

Sonoma County Community Corrections Partnership
Funding Request and Change Form

Date: August 9, 2022

Requesting Agency: District Attorney's Office

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Is Request On-going

Request Amount

Current FY: \$278,586

Annualized: \$318,975

Request Title: Community Corrections Partnership (CCP) Deputy District Attorney IV

I. Description of Funding Request

Post-conviction relief legislation has created the need for the District Attorney's Office to conduct extensive review and litigation of complex cases. While it is not possible to fully list all the new laws that have increased our office's post-conviction workload, here are a few examples:

- 1) Senate Bill (SB) 1437, enacted in 2017, essentially redrafted the laws defining murder. It applies retroactively to **all** murder convictions in Sonoma County. Recent amendments to the law (currently codified in Penal Code section 1172.6(d)) increase the workload at the resentencing hearings. The District Attorney's Office is currently evaluating and/or actively litigating no less than 43 such petitions, many which will require a resentencing hearing. Needless to say, the litigation resulting from SB 1437 impacts prosecutors, DA investigators, victim advocates, and most importantly, surviving family members who are retraumatized.
- 2) SB 384 went into effect on January 1, 2021, and effectively transitioned California's lifetime sex offender registration scheme to a "three tier"-based scheme. In doing so, every sex registrant can petition the court for termination of his/her lifetime registration requirement. In turn, the District Attorney's office must investigate each petition to determine whether the petitioner has fulfilled previous registration requirements, and whether or not community safety would be significantly enhanced by continued registration. SB 384 has increased the workload for prosecutors, DA investigators, and victim advocates who must notify victims when a petition is filed.
- 3) AB 333, enacted on October 8, 2021, changed many of the legal requirements use to prove up "gang" cases pursuant to PC section 186.22. Among other things, AB 333 requires that the crime be committed for some purpose other than "reputational" benefit to that gang, a frequently utilized legal theory. AB 333, while not retroactive, affects all cases not yet final on appeal as of 1/1/22.

4) SB 483, effective January 1, 2022, greatly expands the number of inmates who can seek post-conviction relief. SB 180 (passed in 2017) and SB 136 (passed in 2019), previously eliminated “prior drug conviction” enhancements (H&S section 11370.2) and “prison prior” enhancements (P.C. section 667.5(b) except in limited circumstances. Both laws were not retroactive and only applied to convictions not yet final on appeal. SB 483 changed this by clearly stating “it is the intent of the Legislature to retroactively apply [SB180 and SB130] to all persons currently serving a term of incarceration in jail or prison for these repealed sentence enhancements.” As a result, all inmates whose current sentence contains a prison/drug prior can request a resentencing hearing regardless of the finality of the case. The Writs, Appeals, Legal Research Unit (WALRU) is currently handling five such resentencings, in addition to at least one other being handled outside the unit. WALRU has identified another 13 inmates who potentially must be resentenced under SB 483. Further, SB 483 (codified in Penal Code sections 1171 and 1171.1) requires the court to “apply any other changes in law that reduce sentences or provide for judicial discretion so as to eliminate disparity of sentences and to promote uniformity of sentencing.” Arguably, once a petition for resentencing is filed to strike a prison/drug prior, the petitioner can also request resentencing under **all** new laws currently in effect. (WALRU is currently litigating at least one such case where a petition to strike a prison prior is accompanied by a request to strike a gang enhancement pursuant to P.C. 1171.1.)

In all cases wherein an offender seeks resentencing or dismissal of charges, it is necessary to assign considerable experienced attorney time to ensure that a thorough review is made and that justice is served. This post-conviction relief prosecutor will also assist on criminal appeals and writs of mandate or prohibition resulting, in part, from the implementation of AB 109. They will appear in court for oral argument and will draft complex legal documents including legal memos for the District Attorney and attorney staff. They will work with advocates to ensure that victims’ Marsys rights are upheld. The addition of another attorney will enable WALRU to be more effective in litigating petitions for resentencing, some of which may result in dismissal of criminal charges, the release of violent offenders into the community, and the retraumatization of crime victims and their families. Overall, the addition of a deputy district attorney to handle this caseload will result in a more expeditious review and resolution of cases, which ultimately will benefit the petitioner, the court, crime victims, and the community at large.

II. Resource Requirements

Laptop computer, peripherals, and software (\$3,500) as well as internal service costs (\$9,383).

III. Staffing Requested

One (1) Deputy District Attorney IV (\$309,592).

IV. This request most closely aligns with Tier:

Tier 2: Clearly assists with County's criminal justice system overall but may not directly or exclusively impact AB 109 offenders.