

The Price of Freedom is Eternal Vigilance

**County of Orange
Offices of the Public Defender**

**2009
Business Plan**

*PROVIDING HIGH QUALITY
COST-EFFECTIVE LEGAL SERVICES
TO THE INDIGENT OF ORANGE COUNTY*



March 2009

OFFICES OF THE PUBLIC DEFENDER

2009 BUSINESS PLAN

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EXECUTIVE SUMMARY

The vision of the Offices of the Public Defender is to seek and preserve freedom for all by vigorously safeguarding Constitutional rights. In the words of Thomas Jefferson, "The price of freedom is eternal vigilance." *Consistent with the County Mission Statement, the mission of the Offices of the Public Defender is to provide high quality legal representation to clients in a cost-effective manner.*

The department provides high quality legal representation in a cost-effective manner to approximately 83,000 clients annually. A staff of over 400 dedicated, highly qualified, hard working employees who believe in this ideal, strive to achieve the highest level of protection for these clients. This is the mission of the Offices of the Public Defender, delivered in an ethical and responsible manner.

Fiscal year 2009-2010 presents a variety of challenges and opportunities for the department. Preparing an effective business plan is a continuing challenge because the county faces unprecedented budget constraints and the department operates in a justice system that is dynamic. The legislative mandates that must be followed, developments in published case law, Court programs and schedules, and choices made by those we represent lead to tremendous challenges which continuously change and impact the demand on resources. Nevertheless, the Offices of the Public Defender remain prepared to adjust to the dynamics that lie ahead.

The Business Plan explains the nature of the work done in the department, identifies those in the community served by this agency, and explains the roles of the three separate units, the Public Defender's Office, the Alternate Defender's Office, and the Associate Defender's Office. It focuses on the core goal and on strategies developed to achieve the departmental mission. The Business Plan also addresses issues, challenges, and trends the department faces such as limited funding, continuing development of the community court, changes in Drug Courts, the Proposition 36 program, Domestic Violence Courts, Homeless Outreach Court, the DUI Courts, the RC (MIOCR) Court, the new Veterans Court, as well as new legislation and recent published cases.

I. AGENCY OVERVIEW

Vision:

The vision of the Offices of the Public Defender is to seek and preserve freedom for all by vigorously safeguarding Constitutional rights. In the words of Thomas Jefferson, "The price of freedom is eternal vigilance."

Mission Statement:

Consistent with the County Mission Statement, the mission of the Offices of the Public Defender is to provide high quality legal representation to clients in a cost-effective manner.

If a person accused of a crime is financially unable to hire a lawyer, the law requires the appointment of counsel for that person. In addition to defendants in criminal cases, counsel is appointed to represent minors in Juvenile Court cases, parents in dependency cases, and a variety of persons in mental health cases. The right to counsel in criminal cases arises under the Sixth Amendment to the United States Constitution, and similar provisions of the California Constitution. California statutes require the appointment of the Public Defender to represent indigent persons who are entitled to representation. The Code requires appointment of the Public Defender unless the Public Defender indicates unavailability. If the Public Defender indicates unavailability, the court must appoint other counsel at county expense.

The principal role of the Offices of the Public Defender is to provide each client high quality representation, thereby also protecting constitutional rights and liberties. In advancing the cause of these clients, the dedicated lawyers and support staff are on the front lines protecting the precious rights and privileges of all Orange County residents. Effective law enforcement also includes exonerating those who are not guilty, and respecting and enforcing the constitutional rights of the populace – those who stand accused in court and those who do not.

Strategic Initiatives and Goals

The County has worked to develop Strategic Initiatives and Goals approved by the Board of Supervisors. The Public Defender staff participated in this development process as part of the Strategic Focus efforts. Aligning these strategies and goals to department services will be formally completed through the development of a Balanced Scorecard. The Public Defender has not yet begun to develop a departmental Balanced Scorecard but has considered the connections between the department and the County goals and initiatives of which there are many.

The department vision, mission and values have been established for many years. We focus on quality service while maintaining cost efficiency. We work to promote the health of our employees and our county consumers. We support and work on committees to develop programs that work towards reducing recidivism and deal with services to

address lifestyle changes within the community we serve. All this and much more has been an active role of the Public Defender for many years. These departmental goals and objectives align perfectly with the County's mission and values created during the Strategic Focus process.

The County Mission Statement: is to work toward "Making Orange County a safe, healthy, and fulfilling place to live, work, and play, today and for generations to come, by providing outstanding, cost-effective regional public services." The County values focus on excellence, leadership, stewardship, and innovation.

The Public Defender promotes a healthy community. The department works with other County agencies in partnership in the development of programs that focus on promoting self-sufficiency and healthy lifestyles. Many of these programs address recidivism as well as improving the health and welfare of our community. Such programs include: Community Court, Mental Health Court, Veterans Court, Drug Court, and the Proposition 36 Court, as well as participation in cross-training with the Social Services Agency in dependency court.

The Public Defender maintains fiscal integrity as we build for the future of our community. During the bankruptcy the Public Defender was an innovative leader at addressing the cost of indigent defense services by creating segment offices to handle conflict cases previously represented by private counsel. In the first year of segmentation and at the height of the bankruptcy, the Public Defender was able to save \$6 million dollars. Segmentation is now a way of life for the county criminal justice system and the savings continue on an annual basis.

In 2008-09 the department continues to be fiscally responsive to the needs of the County. Under the direction of the County Executive Office the department has implemented a reduction plan and a hiring freeze to address general fund budget impacts. The department has thus far been able to continue to maintain services by adjusting workloads and assignments and offering an after hours training program for attorneys to enhance their skills at an accelerated pace.

The department staff supports and trains for disaster preparedness as a service to protect our community in times of emergencies. Internal safety is a concern but as County employees we recognize the needs of our community in times of crisis. The department has volunteers ready and available to serve as emergency response providers for the support pools at the Emergency Operations Center and San Onofre. The department IT staff created the first computer "emergency crash cart." This tool provides instant internet access for the CEO staff in their community outreach services for the local assistance centers during a disaster.

The Public Defender's mandated core function is to represent people within the justice system as appointed by the courts of Orange County. This mandate is the basis of providing a fair and equitable justice system for all and therefore protects the precious rights of everyone in our community. Maintaining a stable justice system requires partnerships, cooperation, and commitment and at the same time requires Public Defenders remain professional advocates in the courts as we represent indigent clients

who stand accused under the law. Presently these are reported through the Proficiency Index.

Values:

- Ensure high quality legal representation to clients by demanding excellence and demonstrating compassion, loyalty, commitment, integrity, and professionalism.
- Provide a work environment that is supportive, fosters individual and professional growth, promotes excellence and accountability, values diversity and innovation, reflects fairness and ethical decision making, and creates an atmosphere of trust, respect, and teamwork.

Core Services:

To ensure a fair and equitable justice system the Orange County Public Defender provides legal representation to those unable to afford a lawyer in criminal, juvenile, mental health and dependency cases. The department provides a variety of services under four core areas.

1: 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.

Clients represented in the Criminal Courts of Orange County have been accused of criminal conduct which could subject them to incarceration. Some charges are felonies and some are misdemeanors. The Offices of the Public Defender are committed to advocacy on behalf of these clients. As mandated by the California State Bar Association *Guidelines on Indigent Defense Service Delivery Systems (2006)*, the department ensures, monitors, and maintains high quality representation for all clients in the criminal courts while maintaining a high level of efficiency. Training and technology resources remain integral components in enhancing the department's ability to deliver quality representation to our clients.

The Public Defender represents indigent individuals accused of criminal conduct where the punishment could lead to incarceration. If a person accused of a crime is financially unable to hire a lawyer, the law requires the appointment of counsel for that person. In acting upon the request for counsel, the court secures a financial declaration from the potential client and determines whether he or she is able to employ counsel. If unable to do so, the Public Defender is appointed.

2: Advocate and protect the rights of individuals by ensuring that they are treated fairly and equitably in the Mental Health Courts of Orange County.

The clients represented by the Mental Health Advocacy section of the Offices of the Public Defender are often the most vulnerable people in society and the most in need of legal representation. The Offices of the Public Defender represent approximately 4,000 people annually, predominantly the elderly and the infirm, for whom guardianship or involuntary hospitalization is being sought. Cases for these clients can arise in either a civil context (such as guardianship petitions) or a criminal context (Sexually Violent Predator Law, incompetence for trial or Not Guilty by Reason of Insanity). Generally, these are non-criminal cases where hospitalized mentally ill, developmentally disabled, or under-functioning persons in need of assistance appear before the courts. Many of the physical or mental disabilities that give rise to these clients' need for Public Defender services are with them throughout their lifetimes. Therefore, many of these cases involve clients whose cases can last a lifetime. Adequacy of placement and treatment are often as important as legal issues. This often requires lawyers advocating in the courtroom and staff who seek out treatment and placement options within the healthcare network and the courts.

A separate client group includes persons charged with crimes where the client has been found to be incompetent to stand trial due to a psychiatric condition, adjudicated as a mentally disordered offender, or found not guilty by reason of insanity.

Another client group includes those individuals subjected to proceedings seeking continued institutionalization under the Sexually Violent Predator law. These individuals have completed serving their sentences under criminal law but have been designated as needing further in-custody treatment by the Department of Corrections. Clients charged under the Sexually Violent Predator law face continuing commitment petitions.

Representation of people who are not always rational or communicative raises unique issues for advocacy. Medical and psychiatric issues inherent in these cases make use of experts illuminating and necessary. Some clients who wish a self-determinative voice lack the ability to communicate their desires or the rationality to cogently express that voice. Advocating the desires of these clients requires diligent lawyers with the patience, empathy and training to handle clients with challenging medical and psychiatric conditions. Counsel is the advocate for the patient/client, and as such is mandated to articulate the client's desire and to be the client's voice in the courtroom.

3: Provide high quality representation for clients in the Specialty Courts of Orange County.

The Specialty Court programs, most of which are Collaborative Courts, involve the coordinated efforts of various agencies and organizations. The programs operate

through the cooperation of the Courts, District Attorney, Public Defender, County Counsel, Sheriff, Probation Department, Health Care Agency, Santa Ana City Attorney, Santa Ana Police Department, other law enforcement agencies, Mental Health Association, Housing and Community Services, Info Link, Public Law Center and a variety of nonprofit programs and organizations, including the Orange County Rescue Mission, Long Beach VA, for example.

a) Collaborative Courts:

There are several collaborative courts operating in Orange County. These include the Proposition 36 felony report-back court, the Co-occurring Disorders Court, the various adult drug courts, the Juvenile Drug Court, the Dependency Drug Court, the DUI Courts, the Truancy Court, the Homeless Outreach Court, the “Whatever It Takes” (W.I.T.) Court, the RC (misdemeanor MIOCR) Court, and the Veterans Court. The Public Defender participated in the development of the various collaborative courts, and most recently the Veterans Court, a new court program aimed at providing assistance to veterans who suffer from post-traumatic stress disorder or other mental illnesses as a result of service in a combat theater.

The diversity of the specialty courts and the cases handled, as well as the increasing client population resulting in increased caseload presents continuing impacts to scheduling, staffing and financial resources.

Appendix C provides a more detailed description of the collaborative courts system, as well as drug court participant statistics.

b) Domestic Violence Court:

Specialty Courts addressing issues arising in domestic violence cases, both felony and misdemeanor cases operated in the Laguna Niguel branch of the Harbor Justice Center from 1998 until February 2006 when all such cases began being filed at the Newport Beach branch of the Harbor Justice Center. The Central Justice Center has had a domestic violence court handling misdemeanor cases since 1999-2000, and there are now misdemeanor domestic violence courts in the North Judicial District and West Judicial District.

The clients appear before the court regularly to monitor progress on counseling as well as adherence to probationary terms. The court seeks to create a more stable and safe environment for the victims while addressing issues likely to decrease recidivism.

4: Advocate the parental rights of clients by providing high quality legal representation in dependency cases.

Clients in the Parental Rights Section (Dependency) are parents or occasionally other relatives who have had the Children and Family Services section of the Social

Services Agency intervene in the family unit, and who face court action regarding placement of their children. The focus of the case is often a plan for family maintenance or reunification. Questions centered on a family in crisis are the predominant issues faced by the clients, and emotions run high for the people involved in these cases – interested parties and the people working in the justice system.

When a family has problems that result in court scrutiny, the Public Defender is appointed to represent one of the parents in court proceedings. The Public Defender's role is to advocate the parent's position when the court is deciding what is in the best interests of the children. This advocacy usually occurs at a time of a breakdown in the family relationship and must deal with the functioning ability of the family in a time of emotional upheaval. Public Defender representation usually involves attempts to preserve the family unit and to work toward the healing of the family. This often requires not only lawyers advocating in the courtroom but staff prepared to assist the client in securing the counseling and program participation necessary to effectively address the problems and thereby facilitate family reunification.

Maintenance or reunification plans are often detailed and demanding. Significant client contact and intervention by department staff are needed between court appearances to assist clients in completing court-ordered case plans. These include aiding clients with counseling, visitation, planning and interaction with social workers and county agencies. Staff resources for this important work are severely limited. Similar to drug court clients, advocacy in this area often involves assisting the client in working through root problems that led to the crisis that brought them before the court.

The breakdown of the family at times stems from the drug or alcohol addiction of one or both parents. For these clients the 12-month Dependency Drug Court program offers an opportunity to overcome chronic substance abuse, and in most instances success in defeating addiction leads to reunification of the family.

The Parental Rights Advocacy section operates in such a specialized area of the law that state guidelines require certification of attorneys who practice in the Dependency Courts. The guidelines mandate minimum training requirements for attorneys assigned to this section. Training also focuses on preparing staff to handle the emotional issues inherent in representing parents facing the potential loss of their children.

II. OPERATIONAL PLAN

A. ENVIRONMENT:

Overview:

Almost all clients come to the Public Defender through court-appointment after the judge determines the clients are financially unable to hire counsel. Lawyers in the Offices of the Public Defender represent persons who are accused of criminal conduct, persons whose mental health has become an issue for the courts, or persons whose parental rights are at issue.

There are three independent units that make up the Offices of the Public Defender. The Main Office handles most of the indigent cases arising in the various court locations throughout the county. The Alternate Defender unit handles clients in criminal cases whom the main unit cannot represent due to conflicts of interest (such as multiple defendants charged in the same case). The Associate Defender unit handles a small number of homicide cases that the main unit cannot handle due to a conflict of interest. The separate units save the county approximately \$7 million annually by not having the conflict cases handled by more expensive court-appointed private counsel.

The major categories of cases which account for nearly all clients are criminal cases, juvenile delinquency cases, child dependency cases, and mental health cases. Clients come from all over the county and are represented by staff attorneys in the North Justice Center, West Justice Center, Central Justice Center, Harbor Justice Center and the Lamoreaux Justice Center.

Specialized programs have been established to deal with the root causes of crime, and these programs reduce recidivism. These programs, which tend to consume more attorney time per case, include several drug courts, the Proposition 36 felony court, the domestic violence courts, the Outreach Court serving the many homeless people in the community in its operations at various shelters, and the DUI Courts currently operating in the Central, Harbor (Newport Beach), and North Justice Centers. The W.I.T. Court is available to those homeless individuals diagnosed with a chronic mental illness and charged with felony offenses; the new MIOCR (Mentally Ill Offender Crime Reduction) Court, begun in May 2007, includes clients charged with misdemeanor offenses and provides formal probation supervision to help the clients manage their illness. The Veterans Court started in November 2008 deals with cases of veterans who have combat related experiences affecting their mental health. All of these Courts may create additional staffing demands on the department in the future.

Additional funding to enhance DNA prosecutions has resulted in DNA evidence being widely expanded from a limited number of complex felonies to a significantly broadened number of cases, including misdemeanors and low-level felonies. This expansion requires augmented training for all attorney staff, in contrast to concentrating DNA expertise in a select felony trial staff.

Proposition 69, enacted in 2004 requires certain arrestees to provide DNA samples to law enforcement and as of January 1, 2009 it applies to all felony arrestees. The District Attorney has also implemented a program to collect and maintain samples of defendants' DNA in addition to the DOJ program. DNA evidence is also being secured in a variety of cases that had not previously involved collection of such evidence. The expanded collection of DNA samples and collection of DNA evidence from many more crime scenes will result in the filing of more complex cases, in addition to the increase in the number of "cold cases" filed. Preparing cases with DNA evidence requires more time and expert resources than most non-DNA cases. "Cold cases" arise up to 30 years after the incident (typically homicide or rape cases). These cases challenge staff resources and typically involve significant investigative efforts to track down evidence and locate witnesses from long ago. Staff is called upon to investigate and research legal issues that arise because of the passage of time. This usually requires reconstructing the circumstances of the offense itself, researching the reasons for the delay, and analyzing the impact of the delay.

The Public Defender must remain responsive to changes in the law, developments occurring in the Justice System, and budget concerns, while continuing to focus on the needs of individual clients. It is a dynamic situation often outside the immediate control of the department, but one that the department is constantly assessing and addressing.

Clients:

One aspect of providing clients with mandated legal services is working collaboratively with a variety of stakeholders, including agencies within and outside county government. The Drug Courts, DUI Courts, and the Proposition 36 Court involve cooperation and coordination between the Courts, Public Defender, District Attorney or County Counsel (in Dependency Drug Court), Probation Department, Health Care Agency (HCA), Sheriff-Coroner, other law enforcement agencies and other organizations. Oversight committees work to facilitate the effectiveness of the Drug Courts, DUI Courts, and the handling of Proposition 36 cases. Homeless Outreach Court is another specialty court that requires collaboration between the Judges, Public Defender, District Attorney, Probation Department and the Santa Ana Police Department. Video arraignments began in January 2007 and helped to alleviate some of the overcrowding in the custodial detention area of the North Justice Center and enabled court operations to be more efficient. In December of 2008 the court began combining misdemeanor cases from two or more local court locations into a single courtroom to attempt to resolve the cases in a more orderly manner, and in January 2009 anyone facing a felony probation violation will have his or her Central Justice Center misdemeanor probation violation cases handled jointly by the same judge.

The department continues to participate in the Steering Committee organized to develop and monitor spending priorities and strategies for Proposition 63 funds to improve services for the mentally ill. Similarly, the Public Defender's Office participates in various inter-disciplinary organizations including the Family Violence Commission, the Community Courts Foundation, the Orange County Mental Health Coalition and the Juvenile Justice Commission, which are dedicated to improving services to the public and enhancing public safety.

The Public Defender continues to work closely with the County Executive Office in the areas of Human Resources and Employee Relations, Budget and Financial Resources, and Information Technology. The department actively participates in the County's Strategic Focus effort and continues to participate in the Orange County Leadership Academy. The Public Defender remains an active participant on the Integrated Law and Justice Committee made up of various county and city agencies in an effort to reduce duplicative use of data entry resources, and improve efficiency in moving information between criminal justice agencies.

Department lawyers and employees are also key stakeholders. Department lawyers participate in various law-related organizations in the community. These include the California State Bar Association, the Coalition of the Bench and Bar of the State of California, the Orange County Bar Association, the California Public Defender's Association, the California Attorneys for Criminal Justice, the Orange County Mental Health Coalition, and the Constitutional Rights Foundation, where staff attorneys serve as coaches and judges in the Mock Trial program for high school students.

The Labor-Management Committee (LMC) process is an integral part of the partnership concept and compliments other initiatives aimed at improving departmental performance and work conditions. Beginning in 2002 and continuing to the present, the LMC solicited suggestions from all staff on how to address departmental and county-wide cost savings concerns. The LMC continues to work with management to implement new ideas. The LMC promotes a healthy community by providing seminars for staff on health related topics such as heart disease, diabetes, and others.

The Department has an extensive in-house training program. The department also sends representatives to participate in law school open houses and recruiting forums. This is part of the effort to attract and retain the best and brightest workforce.

The department continues to focus on staff development by providing in-house training and by encouraging staff attendance at other appropriate training such as that provided by the California Public Defenders Association (CPDA), California Attorneys for Criminal Justice (CACJ), and Defense Investigators Association (DIA). Attorneys and support staff are encouraged to attend a variety of training sessions in the department either at lunchtime seminars or evening sessions. This training is provided by experts in the different areas of law at no cost to the employees. Attorney training is expansive and ranges from the basics for newer attorneys and support staff to the very complex areas of the law such as capital case work. Comprehensive training has also been provided for all clerical personnel as well as new training programs developed and implemented for all new Paralegals, Investigative Assistants, and Investigator Trainees. The Department continues to provide training in the prevention of workplace harassment for new staff; expanding it beyond the required attendance for managers and supervisors only. Department managers and supervisors also availed themselves of a variety of training opportunities in communication and leadership including attendance at the Orange County Leadership Academy.

The department will continue to maintain appropriate technological hardware and software to enable all staff to efficiently and effectively advance the interests of the

clients. The department is upgrading the current Case Management System (CMS) to an integrated web-based system, consistent with recommendations in the 2007 Orange County Grand Jury report on the Offices of the Public Defender. The upgrading of CMS will ensure interoperability for data exchange among partners in the criminal justice system.

Challenges:

Many important challenges involve issues over which the department has little or no control. The number of complex cases filed (capital cases, homicides, three-strikes) is determined by events occurring in the community, and by decisions made in other agencies. Developments in the law often increase the workload and duties of defense lawyers. These include the three-strikes law, legislation to increase punishment for criminal behavior, new laws regarding the admissibility of evidence, the Sexually Violent Predator law, and newly published cases in general. Added effort and ingenuity are needed to meet the demands arising from these factors.

The department continues to deal with the challenge of ever increasing workloads. These increases occur for a variety of reasons including population growth, demographics, economic stability and unemployment rates, among others. The number of complex felony cases and “cold case” filings continues to rise. The department will continue to monitor workloads and the ability of staff to address those challenges.

The specialty courts consume significant staff resources. Client participation in the various Collaborative Courts and the Domestic Violence Courts involve frequent court appearances. These cases stay in the court system longer than the cases that go through the system in the traditional manner primarily because clients’ progress is being closely monitored. This results in a substantially greater number of court appearances per case, even on the “low exposure” cases that would typically be resolved with a minimal sentence in another court. The clients in the specialty courts have the right to counsel to the same degree as other clients and that means many more court appearances for staff attorneys.

After several years of operation, it appears Proposition 36 substance abuse treatment works well for some people but not for others. Among the causes of the mixed results appear to be that more people need treatment than originally anticipated, and the levels of addiction are more severe than anticipated. As a result the funds allocated by the initiative and later by the state legislature were not adequate to achieve the levels of success for which the program is capable. The prospect for adequate state-wide funding in the near future appears dim as the state struggles with large budget deficits. This is unfortunate because every cost-benefit analysis done on drug treatment programs shows that for every dollar spent on treatment several dollars are saved by reducing recidivism and reducing the time of incarceration of these non-violent offenders. Successful participants transition from being a burden on society into productive tax-paying citizens. Some clients who are unable to succeed in Proposition 36 treatment are offered the opportunity to participate in the more rigorous drug court.

Drug courts are highly collaborative. In addition to a committed drug court judge, each drug court requires active participation from the Public Defender, District Attorney, Probation Department, Health Care Agency, Court Administration, and law enforcement agencies operating in the jurisdiction. To make drug courts succeed, full commitment to the collaborative process by this department as well as the other agencies is essential. This continuing commitment is the best strategy to ensure a comprehensive, thriving and effective drug court program. The Offices of the Public Defender will remain fully committed to the operation of effective drug courts as long as the need exists. Drug courts operate in every jurisdiction in the County. At times particular drug court programs are at capacity and cannot provide service for additional eligible people, and it is a challenge to secure treatment for persons in these impacted locations. This problem will be exacerbated as budget cuts reduce the number of participants some drug courts can accommodate. Ways to address the challenge include streamlining the process for transferring cases from the jurisdiction in which the case arose to the jurisdiction where the client lives, as long as the receiving drug court had a vacancy for that client, and by graduating successful participants before they have been in the program for eighteen months, as provided for in the Drug Court Standards manual.

In the Homeless Court, maintaining contact with and locating meaningful resources and programs continues to be a significant challenge for staff working with this population. Because many of the clients suffer from mental illness, coupled with the stressors of surviving on the streets, they need significant contact to build the trust necessary to render the referrals to program services successful.

In the Mental Health Court the staff is required to have a more sophisticated understanding of addiction, recovery and mental health diagnostic issues as well as medication types and dosage. They need to be conversant in issues addressing life skills in order to help direct clients towards overall stability while working to ensure reduced recidivism. This means that Public Defender staff must understand the basics of benefit resources (including eligibility issues), access to housing, medical and mental health services, SSI and SSDI, as well as educational and job training resources that increase client long-term success. While each of these demand more staff time and effort, the impact on the community in reduced crime, reduced drain on court and tax resources and increased positive contributions to the community are immeasurable.

The DUI Courts require a committed DUI court judge as well as active participation on the part of the Public Defender, District Attorney, Probation Department, Health Care Agency, Court Administration and law enforcement agencies. DUI Courts currently operate in the Central, Harbor (Newport Beach), and North Justice Centers. As with the other specialty courts the department must make arrangements to commit additional staff resources to serve the needs of these clients.

Resources:

The Public Defender is funded primarily from the County General Fund. The department also receives revenue from the state for certain mandated services, from grants, and from the collection of fees for Public Defender services as authorized by state

statutes. Approximately 93% of the department budget is expended for employee salaries and benefits.

Although the Offices of the Public Defender are primarily funded from the County General Fund, the Public Defender makes an effort to defray some of the expense of operating the department. Efforts will continue to be made to reduce net county costs. California law permits the collection of fees from clients who have the ability to pay for Public Defender services. Many clients charged with felony offenses have no ability to pay for services. Most of the felony and misdemeanor clients who have an ability to pay sign a waiver agreement to pay a certain set fee for services, eliminating the need for time-consuming and costly hearings on the issue. The department continues to receive Trial Court Funding reimbursement from the state and the courts are committed to reimburse the Public Defender as stated in the Memorandum of Understanding (MOU) between the courts and the County. The Public Defender continues to participate in the state mandate reimbursement program. These payments go directly into the County General Fund. The Public Defender participates in two partially funded Juvenile Court Grants; one is for Drug Court and one is for the Truancy Court. The department has identified grant opportunities in collaboration with other County agencies as well as independent grants. The Public Defender explores grant opportunities that could assist the department.

The Public Defender works diligently to stay within County budget targets, and in light of the fiscal crisis the department has renewed efforts to reduce costs. Because the services of the Public Defender are mandated, it is essential to continue to provide appropriate funding for these services. The number of cases individual lawyers can handle is finite and the department cannot incur significant staff reductions without greatly increasing county costs. It became clear at the time of the county bankruptcy in 1994-95 that the cost of defending cases with court appointed private counsel is at least three times the cost of the Public Defender. When extraneous costs are factored in such as investigation and expert witnesses the cost can rise to seven times that of the Public Defender.

The creation of new court programs and expansion of existing programs, as well as continuing increases in the number of complex felony cases has traditionally challenged the department in ensuring adequate staffing and providing work space in all locations.

B. ACTION PLAN:

The Primary Goal for the Offices of the Public Defender for fiscal year 2009-2010:

The goal of the Offices of the Public Defender is to protect the constitutional rights, privileges and freedoms of individuals by providing the highest quality legal advocacy for all clients in the courts of Orange County in a cost-effective manner. To this end the Public Defender works to promote a fair and equitable justice system while maintaining fiscal integrity. Although aligning the department's goals with County strategies and goals will be completed in the development of a Balanced Scorecard, the department services and activities already align in promoting self-sufficiency and healthy lifestyles, building for the future through fiscal responsibility, providing appropriate staff development, and protecting the rights of our community in the Orange County criminal justice system. The department strategies are consistent with the direction of the County's strategic planning efforts.

Strategies:

1 - To ensure and maintain high quality representation for all clients in the courts.

- Prepare cases for trial or court hearings as appropriate.
- Ensure that clients fully understand their rights, the nature of the process and work to develop a bond of trust.
- Treat all clients with dignity and respect, and in particular the acute and non-acute mentally ill individuals and their families.
- Collaborate with other members of the criminal justice community to provide constructive input and to be an ethical intermediary in the process.

2 - To ensure that training and technology resources remain integral components in enhancing the department's ability to deliver quality representation to our clients.

- Continue regular lawyer training programs and other staff development programs that meet the State Bar requirements for continuing education credits.
- Encourage ongoing professional study in the field of mental illness and the law.
- Actively review new trends in legal management and technology for potential efficiencies of service.
- Continue the integration of the new Case Management System (CMS) with the current system.

Key Performance Measures and Reporting:

The department has developed a Proficiency Index as a measurement tool to assist in analyzing overall department performance. The index measures standard criteria throughout the department and includes standards and guidelines established under the State Bar Guidelines, the National Legal Aid and Defender Association Recommendations, and the American Bar Association Guidelines. These standards and guidelines include maintaining manageable workloads and providing quality legal services. The Proficiency Index examines tasks performed such as case preparation, investigation, legal research, and looks at the attorney-client relationship, courtroom presentation, and case disposition. It is from the criteria and the guidelines that a departmental rating has been quantified. This is not the only tool for evaluating Public Defender services, however. Meaningful review of much of what is done in the department is very subjective, and less quantifiable. For example, while an experienced observer can readily recognize an effective and persuasive final argument, it is almost impossible to attach a meaningful number value to it. Measuring the result in the trial itself is of little value because the evidence presented determines the outcome to a greater degree than the quality of argument. The Proficiency Index is a product of quantifiable criteria for documentation of tasks performed. It is not a comprehensive determination of the overall quality of representation provided in the case.

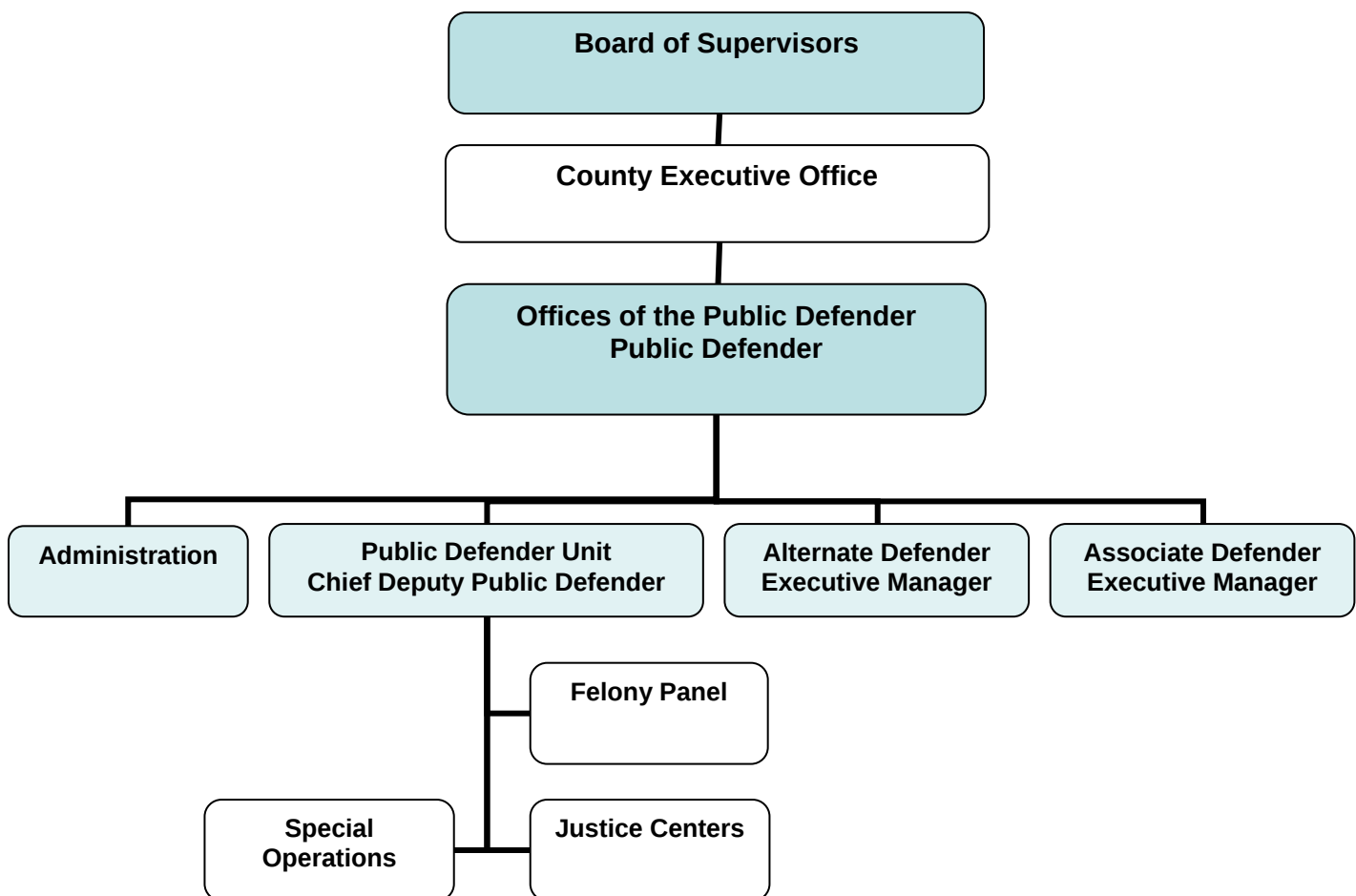
The Proficiency Index measurement is compared to the baseline index developed in fiscal year 2003-04. The established baseline result is 96.49%.

Performance Measure	Fiscal Year 2004-05 Results	Fiscal Year 2005-06 Plan Results	Fiscal Year 2006-07 Results	Fiscal Year 2007-08 Results	Fiscal Year 2008-09 Plan Anticipated Results (Received through December 16, 2008)	How are we doing?
What: Proficiency Index	Results: rating number of 98.12%	Results: rating number of 97.20%	Results: rating number of 97.05%	Results: rating number of 97.73%	Results: rating number of 97.95%	On target
Why: This internal measurement incorporating the State Bar Guidelines, the National Legal Aid and Defender Association Recommendations, and the American Bar Association Guidelines allows monitoring of the quality of services provided in all cases by the Public Defender. It measures documentation of tasks performed, but is not a comprehensive determination of the overall quality of the representation provided.						

III. APPENDICES

Appendix A

Offices of the Public Defender 2009 Organization Chart



Appendix B

Accomplishments

In the past year the Public Defender's Office successfully carried out core service strategies to accomplish our primary goal of providing efficient and effective representation to clients, thereby helping to promote a fair and equitable justice system. Faced with ever increasing caseloads and challenges that continue to center on funding, we were still able to achieve success due to proactive management and the support of the Board of Supervisors and County Executive Office. In the coming year, we anticipate service impacts due to changes in legislative mandates and continued economic constraints; however, with continued support of the Board of Supervisors and County Executive Office, and the commitment of our employees, we will continue to carry out the mission of the Offices of the Public Defender.

The top ten accomplishments of the Offices of the Public Defender for the year include:

1. The program of cross-training sessions between Public Defender and Social Service Agency staff working in the dependency courts was expanded. Sessions are now held monthly and now include children's counsel, conflict counsel, and court staff.
2. The Department provided volunteer staff for various causes, including election work, services at the Emergency Operation Center during the recent activations due to the fire disasters and subsequent floods in Orange County, providing legal assistance to the homeless at the Santa Ana Armory and Fullerton Armory and by participating in the Constitutional Rights Foundation mock trial program as coaches for at risk youth competing on a mock trial team, or by coaching students on other high school mock trial teams, or by serving as mock trial judges during the competition.
3. All ten of the Public Defender office locations actively participated in the Great Southern California ShakeOut Drill on November 13, 2008. This drill enhanced staff's safety knowledge and prepared them in the event a major earthquake occurs while they are at work. This supports the County's strategic initiative of protecting our community through the goal of promoting disaster preparedness.
4. The Department participated in the development of the newly opened Community Court that provides access to services in a "one-stop" environment for clients and residents of the Central Judicial Court District, and provides staff on site to assist with assessments of clients' needs followed by referral to the appropriate supportive service. This effort helps connect needy individuals to support systems that enable them to lead healthy and productive lives.
5. In November 2008, a new Veterans Court was created to address the challenges facing veterans who have suffered psychological harm from the effects of combat. The Department partnered with the Courts, Veterans Administration and other court partners to develop this Collaborative Court that has been chosen by the VA in Washington D.C.

to be the guide for future Veterans Courts around the country. The Department now staffs this Court's weekly sessions, working to insure that Veterans facing charges related to mental health problems rooted in their service are treated with fairness and respect.

6. The annual vendor fair organized and presented by the Information Technology (IT) section of the Offices of the Public Defender was attended by many county employees and was very successful.

7. The Department was successful in reducing the current fiscal year budget by 2% as requested by the CEO. This was achieved by allowing positions to remain vacant and by reducing expenditures.

8. The United Way campaign was very successful due in part to the Public Defender participation in United Way Kickoff event, the Public Defender booth at the Juvenile Court lunch-time event, the silent auction night, and the individual generosity of Public Defender staff.

9. The department participated in the collaborative planning and implementation process to expand the use of video arraignment technology which helps in dealing with the problem of overcrowding the custody holding areas at the various Justice Centers.

Appendix C

Collaborative Courts:

Proposition 36:

Persons eligible to participate in Proposition 36 treatment are specified in Penal Code section 1210, which was enacted by popular vote through the initiative process. Participants are non-violent drug-addicted people who plead guilty or are found guilty of drug possession or of being under the influence of drugs. Treatment is not available for persons convicted of selling drugs or possessing drugs for purposes of sale.

Proposition 36 clients have varying levels of addiction and thus different treatment needs ranging from residential treatment to out-patient treatment. Relapse often occurs before successful recovery, and the level of treatment can change in response to those needs. Proposition 36 clients sometimes need counseling and assistance to improve other aspects of their lives such as housing, employment, medical and dental needs and education.

Some clients receiving treatment through Proposition 36 also suffer from mental illness. Treatment for the most impaired of these individuals is only effective if it is tailored to the unique components of the Co-occurring Disorders Court. Many of these people obtain treatment in the specialized Proposition 36 Co-occurring Disorders program developed through the collaboration of the Judiciary, the Health Care Agency, Probation Department, Public Defender, District Attorney, and other agencies.

Drug Courts:

Persons eligible to participate in adult drug courts are the non-violent drug addicted persons specified in the Orange County Superior Court Drug Court Standards Manual. These are clients who plead guilty to one or more specified crimes involving personal use or possession of drugs, acknowledge a substance abuse problem, agree to participate in intensive treatment for at least eighteen months, and are found “suitable” for participation. Eligibility also requires, among other things, the absence of a prior record of serious or violent felony convictions, or any prior convictions for drug trafficking, sales, or possession for sale. The separate question of suitability is determined by the Drug Court Judge, with assistance from the Health Care Agency and Probation Department, and input from defense counsel and prosecutor, in accordance with the standards in the Drug Court Standards Manual.

Drug Court participants need an intense level of treatment, with a high degree of supervision and accountability, and frequent drug testing. Relapse is part of recovery, and graduated sanctions are utilized to motivate clients to succeed. Clients need counseling and assistance to improve other aspects of their lives such as housing, employment, medical and dental needs and education.

Societal benefits and cost benefits arise as most clients who succeed in drug court do not return to the criminal justice system with new cases but instead lead productive lives as gainfully employed tax-paying citizens. Thus, although difficult to measure precisely, the “investment” in drug court saves more than it costs in the long run.

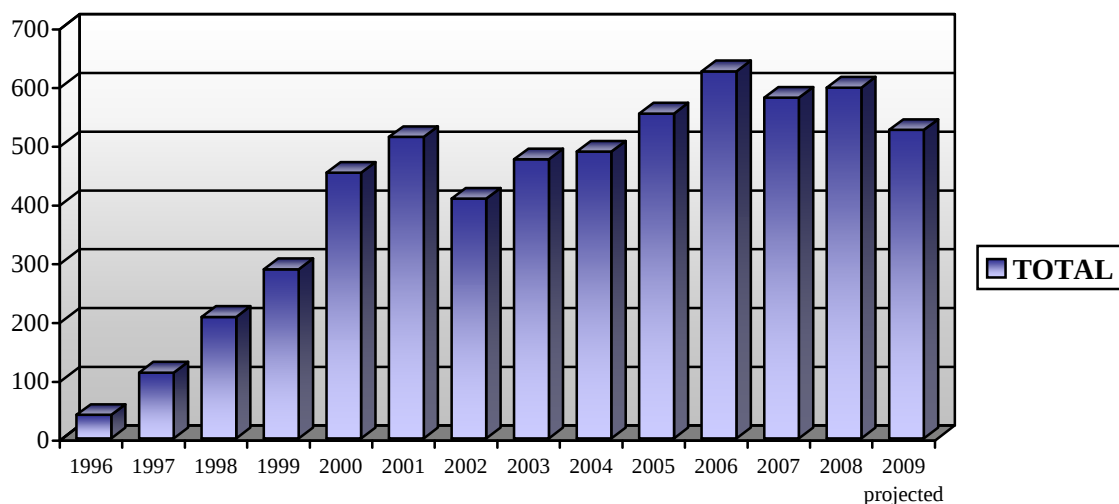
Dependency Drug Court:

Parents who have had their children taken into protective custody by the Social Services Agency due to the parent’s substance abuse issues can join a drug court that is operated out of all six of the Dependency courtrooms. This project has enjoyed tremendous success in reunifying these families and in assuring the sober living of the participants. Results through December of 2007 have shown that the program returns more children and does so in less time than the traditional dependency drug treatment programs. All of the collaborative agencies involved in the program have donated resources to assure the success of the program.

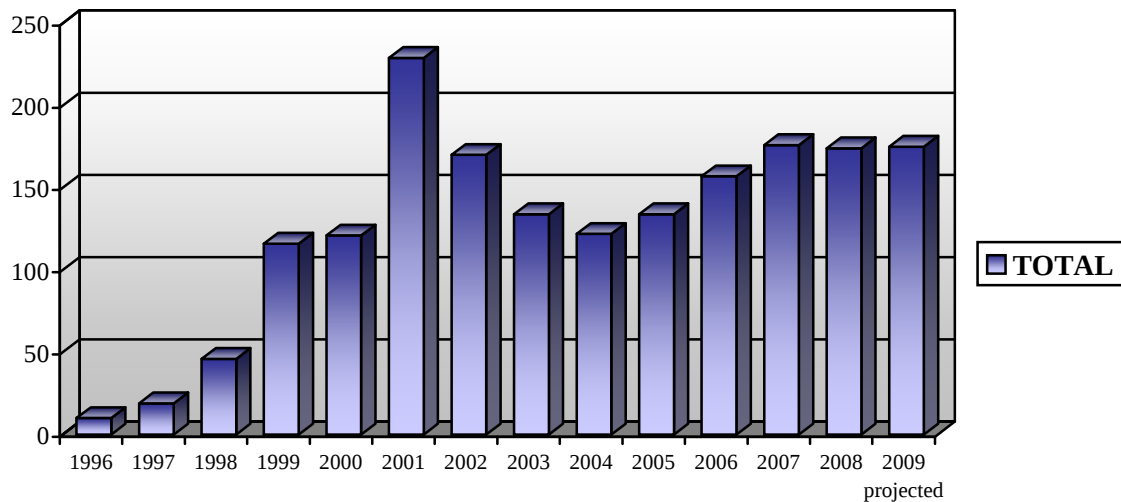
Drug Court Program Statistics:

The Public Defender’s Office is one agency among several whose work contributes to drug court operations. Each agency contributes to the success of drug courts, but overall success is the result of the combined efforts of all. Factors relevant to measuring how well the overall drug court goals are being met can be examined. These include determining how many people participate in each drug court during each year and how many people graduate from each drug court during each year. The numbers of participants and graduates dropped initially after Proposition 36 went into effect but soon began to trend upward again.

TOTAL NUMBER OF DRUG COURT PARTICIPANTS AS OF JULY 1ST OF THE YEAR INDICATED:



TOTAL NUMBER OF DRUG COURT GRADUATES DURING THE YEAR INDICATED:



The Proposition 36 drug treatment program began on July 1, 2001, which accounts for the temporary reduction in drug court participants and graduates beginning in 2002. The Dependency Drug Court began operating in 2006, which accounts for the rise in participants. Staff reductions in collaborative partner agencies due to severe budget constraints account for the anticipated reduction in the total number of participants anticipated for 2009, while much of the decline in the number of graduates is likely to occur in 2010.

DUI Courts:

DUI Courts operate in the Orange County Harbor Judicial District, the North Orange County Judicial District and the Central Orange County Judicial District. The mission of the DUI Courts is to reduce recidivism, enhance community safety and foster a healthier and safer life for the participants and their families by increasing treatment, supervision and accountability of the high risk impaired driver. It currently focuses on treatment for persons charged with misdemeanor driving under the influence of alcohol who have one or two prior DUI convictions.

The DUI Courts are modeled after the County's successful Drug Court Program and is a collaboration of several agencies including the Superior Court, Probation Department, Health Care Agency, the Public Defender's Office, the District Attorney's Office, the Sheriff's Department, as well as the Mothers Against Drunk Driving organization (MADD) and local law enforcement agencies. Program participants are given professional help in confronting substance abuse issues but the program also facilitates life-changing improvements in the participant's lives.

Homeless Outreach Court:

The Homeless Outreach Court held its first session in late October 2003 with one participant. It has grown from that first client to an average caseload of over 200 clients

who appear at Court sessions held at the Orange County Rescue Mission and at the Mental Health Association. Clients with traffic infractions and low-grade misdemeanors qualify for this program if they are either charged or receiving services in the Central Court jurisdiction. They are referred by shelters, counselors, police departments and HCA, courts and self referral. The goal is to reduce homelessness by eliminating barriers to services, such as outstanding warrants, and then linking individuals to the services that improve their lives and enhance the community. Services include mental health and medical referrals, educational opportunities, vocational training, shelters and shelter programs. Clients are also required to “give back” through community service as an important component of the program.

Consistent with homeless statistics nationwide, approximately 40% of the clients are veterans. A significant percentage suffer from a diagnosable mental illness, making contact with mental health services a critical component. The project has witnessed a significant number of its participants successfully move out of status as homeless and into a stable residence, while obtaining driver’s licenses, and employment.

Truancy Court:

This program has been instituted in Juvenile Court to address children and their families when the child has school attendance issues. This program involves charging the child and/or the parent with a crime when a child is habitually truant. Many of these families have significant social problems that impact the ability of the children to attend school. The Truancy Court uses a collaborative approach between the District Attorney, Probation and the Public Defender to address family problems affecting school attendance for the child.

Community Court:

The Community Court was developed through the collaboration of the courts and various county agencies such as the Probation Department, Health Care Agency, Public Defender, District Attorney, Social Services, the Sheriff and other law enforcement agencies, Mental Health Association, City Attorney offices, and a variety of others. The goal is to try to solve community problems in order to reduce recidivism rather than focusing first on punishment. It is meant to link the courts, clients and social services. A variety of cases are being heard in the new Community Court which opened in December 2008, including the Central Court Drug Court, the cases and issues arising under Proposition 63, the “Whatever It Takes” (W.I.T.) Court, the Mentally Ill Offender Crime Reduction (MIOCR) Court, the “frequent flyer” court, and the new Veterans Court. The “frequent flyer” court is designed to link low grade repeat offenders to critical services to assist police agencies looking for less intrusive alternatives to incarceration, functioning as a diversion program from the Criminal Justice System.

The Outreach Court will also serve as one component of this project, through court referrals to the service providers located in the Community Court building. This groundbreaking Court project seeks to address neighborhood concerns of addiction,

homelessness and mental illness by making all those resources necessary to resolve issues available at one location engineered to ensure access and ease of use.

Mental Health Court:

The Orange County Judiciary has identified a need to better respond to those mentally ill persons that enter the criminal justice system largely due to their mental illness issues. The Orange County Sheriff-Coroner Department has indicated that an estimated 20% of their jail population is incarcerated in large part as a direct result of mental illness. Proposition 63 has prompted a speedy assessment of judicial options and as a result instituted a Mental Health Court for felony offenders with a diagnosed mental illness with an initial caseload of 75 clients. The “RC” Court, funded by the MIOCR grant, supervises misdemeanor offenders who are chronically and persistently mentally ill. Both courts are structured similar to the successful Co-occurring Disorder Court with regular court appearances, Probation involvement, HCA oversight and services provided through a contract with MHA. Clients are provided housing support, work toward medication compliance, sobriety and employment, education or productive use of time as to their abilities. As with the Co-occurring Disorders population of the Proposition 36 Court, it is clear that this population will demand a significantly greater investment of staff time and energy to insure success, while promising hope for reduced recidivism as well as increased health and community safety.