

NEVADA COUNTY PUBLIC DEFENDER

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NEVADA COUNTY BOARD OF SUPERVISORS

Board Agenda Memo

MEETING DATE: June 14, 2022

TO: Board of Supervisors

FROM: **Keri Klein, Public Defender**

SUBJECT: Resolution approving participation in the Public Defender Pilot Project Grant Program to enhance capacity to service clients eligible for relief pursuant to Penal Code sections 1170(d)(1), 1170.95, 1473.7, and 3051, in the receipt of \$132,270 in grant funds and authorizing the Public Defender to sign the Grant Acceptance on Behalf of the Nevada County Public Defender's Office.

RECOMMENDATION: Approve the attached Resolution.

FUNDING: The term of funding is March 1, 2022 – March 1, 2023. The Public Defender's Office would receive \$132,270 in grant funding through the State of California in order to institute the Public Defense Pilot Project as set forth in the grant application and discussed within this memorandum. Grant revenues and expenses were included in the 22/23 proposed budget. No General Fund dollars are required.

BACKGROUND: This is the second grant from the state in regard to the provision of indigent defense services. The purpose of the grant is to address unfunded mandates in providing services to clients in regard to penal code sections 1170(d)(1), 1170.95, 1473.7 and 3051. Penal Code Section 1170(d)(1) provides for the resentencing of individuals sentenced to state prison who meet certain criteria. Penal Code Section 1170.95 allows a prisoner to petition for resentencing due to changes in the law in regard to felony murder and the natural and probable consequences doctrines. Penal Code Section 1473.7 is the Racial Justice Act. It permits us to challenge prosecutions, convictions, and charging decisions based upon implicit and explicit racism. Penal Code Section 3051 addresses youthful offender parole.

In order to provide mandatory services for any of these code sections, we need to be able to access our archived files. Doing so in a digital manner will reduce workloads and enable us to

quickly review files for necessary information.

Penal Code 1473.7 created the right to retroactive application of the Racial Justice Act. The Racial Justice Act empowers people who are charged, convicted, or sentenced to object to those charges, convictions, or punishment if they can show that anyone involved in their case — a judge, attorney, officer, expert witness or juror — demonstrated bias during the process, **OR** if they can show statistical evidence of demographic inequities in charges, convictions, or sentences for the same crime. It is often far more feasible to show statistical evidence for a 1473.7 case than individual bias. However, this data must be local to the county, and there is a dearth of such data in Nevada County that is easily accessible to the public defender's office.

In order to litigate Penal code section 1473.7 cases successfully, the public defender intends to collect statistical evidence that can be used by data experts to identify demographic inequities in Nevada County. To do this the public defender office intends to create a database of its clients and their prior charges, convictions and punishments coupled with client demographics. Given the vast number of cases and files that the public defender office handles, this will require a three-step process: 1) transfer of paper files to electronic formats ready for data mining by a data expert, 2) hiring a data expert to mine the electronic files and create comparison databases, and 3) use the comparison databases to litigate 1473.7 cases. Given the limited funds available to Nevada County through the Public Defense Pilot Project grant, we will use these year-one funds to focus on the first step of this process: transferring all prior case file to electronic formats ready for data mining, focusing on charge, convictions, sentences, and the client's demographic information.

Item initiated by and Approved by: Keri Klein, Public Defender