of indigent clients increases trust between our communities and the criminal justice system, thereby supporting public safety. Further, the Program facilitates timely and effective intervention strategies to assist youthful offenders in obtaining resources and appropriate support to address criminogenic risk factors and to reduce the rates of juvenile delinquency. Through these efforts, the Department seeks to achieve meaningful change for many County clients, their families and our communities.

The Program aligns with the County's Vision4Safety and Community Vital Signs Initiatives, supporting safe neighborhoods, schools and workplaces by addressing inequitable treatment of indigent persons and criminogenic risk factors in our youth; promoting system change to ensure quality of life; improving and sustaining the workforce by creating opportunities for indigent persons to exit the criminal justice system, engage in the restorative reintegration process and become gainfully employed; and attracting economic development.

The Department will return to the Board upon receipt of the grant agreement. The funding allocation is for a 12-month period, March 1, 2022 through February 28, 2023, and may be continued on a year-to-year basis based on the State Legislature's appropriations. The Department will return to the Board for approval to continue the allocation if funds are appropriated in subsequent years.

PROCUREMENT

Not applicable.

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REVIEW BY OTHERS

This item has been reviewed by County Counsel (Dawn Martin, Deputy County Counsel, 387-5455) on December 14, 2021; Finance (Sofia Almeida, Administrative Analyst, 387-4378) on December 20, 2021; County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on December 21, 2021.

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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Dawn Rowe Seconded: Janice Rutherford
Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: January 11, 2022



cc: File- Public Defender w/attach
LA 01/12/2022