

2020400000—Public Defender

Law & Justice

Miriam Lyell, Public Defender

General Fund	2017-2018 Actual	2018-2019 Adjusted	2019-2020 Requested	2019-2020 Recommended	Increase/ (Decrease)
Expenditures					
<i>Salaries & Benefits</i>	\$14,789,996	\$15,905,297	\$16,964,809	\$16,964,809	\$1,059,512
<i>Services & Supplies</i>	595,193	602,700	649,510	649,510	46,810
<i>Centrally-Budgeted Expenses</i>	328,353	402,497	1,085,695	1,085,695	683,198
<i>Total Expenditures</i>	\$15,713,542	\$16,910,494	\$18,700,014	\$18,700,014	\$1,789,520
<i>Expenditure Reimbursements</i>	(572,764)	(613,257)	(613,257)	(613,257)	0
<i>Total Appropriations</i>	\$15,140,778	\$16,297,237	\$18,086,757	\$18,086,757	\$1,789,520
Earned Revenues By Source					
<i>Aid From Other Governments</i>	\$4,313,043	\$4,293,554	\$4,848,213	\$4,848,213	\$554,659
<i>Charges For Services</i>	587,420	599,506	589,886	589,886	(9,620)
<i>Miscellaneous Revenues</i>	209	0	0	0	0
<i>Total Revenues</i>	\$4,900,672	\$4,893,060	\$5,438,099	\$5,438,099	\$545,039
Net County Cost	\$10,240,106	\$11,404,177	\$12,648,658	\$12,648,658	\$1,244,481
Staffing					
<i>Allocated Positions</i>	85.0	87.0	89.0	89.0	2.0
<i>Temporary (Full-Time Equivalent)</i>	1.5	1.8	1.6	1.6	(0.2)
<i>Total Staffing</i>	86.5	88.8	90.6	90.6	1.8

Purpose

The Public Defender provides constitutionally mandated indigent defense services in all criminal matters as is required by the U.S. Constitution. The San Joaquin County Public Defender is dedicated to serving the diverse needs of the community and its justice system by furnishing clients whose cases have been entrusted to the Department, with competent, effective, loyal, ethical, zealous, compassionate, and efficient advocacy.

Board Strategic Priorities 2019-2020 through 2021-2022

The 2019-2020 recommended budget for the Public Defender focuses on the implementation of the Board Strategic Priorities as adopted by the Board on April 9, 2019. The Board Strategic Priorities for fiscal years 2019-2020 through 2021-2022 are a continuation of the Board's original five key priorities established in 2015. The Board has updated and augmented the goals associated with these strategic priorities

to reflect the Board's direction related to water issues, health, collaboration, and homelessness.

The following highlights provide an overview of several projects, programs, and activities administered by the Public Defender's Office.

Promote Good Governance and Increase Organizational Capabilities

The Public Defender continues to implement operational changes in the representation of individuals charged with serious felony offenses by implementing the American Bar Association's recommendation that such cases be handled vertically, by one attorney from the first arraignment through the conclusion of the case, ensuring continuity of representation. This change has the potential for a positive fiscal impact by delivering mandated legal services in a more cost-effective manner.

In order to broaden public access to County services and information in a more timely and efficient manner, the Department continues the development and deployment of technology such as an interactive web page, which will include links to provide explanations of various court

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processes, laws, and procedures. The website will have links to information and applications regarding various restorative justice programs such as expungements and Propositions 47 and 64. The website will explain significant changes in the law, such as the overhaul of the homicide liability through Senate Bill (SB) 1437. This will allow the Department to maximize efficiency, while providing practical and helpful information to the community and promoting good governance.

Improve Public Safety and Enhance Overall Criminal Justice System

- **Uptrust Project** - The Public Defender continues to contract with Uptrust, an organization that provides a two-way, text messaging platform with clients. Out-of-custody clients receive text message reminders of their next court date and other court-ordered obligations. The two-way communication also allows clients to communicate via text message with their attorney. Uptrust has generously agreed to provide up to 100 cellular phones to clients without a cellular phone. The goal of this Project is to reduce the number of bench warrants, that according to the Pretrial Justice Institute, can lead to incarceration, destabilizing the individual, and increasing the risk factors for recidivism. Reduction of failures to appear in Court also results in cost savings to the Courts, law enforcement, and the Jail. The Community Corrections Partnership provides funding for the Uptrust Project.
- **Stockton Alliance for Equity (SAFE)** - The Public Defender continues to collaborate with other County departments and law enforcement agencies to form SAFE, which has identified the goals for deflection, diversion, and a warrant assistance program. To date, over 1,000 warrants have been recalled. SAFE is continuing in its collaborative effort to develop a Law Enforcement Assisted Diversion (LEAD) Program. The Program will deflect low-level offenders into community-based treatment and supportive services rather than being processed through the traditional criminal justice system. This community-driven diversion approach is to improve public safety, public order, and the reduction of unnecessary justice system involvement for individuals who participate in the Program. LEAD will also address homelessness issues through early intervention and opportunities for the disadvantaged.
- **Code for America** - Through a partnership with the District Attorney's (DA) Office, Code for America has developed a logic code, which will automatically clear or reduce many thousands of eligible cannabis convictions through Proposition 64 relief using cutting-edge technology. Record clearing of Proposition 64

convictions will be streamlined with automation. This improves all aspects of the criminal justice system by allowing people to successfully clean up their criminal cannabis convictions and remove the collateral consequences including barriers to employment, housing, and licensure.

- **Decriminalization of Homelessness** - As a member of the San Joaquin County Homelessness Task Force and the San Joaquin County Continuum of Care, the Public Defender is dedicated to providing expertise toward the goal of decriminalization of homelessness by working with a diverse team of leaders, community organizations, business owners, and other stakeholders.
- **Diversion of Mentally Ill** - With collaborative County partners, the Public Defender is working to formulate implementation of a pre-trial diversion program for seriously mentally-ill individuals into evidence-based mental health treatment and wraparound services. This case management approach will increase public safety, reduce recidivism, incarceration, and institutionalism.
- **Outreach Activities** - The Public Defender provides up to 200 non-mandated appearances by attorneys at community activities, including schools, community centers, service groups, and non-profit organizations to discuss the criminal justice system and the role of the Public Defender. The Department continues to provide information and advice, but not representation, to individuals seeking Clean Slate Program remedies, such as expungements and Certificates of Rehabilitation. The Department has provided attorneys at multiple OneJustice Bus Expungement Clinics. The Department collaborates with advocacy organizations and other community groups to develop and implement Second Chance programs and restorative justice programs within San Joaquin County.

Major Budget Changes

Salaries & Employee Benefits

- \$815,306 Salary and benefits adjustment.
- \$160,668 Add a Deputy Public Defender.
- \$83,538 Add a Social Worker.

Services & Supplies

- \$59,684 Increase in court reporter costs.
- \$2,616 Increase in communication costs.

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- (\$9,620) Decrease in charges from DA for discovery material.

Centrally-Budgeted Expenses

- \$185,607 Increase in data processing charges.
- \$105,226 Increase in Casualty insurance costs.
- \$390,701 Addition of Countywide Cost Allocation Plan charges.

Revenues

- \$554,659 Increase in Proposition 172 funding.
- (\$14,620) Decrease in revenue from dependency defense contract with Judicial Council.

Program Discussion

The 2019-2020 recommended budget for the Public Defender totals \$18,700,014, which is an increase of \$1,789,520 from the 2018-2019 adjusted budget. This increase is primarily due to the addition of a Deputy Public Defender and a Social Worker, salary and benefits adjustments, increases in court reporter costs, data processing charges, Casualty insurance costs, and the addition of the Countywide Cost Allocation Plan charges, offset by a decrease in charges from the DA for discovery material and psychiatric exam costs.

Proposition 47

It is anticipated that by the end of 2018-2019, the Department will have filed over 26,000 petitions since Proposition 47 went into effect on November 4, 2014. Eligible applicants could exceed 30,000 in total. Assembly Bill (AB) 1076, which has been introduced in the Legislature, could mandate that automatic relief be granted to eligible people without filing of a petition or request. After Code for America has proven successful in automating the Proposition 64 record clearance, the Department will partner with Code for America to automatically clear the remaining Proposition 47 petitions and other expungements.

Proposition 57

In November 2016, Proposition 57 was approved, extensively amending Welfare and Institutions Code Sections 602 and 707 by eliminating the prosecution's discretion to directly file cases against youth in the adult criminal justice system. In

recognition of the additional workload, the Board of Supervisors approved an additional Deputy Public Defender and a Senior Social Worker midyear of 2016-2017. It is anticipated that by the end of 2018-2019, the Department will have prepared approximately 45 judicial transfer hearings since the passage of Proposition 57.

While the Department has attempted to absorb the costs, supplemental funding of \$55,000 is requested in the 2019-2020 budget to cover the additional expenses as a result of increased case workload.

Proposition 64

Proposition 64 was approved by the voters in November 2016. Similar to Proposition 47, petitions are required to be filed for clients with closed cases to reclassify or dismiss certain cannabis-related offenses. In recognition of the additional workload, the Department received funding for part-time retiree annuitants to process and prepare petitions in 2017-2018. In the beginning of 2019, the Department collaborated with Code for America and the DA's Office to assist in developing code logic to automate the Record Clearing of individuals with cannabis convictions through technology. It is anticipated that the Department will have successfully processed the remaining petitions and will have processed over 5,000 petitions since Proposition 64 was approved.

Video Arraignments

While the Department remains available to work with the Superior Court and the Sheriff's Office to determine the feasibility of implementing video arraignments, it is not anticipated to occur in 2019-2020. The Department remains dedicated to ensuring that any process conforms to clients' constitutional rights to be physically present in the courtroom unless he/she has executed a written waiver of that right pursuant to Penal Code Section 977.

Senate Bill 1437

SB 1437 redefined first- and second-degree murder liability and provided for previously-convicted inmates or parolees to petition for relief and re-sentencing. Based on information received from the California Department of Corrections and Rehabilitation, there are currently 432 incarcerated individuals serving time for sentences originating from San Joaquin County for first- or second-degree murder convictions and 78 people on lifetime parole for first- or second-degree murder convictions. To date, 59 petitions by individuals formally represented by attorneys with the Public Defender's Office or private attorney (mostly through Court Assigned Counsel) have been filed with the Court. The Public Defender's Office processes these petitions or forwards co-

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defendants petitions to the San Joaquin County Bar Association, Court Assigned Counsel, in instances where a conflict of interest may exist in advocating against a former client.

The Department remains understaffed to handle the anticipated increase in workload resulting from SB 1437. To assess how many Public Defender clients may qualify, it is necessary to review every homicide file to determine eligibility and to prioritize the petition filings. Eligible applicants could exceed 300 clients who have been incarcerated for decades. The Department remains committed to prioritizing those most likely to be eligible.

As a result, the Department is requesting supplemental funding of \$246,066 to add a Deputy Public Defender and a Social Worker to process increased workload, not only arising from SB 1437 impacts, but also additional changes in legislation.

Assembly Bill (AB) 1810

AB 1810 added Welfare and Institutions Code Section 4361, providing authority for the Department of State Hospitals (DSH) to establish a county grant program for counties to develop or expand pretrial diversion programs for seriously mentally-ill individuals facing felony charges who would otherwise be found incompetent to stand trial and committed to the DSH. The goal is to provide long-term community mental health services to avoid criminal charges and institutionalization. Those eligible have the potential to: a) be found incompetent to stand trial, b) have been diagnosed with certain mental disorders, c) have a significant relationship between the individual's serious mental disorder and the charged offense or between the individual's condition of homelessness and the charged offense, and d) not pose an unreasonable danger to public safety.

Based on the high number of referrals to DSH, San Joaquin County is one of the 15 counties who will receive funding. While in the diversion program, clients will be provided evidence-based mental health treatment and wraparound services. Upon completion of the diversion program, clients will be connected to services in the community to decrease recidivism. The County is still in the planning stages of developing this diversion program. The Department has

attended many meetings with the collaborative county partners to formulate implementation of this program. It is contemplated that there will be at least one court calendar per week devoted to the mental health diversion program which will serve approximately 50 individuals annually.

The two positions requested will work on the diversion program in addition to SB 1437 cases.

Proposition 172

In 1993, Proposition 172 established a permanent Statewide half-cent sales tax to provide funding for qualifying public safety programs. Funds are collected by the State Board of Equalization and apportioned to each county based on its proportionate share of Statewide taxable sales.

AB 2788 created a Maintenance of Effort (MOE) provision requiring cities and counties to maintain funding levels to public safety programs that receive Proposition 172 funds. AB 2788 also established 1992-1993 as the MOE base year and required an adjustment to MOE levels based on the annual change in Proposition 172 revenues. In 1992-1993, the total for all qualifying budgets in San Joaquin County was \$68,997,254 (base year).

The current program allocation formula for the County was established by the Board of Supervisors on May 24, 1994 (B-94-613), which allocates Proposition 172 revenue to the Sheriff (68.1%), Probation (13%), District Attorney (11%), and the Public Defender/Court Assigned Counsel (7.9%). During 2019-2020, the County Administrator's Office, working with Law and Justice departments, will review the current program allocation formula and determine if the Board of Supervisors should consider revising the percentage of allocation distributed to each department in 2020-2021.

In 2018-2019, the MOE for all qualifying public safety programs was \$106,870,787. The County's adjusted AB 2788 Certification for 2018-2019 was \$221,193,951. Overall, the General Fund provided overmatching funds of \$114,323,164 to all qualifying public safety programs. Not all budgets are included for each public safety department.

Public Defender and Court Assigned Counsel combined made up \$12.2 million of the County's MOE. The chart below illustrates that County General funds provided approximately \$8.8 million above the required MOE for 2018-2019.

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Public Safety Fund (Proposition 172) - AB 2788 Maintenance of Effort

Indigent Defense	2018-2019 Adopted	AB 2788 Adjustments				Adjusted AB 2788	1992-1993 Base Year	Prop 172 MOE	Overmatch
		State/Federal Grant	Charges Services	Trust Fund	Fixed Assets				
Public Def.	\$16,297,237	0	(\$599,506)	0	0	\$15,697,731	\$5,077,086	\$7,863,968	\$7,833,763
Crt Assig Cnsl	5,269,034	0	0	0	0	5,269,034	2,798,964	4,335,353	933,681
Total	\$21,566,271	0	(\$599,506)	0	0	\$20,966,765	\$7,876,050	\$12,199,321	\$8,767,444

Supplemental Requests

The Public Defender is requesting supplemental funding totaling \$301,066 for the following:

Deputy Public Defender (1)

Funding of \$161,848 is requested to add a Deputy Public Defender position to review, process, and litigate SB 1437 petitions (75% of position) and to collaborate in the development of and staff the AB 1810 Mental Health Diversion Court (25% of position).

Social Worker (1)

Funding of \$84,218 is requested to add a Social Worker position to provide support to attorneys and case management support to SB 1437 clients (60% of position), AB 1810 clients

(20% of position), and Franklin Hearing cases (20% of position).

In the event San Joaquin County receives funding for AB 1810, the General Fund could potentially be reimbursed for the 25% of the Deputy Public Defender position associated with AB 1810 duties and reimbursed for the 20% of the Social Worker position associated with AB 1810 clients.

Additional Funding for Proposition 57 Impacts

Funding of \$55,000 is requested to hire experts to provide mitigating evidence to persuade the court that a juvenile is fit for the juvenile court process in judicial transfer hearings as a result of Proposition 57.

The recommended budget has been augmented by \$301,066 in order to address these requests.

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Workload Data

	-----Actual-----			Est./Act. 2018-2019	Projected 2019-2020
	2015-2016	2016-2017	2017-2018		
<i>Special Circumstances</i>	8	9	8	8	8
<i>Felony</i>	3,744	3,091	3,416	3,000	3,000
<i>Superior Court Direct/Grand Jury</i>	34	40	24	15	20
<i>Violations of Probation-Felony</i>	1,086	1,046	1,066	900	900
<i>Violations of Probation-Misdemeanor</i>	1,169	1,322	1,144	1,400	1,400
<i>Misdemeanor</i>	3,726	3,948	3,331	3,200	3,200
<i>Traffic</i>	1,124	1,212	1,218	860	860
<i>Juvenile Dependency</i>	325	296	292	200	200
<i>Juvenile Delinquency</i>	747	720	779	760	800
<i>Habeas Corpus</i>	231	111	326	155	160
<i>Mental Health</i>	305	279	243	310	350
<i>Special Proceedings</i>	793	847	656	615	615
<i>Guardianship & Conservatorship</i>	104	95	130	400	400
<i>Proposition 63</i>	155	172	173	175	175
<i>Homeless Court</i>	0	0	0	0	0
<i>Section 6500</i>	8	6	7	12	12
<i>Civil Contempt</i>	45	36	24	36	36
<i>Motions</i>	334	264	479	400	600
<i>Writs</i>	20	9	21	55	50
<i>Violations of Community Supervision</i>	555	901	511	550	600
<i>Conditional Release Program</i>	2	3	3	4	4
<i>Parole Violations</i>	660	153	154	150	150
<i>Proposition 47 Petitions-Filed</i>	4,800	8,484	8,237	4,200	4,200
<i>Proposition 47 Petitions-Litigated</i>	450	523	405	400	400
<i>Proposition 57 Jud Trans Hearings</i>	N/A	15	21	39	45
<i>Proposition 64</i>	N/A	N/A	721	675	2,000
<i>California Health Care Facility</i>	31	20	43	10	15
<i>Veterans' Court</i>	0	0	46	40	40
<i>Senate Bill 1437 petitions</i>	N/A	N/A	N/A	87	200
<i>Total</i>	20,456	23,602	23,478	18,656	20,440