



# San Bernardino County

## Legislation Text

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**File #: 7400, Agenda Item #: 27**

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

**January 24, 2023**

**FROM**

**JASON ANDERSON, District Attorney**

**SUBJECT**

Grant Application to the California Office of Traffic Safety for the Alcohol and Drug Impaired Driver Vertical Prosecution Program

**RECOMMENDATION(S)**

1. Approve grant application to the California Office of Traffic Safety in the amount of \$1,519,176, for the San Bernardino County Alcohol and Drug Impaired Driver Vertical Prosecution Program, for the period of October 1, 2023 through September 30, 2024, and authorize the District Attorney to submit the application on January 31, 2023.
2. Adopt Resolution authorizing the District Attorney to submit the grant application electronically, including any non-substantive grant application amendments, subject to review by County Counsel.
3. Direct the District Attorney to transmit all grant application documents and amendments in relation to the grant application to the Clerk of the Board of Supervisors within 30 days of execution.

(Presenter: Michael Fermin, Chief Assistant District Attorney, 382-3662)

**COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

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

**Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.**

**FINANCIAL IMPACT**

Approval of this item will not result in the need for additional Discretionary General Funding (Net County Cost). The District Attorney (Department) has received this grant since 2012, which currently funds two Deputy District Attorney, one District Attorney Senior Investigator, and drug testing services. The current grant application requests \$1,519,176 to fund three Deputy District Attorney positions, one District Attorney Senior Investigator position, one leased District Attorney Senior Investigator vehicle, and drug testing services. This grant does not require a match from the Department. If awarded, the Department will return to the Board of Supervisors (Board) to accept the grant, add one new Deputy District Attorney position, and request budget adjustments, if necessary.

**BACKGROUND INFORMATION**

The Department has received an annual grant from the California Office of Traffic Safety to operate the Alcohol and Drug Impaired Driver Vertical Prosecution Program (Program) since 2012. This program provides funding to manage alcohol and drug impaired driving cases through each step of the criminal process, including prosecution. The Vertical Prosecution Team is composed of members from other law enforcement agencies

including the San Bernardino County Sheriff's Department, California Highway Patrol, and other city police stations. They review, file, and prosecute Driving Under the Influence (DUI) cases from beginning to end. By having a Vertical Prosecution Program, the Deputy District Attorney is able to work directly with investigating law enforcement agencies to provide guidance during the investigation, initial review of the case, additional investigation (if required), filing, prosecution, and eventually sentencing of a criminal defendant. These cases range from misdemeanor DUI through felony DUI vehicular homicide.

The grant funding will allow the Department to continue participating in the Program with two Deputy District Attorneys for outreach, who will coordinate cases with law enforcement agencies, provide and participate in DUI training, and compile DUI data according to grant requirements, with an emphasis on cases involving injury and death. In the 2022-23 grant cycle, the addition of a District Attorney Senior Investigator was used to consult and offer assistance on all driving under the influence of drugs (DUID) related issues, including, but not limited to: reviewing police reports; responding to the scene of a traffic fatality; offering strategies in prosecutions and case presentations; and being able to testify as an expert in court. If funding is awarded to allow for the addition of one new Deputy District Attorney, the Department will be able to assign this new position to prosecute cases by region, allowing distribution of the heavy caseload.

The number of misdemeanors for driving under the influence has steadily increased over the last few years. In 2019, the Department filed nearly 4,500 misdemeanor alcohol cases, and just over 5,600 misdemeanor alcohol cases in 2020. In addition, the Department has seen an increase in cases with multiple substances. In 2020, the Department filed just under 700 misdemeanor combination drug cases, and 902 misdemeanor combination drug cases in 2021. The number of felonies for drug combinations have also increased. In 2020, the Department filed 90 cases, and 136 cases in 2021. Of these cases, the Program attorneys prosecute the most difficult alcohol and drug-related involving special circumstances or death. Currently, there are too many specialized cases resulting in general prosecution attorneys being assigned the additional workload.

The Department is addressing the increase in misdemeanor and felony cases in several ways. Starting with the 2018-19 Program, the Department was awarded funding to offset costs of its contract with Bio-Tox Laboratories, Inc (Bio-Tox) to test blood and urine samples for substances. On January 28, 2020 (Item No. 37), the Board approved a contract change with Bio-Tox to provide quantitative analysis for all samples instead of delaying quantitative analysis pending direction from the Department. The contract also added routine testing for more types of sedatives and opioids, including fentanyl.

In addition, the Department requested and received a District Attorney Senior Investigator position to help investigate cases in its 2022-23 grant award on September 13, 2022 (Item No. 30). The Department now requests a third attorney in its 2023-24 grant application to alleviate the workload of general prosecution attorneys.

#### **PROCUREMENT**

N/A

#### **REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Katherine Hardy, Deputy County Counsel, 387-5455) on December 28, 2022; Finance (Kathleen Gonzalez, Finance Analyst, 387-5412) on January 5, 2023; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on January 6, 2023.