

058 - PUBLIC DEFENDER

Operational Summary

Mission:

The mission of the Offices of the Public Defender is to provide high quality legal representation to clients in a cost-effective manner.

If the person lacks the resources to hire an attorney, the law requires the appointment of counsel for defendants in criminal cases, minors in Juvenile Court cases, parents in dependency cases, and for a variety of persons in Mental Health cases. All persons so charged are entitled to be represented by counsel at all stages of proceedings as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution, Article I, section 15 of the California Constitution, and Penal Code section 987. Indigent defendants are entitled to court-appointed counsel, and the courts are required to appoint the Public Defender to represent those persons unless the Public Defender is unavailable. (Pen. Code § 987.2(d).) Thus Public Defender services are mandated, but if the Public Defender is unavailable the courts are required to appoint other counsel at county expense. (Pen. Code §

987.2.) The Offices of the Public Defender are dedicated to preserving the constitutional rights of their clients, thereby protecting those important rights for all County residents. To this end the department provides high quality legal representation in a cost-effective manner to approximately 68,000 clients annually. Providing quality representation is an obligation of defense counsel (Code § 27706. subd.(a);(People v. Mattson (1959) 51 Cal.2nd 777, 790-791);(People v. Pope (1979) 23 Cal.3rd 412, 423.);(Bus. & Prof. Code § 6068(m);(Rule 3-500; Rules of Professional Conduct.). Approximately 360 dedicated, highly qualified, hard working employees who believe in this ideal strive to achieve a high level of protection for these clients and to provide the best legal representation they can. This is the mission of the Offices of the Public Defender, delivered in an ethical and responsible manner.

At a Glance:

Total FY 2002-2003 Actual Expenditure + Encumbrance:	41,925,438
Total Final FY 2003-2004 Budget:	47,604,275
Percent of County General Fund:	1.94%
Total Employees:	384.00

Strategic Goals:

- Enforce and protect the constitutional rights, privileges and freedoms of individuals by providing the highest quality legal advocacy for all clients in the Criminal Courts of Orange County.
- Advocate and protect the rights of individuals by ensuring that they are treated fairly and equitably in the Mental Health Courts of Orange County.
- Provide high quality representation for clients with drug and alcohol cases in the courts of Orange County.
- Advocate the parental rights of clients by providing high quality legal representation in dependency cases.

Key Outcome Indicators:

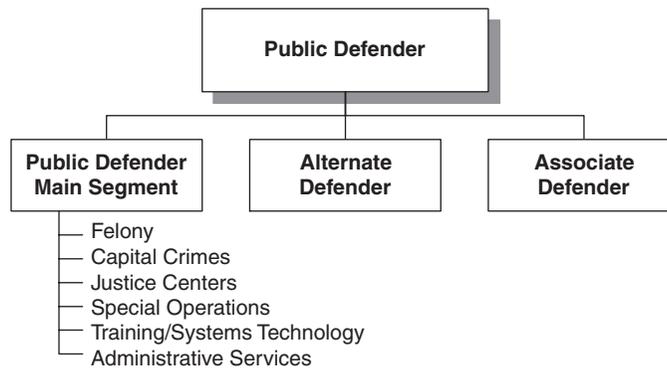
Performance Measure	2002 Business Plan Results	2003 Business Plan Target	How are we doing?
<p>USE OF PROFICIENCY INDEX TO ESTABLISH EVALUATION BASELINE OF SERVICES PROVIDED IN CRIMINAL CASES.</p> <p>What: An internal measurement tool to monitor and evaluate quality representation by the Public Defender.</p> <p>Why: The mission of the Public Defender is to provide high quality legal representation to clients.</p>	Established a model of the Proficiency Index used to evaluate and maintain high quality and efficient representation in criminal courts. Analyzed compliance with relevant State Bar, NLADA, and American Bar Association Guidelines and worked toward compliance with each of these.	Maintain high quality and efficient representation in all criminal courts consistent with relevant State Bar, NLADA, and American Bar Association Guidelines and continue to work toward compliance with each of these.	Developed guidelines and completed pilot program in 2002. Necessary adjustments are being implemented into the process. Pilot program findings indicate satisfactory performance levels.
<p>USE OF MENTAL HEALTH PROFICIENCY INDEX TO ESTABLISH EVALUATION BASELINE OF SERVICES PROVIDED.</p> <p>What: An internal measurement tool to monitor and evaluate quality representation by the Public Defender.</p> <p>Why: The mission of the Public Defender is to provide high quality legal representation to clients.</p>	Established a model of the Proficiency Index used to evaluate and maintain high quality and efficient representation in Mental Health courts. Analyzed compliance with relevant State Bar, NLADA, and American Bar Assoc. Guidelines and worked toward compliance with each of these.	Maintain high quality and efficient representation in Mental Health Courts consistent with State Bar, NLADA, and American Bar Assoc. Guidelines and continue to work toward compliance with each of these.	Developed guidelines and completed pilot program in 2002. Necessary adjustments are being implemented into the process. The pilot program findings indicate satisfactory performance levels.
<p>RESULTS ARE INCLUDED WITHIN THE CRIMINAL CASE PROFICIENCY INDEX.</p> <p>What: Purpose is to provide drug treatment instead of incarceration for certain nonviolent drug offenses.</p> <p>Why: In November of 2000 Proposition 36 passed with over 60% Calif voter approval (61% in Orange County).</p>	Worked with the courts, HCA, Probation, and the DA to implement Proposition 36 to serve eligible clients through effective drug treatment and court monitoring. Trained all staff on new legislation and implementation process.	Ensure effective representation of clients involved in Proposition 36 drug courts and programs through appropriate court monitoring. Continue to request State funding for Public Defender services. Seek to add support staff to ensure efficient and appropriate reporting of cases.	Proposition 36 and the drug courts have been very successful in providing treatment programs for qualified individuals. Drug court participation increased by 13% from 2000 to 2001 and has leveled off in 2002 due to Proposition 36 implementation.
<p>DEVELOPED A DEPENDENCY PROFICIENCY INDEX TO ESTABLISH EVALUATION BASELINE OF SERVICE PROVIDED.</p> <p>What: An internal measurement tool to monitor and evaluate quality representation by the Public Defender.</p> <p>Why: The mission of the Public Defender is to provide high quality legal representation to clients.</p>	Established a model of the Proficiency Index used to evaluate and maintain high quality and efficient representation in Dependency Courts. Analyzed compliance with relevant State Bar, NLADA, and American Bar Assoc. Guidelines and work toward compliance with each of these.	Maintain high quality and efficient representation in Dependency courts consistent with relevant State Bar, NLADA, and American Bar Assoc. Guidelines and continue to work toward compliance with each of these.	Developed guidelines and completed pilot program in 2002. Necessary adjustments are being implemented into the process. The pilot program findings indicate satisfactory performance levels.

Fiscal Year FY 2002-2003 Key Project Accomplishments:

- Among the significant accomplishments of the Offices of the Public Defender in 2002 are the following:
- In 2002 the department was awarded a grant of \$86,500 from the Governor's Office of Criminal Justice Planning under the Vertical Defense of Indigents Program. The grant was awarded as a result of the submission of a proposal by the department for vertical representation of individuals prosecuted by the District Attorney's "Statutory Rape Vertical Prosecution Unit". Due to the State budget this grant was cut to \$43,000.

- The department obtained authorization to access the Criminal Court Vision system which enables clerical, investigative and attorney staff to readily secure information on case files thereby reducing the need to have files copied by court staff.
- Procedure manuals were created for use of Kodak and Ricoh scanners to scan documents into a case file data base. This procedure is very useful for high volume document cases as it allows staff to access information quickly without the need to go through the entire file manually.
- A procedure manual was created for scanning, enlarging and printing documents and photos that can be used in courtroom presentations to more effectively represent our clients.
- There was an increase in technology training for staff.
- With the cooperation of the criminal clerk's office a procedure was established enabling our clerical staff to e-mail requests for copies of court file documents, thereby eliminating the need for Public Defender clerical to wait lengthy periods of time for file documents to be copied.
- Use of internet sites to obtain valuable investigative information was increased.
- Training opportunities were expanded for investigative staff both within and outside the office.
- Equipment for investigative staff was updated and reduced purchase prices were negotiated.
- On-line search capabilities were expanded to the branch offices.
- Significant progress was made in the development and implementation of the Investigative Case Management System.
- In 2002 the Department's Labor Management Committee solicited suggestions from all staff on how to address departmental and County-wide cost savings concerns. Suggestions were submitted to the CEO. The LMC and management continue to work together on implementation.
- Criteria and guidelines were developed for a Proficiency Index to be used as a measurement tool to assist in analyzing overall department performance. Training was done on use of the Proficiency Index and it was piloted in 2002.
- Within budgetary constraints, computer security and hardware were upgraded throughout the Public Defender network.
- Representation was provided for all juveniles and adults charged under the Juvenile Court's new Truancy Prevention Program without additional staffing.
- Enhanced representation was provided for juvenile wards facing probation modification petitions.
- Use of volunteer and course-credit intern staff was expanded.
- A Public Defender pamphlet was developed explaining the function of the Offices and the services provided to clients. It has not yet been published however, due to budgetary constraints.
- The training program for deputies assigned to represent individuals charged with felonies was increased and expanded. The length of training sessions was increased and the complexity of the subject matter taught was expanded to cover the complex issues arising in the more difficult and demanding felony trial practice.

Organizational Summary



PUBLIC DEFENDER MAIN SEGMENT - The Offices of the Public Defender consist of three distinct and separate law offices. These are the Public Defender Office, the Alternate Defender Office, and the Associate Defender Office.

The Public Defender Office - The main unit is referred to as the Public Defender Office and is made up of several distinct sections. In the Santa Ana main office at 14 Civic Center Plaza are the felony panel, the writs and appeals section, the W&I Code Section 6600 section, the capital case section, the training section, the computer systems section and senior managers. In a separate Santa Ana location is the Mental Health section, and in the City of Orange there is a juvenile court branch consisting of the child dependency section and the delinquency section. There are also five branch offices located in Fullerton (North Justice Center), Santa Ana (Central Justice Center), Westminster (West Justice Center), Newport Beach (Newport Beach Facility of the Harbor Justice Center), and Laguna Niguel (Laguna Niguel Facility of the Harbor Justice Center). Attorneys and support staff work at each of these locations. The main unit provides representation in approximately 64,000 cases annually. These include misdemeanor and felony criminal cases, Juvenile Court cases, and Mental Health cases.

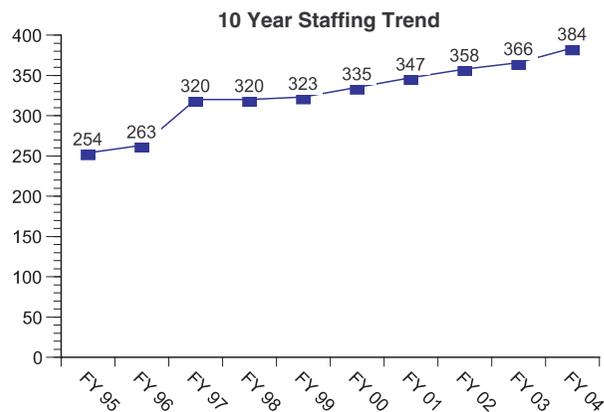
ALTERNATE DEFENDER - The Alternate Defender Office is located in Santa Ana, and handles the first level of conflict cases (except for cases arising in Juvenile Court). There are approximately twenty lawyers employed in the Alternate Defender office, with a full complement of support staff

(investigators, interviewers, and clerical personnel primarily). The Alternate Defenders represent clients who, because of a conflict of interest, cannot be represented by the main unit, often because more than one defendant is charged. The Alternate Defender represents about 4,000 clients annually.

ASSOCIATE DEFENDER - The Associate Defender Office is located in Santa Ana and is staffed by two lawyers, with a small support staff. This unit handles several complex cases (including capital cases) at one time. These are cases that, because of a conflict of interest, would previously have been handled by court-appointed private lawyers at greater cost than under the current system.

PUBLIC DEFENDER EXECUTIVE MGT - Department Head and immediate support staff.

Ten Year Staffing Trend:



Ten Year Staffing Trend Highlights:

- Staffing trends for the Public Defender often reflect demographic and sociopolitical changes. As a result of the bankruptcy in January of 1995 the Board of Supervisors directed that the office of the Public Defender be divided into three independent units. The newly created units undertook representation of conflict clients previously represented by court-appointed private lawyers, and the intended effect of this change was to produce annual savings to County taxpayers. The net effect of segmentation in the first year was a savings of \$6M and savings have since been approximately \$7M annually.
- Other changes in staffing have occurred in response to court consolidation, the three strikes law, the expansion of the drug courts throughout the County, implementation of Proposition 36, and appropriate representation of clients in the arraignment courts. The net effect has been an increase in staff size over the past few years.
- Additional staff in the Dependency Courts was approved in response to County Counsel staffing increases and demands in the dependency courts by the judiciary. The department held these positions vacant until Trial Court Funding could be secured. State funds should be available to reimburse the County's expense for these positions.
- This year the department was forced to make changes in the extra help category and has asked to convert staff to regular positions in order to meet all MOU provisions. The department had requested the conversion of these positions in September 2002 within budgeted appropriations. The department requests these positions in order to maintain appropriate levels of service. Without the funding, the department will be unavailable on cases which will result in appointment of private counsel at a significantly higher County expense.
- Future staffing impacts could arise as a result of rising caseloads, changes in legislation, new program developments, trends in overall population increases in the County, the anticipated effect of the "echo boom", and the economic impact adjustments that affect the indigent population.

Budget Summary

Plan for Support of the County's Strategic Priorities:

This year the County has faced significant budget impacts due to the State budget reductions. These impacts are felt by all agencies in the County. The Public Defender's office has participated in the multi-phase plan for reductions and has absorbed the shortfall from the deferral of mandate reimbursement for Public Defender services during FY 2002-03. The department slowed progress on the Case Management System funded through the capital project program in order to return funds to the County as part of the step 1 process. The department has minimized the number of extra help positions utilized by reducing staff through attrition in order to meet budget targets for 2002-03. These reductions have had a major impact upon the department's ability to serve our clients and the courts.

The Public Defender has committed staff and support for various County of Orange initiatives such as the new Performance Management System, Enlightened Leadership, Results Oriented Government (ROG) and County restructuring. These initiatives have resulted in many new responsibilities within the department, particularly with regard to the administrative unit. The Public Defender is actively involved with the Labor Management Committee, the Office Services study, has had three PIP (Performance Incentive Program) trainers, participates on the PIP Implementation Committee, the Enlightened Leadership (EL) Steering Committee, and has had one EL trainer. The Public Defender will continue its commitment to the County Initiatives and Strategic Priorities.

The Public Defender (through CEO Real Estate) was approved one County Strategic Priority, the build-out of Building 16 in the Santa Ana Civic Center. The building is currently vacant and underutilized. The Public Defender has expressed an interest to move staff from leased space in the Civic Center area in Santa Ana if the County proceeds with the build-out.

Changes Included in the Base Budget:

Recommended in the base budget is the addition of a base budget augmentation request that would provide funding necessary to maintain the current level of service in the Offices of the Public Defender.

All County agencies were given a formula for budget preparation that included only slight increases to the FY 2002-03 base budget (3.5%). This formula does not cover the increases within the department budget for salaries and benefits alone (over \$2M) nor does it maintain service level requirements. The department cannot continue to provide appropriate services if the funding level is not increased. The department will be required to move money from salaries and benefits to meet services, contracts, and supply costs.

Submitted with the base budget are three augmentations. The base budget augmentation allows the department to continue to maintain current levels of service only. There is not growth in service levels (even though there is a growth in the number of cases handled) in the FY 2003-04 budget. The salary and benefit increases alone are over \$2.9M. CEO staff has directed the department to include a NCC increase of only \$1 million. Given this growth rate, the department

would not be able to continue to provide services in all cases at the current level of service. Also, a shortfall in mandate reimbursement of \$965,590 as well as a funding reduction in Proposition 36 of \$446,000 have had a negative impact on the department. These mandated services are core business services to the Public Defender in the representation of indigents in Orange County.

The funding for the five attorney positions in the Public Defender's Office for Proposition 36 had previously been approved by the Board of Supervisors and provided through the State trust fund during FY 2002-03. Due to program funding limits, the Proposition 36 Oversight Committee has recommended a reduction in funding to the Public Defender and District Attorney for the attorneys utilized in the courts. The base budget includes revenue to offset the expenditure of only 1.5 attorneys needed for Proposition 36 courts instead of the previously approved 5 attorney positions. Although these duties have been created solely by the passage of Proposition 36, it is the obligation of the Public Defender to represent court appointed indigent clients. If lack of funding makes the Public Defender unavailable, it will result in the court appointment of private counsel at significantly higher rates which would have an even greater negative impact upon the County General Fund.

Approved Budget Augmentations and Related Performance Results:

Unit/Amount	Description	Performance Plan	Ref. Num.
RESTORE BASE LEVEL OF SERVICE Amount:\$ 2,495,915	Increase to base budget in order to maintain current levels of service.	The PD would continue to represent clients as appointed by courts. Proficiency Index will be used.	058-001
EXTRA HELP CONVERSION Amount:\$ 0	Convert 18 extra help positions to regular. Positions needed to maintain current levels of services.	PD Proficiency Index will be used to measure performance in a quantitative manner.	058-002
PROPOSITION 36 BACKFILL Amount:\$ 331,457	Funding for 3.5 attorney positions needed to maintain level of service to Proposition 36 clients.	PD Proficiency Index and other subjective criteria will be used to measure performance.	058-003

Final Budget and History:

Sources and Uses	FY 2001-2002 Actual Exp/Rev	FY 2002-2003 Budget As of 6/30/03	FY 2002-2003 Actual Exp/Rev ⁽¹⁾ At 6/30/03	FY 2003-2004 Final Budget	Change from FY 2002-2003 Actual	
					Amount	Percent
Total Positions	-	366	366	384	18	4.92
Total Revenues	3,919,394	3,246,810	3,873,911	2,920,249	(953,662)	-24.62
Total Requirements	37,220,427	44,266,857	41,907,520	47,604,275	5,696,755	13.59
Net County Cost	33,301,033	41,020,047	38,033,609	44,684,026	6,650,417	17.49

(1) Amounts include prior year expenditures and exclude current year encumbrances. Therefore, the totals listed above may not match Total FY 2002-03 Actual Expenditure + Encumbrance included in the "At a Glance" section.

Detailed budget by expense category and by activity is presented for agency: Public Defender in the Appendix on page 483.



Highlights of Key Trends:

- The Offices of the Public Defender provide high quality legal representation to clients in a cost effective and fiscally responsible manner. People who come before the court in criminal, juvenile, dependency, and mental health matters are entitled by law to have counsel appointed to represent them when they lack the resources to hire an attorney. This right arises out of the United States Constitution, the California Constitution and Penal Code section 987, and other statutes. If the Public Defender is unavailable the courts are required to appoint private counsel at county expense.
- All services of the Public Defender are core business services and mandated by law. The function of the Public Defender is to represent indigent clients as appointed by the court. The County must provide legal defense services to these clients whether or not there is reimbursement money available through the state or other means. The Public Defender has received funding through other means when available. State mandate reimbursement has been deferred to future years and

the state funding for Proposition 36 has been reduced for the Public Defender's Office for FY 2003-04 yet the Trial Court Funding that had been sought is anticipated for FY 2003-04. The Public Defender continues to be appointed to represent clients regardless of these funding changes. These mandated services are core business services by the Public Defender and must be provided at County expense. The Public Defender requires the augmentations to maintain current levels of service. Without the necessary funding, the Public Defender would become unavailable on thousands of cases and the court would be obligated to appoint private counsel at significantly higher county cost.

- The Public Defender remains committed to the mission and goals of the department while maximizing efficiency. The services provided continue to be based upon ethical, practical, and efficient values that are consistent with County policies and procedure under the direction of strategic initiatives and sound business practices.

Budget Units Under Agency Control

No.	Agency Name	Public Defender Main Segment	Alternate Defender	Associate Defender	Public Defender Executive Mgt	Total
058	Public Defender	42,779,504	3,993,594	530,401	300,776	47,604,275
15N	Delta Special Revenue	52,413	0	0	0	52,413
	Total	42,831,917	3,993,594	530,401	300,776	47,656,688

