



Board Agenda Item 13

DATE: August 5, 2025

TO: Board of Supervisors

SUBMITTED BY: Antoinette Taillac, Public Defender

SUBJECT: Board of State and Community Corrections Public Defense Pilot Program Salary Resolution Amendment

RECOMMENDED ACTION(S):

- 1. Approve Amendment to the Salary Resolution adding (2) Defense Attorney IV, (1) Defense Attorney III, (1) Paralegal I, (1) Defense Social Worker III, and (1) Defense Investigator II to Public Defender's Org 2880, effective August 4, 2025, as reflected in Appendix "C".**

There is no Net County Cost (NCC) associated with the recommended actions, as the costs for the new positions will be offset by grant funding from the Board of State and Community Corrections (BSCC) Public Defense Pilot Program (PDPP). Approval of the recommended actions will add two Defense Attorney IV's, one Defense Attorney III, one Paralegal I, one Defense Investigator II, and one Defense Social Worker III to the Public Defender's Office for the extended 22-month pilot program. These same positions were automatically deleted on March 2, 2025, the original sunset date of the pilot program, but because the program was extended, these positions continue to be needed. For the 2025-2026 budget year these positions need to be added to the salary resolution to reflect the correct number of positions within the Public Defender's Office and to properly budget for these positions. This item is Countywide.

ALTERNATIVE ACTION(S):

If your Board does not approve the recommended actions, the Department will be required to layoff positions that are funded by the grant. Funds may need to be returned if the department cannot fulfill the conditions of the appropriation (e.g., staffing, contracting, or program execution). Attorneys, investigators, and paralegals funded by PDPP help absorb the specialized work required by the grant. Without them, existing staff would face heavier burdens, risking delays and diminished quality of representation. Funding for the 22-month extension was awarded at \$1,077,406, most of these monies would need to be returned since the department would not be able to complete the work without the proper support functions of these positions. SB 129 allocated \$50 million to support indigent defense providers, including Public Defender Offices, Alternate Defenders, and other qualifying entities. SB 129 requires the Judicial Council of California to distribute this funding to 58 California courts and county supervision agencies, providing them with the resources necessary to assist judicial officers in making pretrial release decisions based on the least restrictive conditions, while ensuring public safety.

FISCAL IMPACT:

If approved there is no increase in NCC associated with the recommended actions, as these positions are funded by the BSCC PDPP. A total of \$1,077,406 has been allocated to the County of Fresno for the extended 22-month period of the pilot program. Allocations for subsequent years are subject to annual State budget appropriations. The entire grant term is March 1, 2022, through December 31, 2026. Grant funds are

intended to supplement, and not supplant, existing funding levels for public defender offices and there is no match requirement. Ongoing costs for the remaining term of this Program are included in the FY 2025-26 Requested Budget. It should be noted that at the end of this Program, which is December 31, 2026, the associated positions of (2) Defense Attorney IV, (1) Defense Attorney III, (1) Defense Social III, (1) Paralegal I and (1) Defense Investigator II will be deleted unless an extension is granted.

DISCUSSION:

The Budget Act of 2021 (Senate Bill 129) established the PDPP. The BSCC allocated noncompetitive funding to each county based on each county's adult population, to be used in addressing applicable cases pertaining to the following Penal Codes:

- PC 1170.95-felony murder resentencing
- PC 1170(d)(1)-felony resentencing of CDCR inmates
- PC 1473.7-vacation of convictions due to defendant inability to understand immigration consequences
- PC 3051-youthful offender mitigation hearings

A total of \$1,204,165 was allocated to the County of Fresno for the first year of the three-year program of March 1, 2022, through March 1, 2025. The original agreement was increased by \$1,185,405 to a total \$3,466,977 and the performance period was extended to December 31, 2026. Ongoing allocations for subsequent years will be subject to annual State budget appropriations.

On April 5th, 2022, your Board approved the retroactive submittal of the PDPP grant application to BSCC for post-conviction defense, effective March 1, 2022, through March 1, 2025 (\$1,204,165). This item authorized the County Administrative Officer to execute the retroactive Grant Award Agreement and any extensions or amendments with BSCC throughout the period of March 1, 2022, through March 1, 2025, not to exceed \$1,204,165.

On February 7th, 2023, your Board approved Amendment No. 1 to Agreement No. 22-249 with Fitzgerald, Alvarez, & Ciummo (FAC) to increase the maximum compensation amount do to available BSCC grant funds, increasing the maximum by \$124,499. FAC is the County's vendor which provides Alternative Indigent Defense (AID) services. Amendment No. 1 Added Year 1 funds earmarked specifically for AID within the PDPP grant. Of the total amount awarded for Year 2, \$151,556 was earmarked for Professional Services, which is currently being utilized to help reimburse the County's AID subcontractor FAC for their submitted invoices pertaining to the casework related to the four Penal Codes mentioned above.

On April 25th, 2023, your Board approved Amendment No. 1 to the PDPP, which increased the maximum by \$1,185,405, to a total of \$2,389,571. BSCC did not request a Resolution before providing the additional funds for Amendment No.1.

On December 12th, 2024, BSCC reached out to the CAO staff to request a new resolution before BSCC could fully execute Amendment No. 2 and release funds. Amendment No. 2 added twenty-two months to the term of the grant agreement, with a new end date of December 31,2026, and increase the contract amount by \$1,077, 406, which raised the contract amount total to \$3,466, 976.69.

On January 28th, 2025 an item brought by the County Administrative Office for approval of the receipt of funds and the grant agreement was approved. However, with the increase in funding and the extended performance period, these positions need to be added to the FY 2024-2025 budget year through the performance period of December 31, 2026, before the adopted budget is presented to your Board. Funding has been included in the FY 2025-2026 Requested Budget to fund these positions.

On March 2, 2025, as requested in the April 5, 2022, item, the positions added through the PDPP were deleted.

Upon examining the current and expected workloads regarding the eligible case types in this Program, the Public Defender devised a Post-Conviction Team to cover these cases. It should be noted these cases are more complex and require greater independence and judgement than is normally required of staff in entry-level positions; therefore, the Department budgeted positions higher than the entry level. The Post-Conviction Team is comprised of two Defense Attorney IVs, one Defense Attorney III, one Paralegal I, one Defense Investigator II, and one Defense Social Worker III. All of the attorneys on the Post-Conviction Team would provide professional legal services requiring interaction with Public Defender clients and staff, the public, other governmental agencies and members of the legal profession.

It should be noted that effective December 31, 2026, at the end of the pilot program, all added positions will be deleted as reflected in Appendix "E".

REFERENCE MATERIAL:

BAI #23, April 25, 2023
BAI #24, February 7, 2023
BAI #30, April 5, 2022
BAI #31, January 28, 2025

ATTACHMENTS INCLUDED AND/OR ON FILE:

Salary Resolution Amendment - Appendix "C"

CAO ANALYST:

Sevag Tateosian