A Snapshot of Indigent Defense in California



November 2023

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Introduction

California's 58 counties provide public defense in as many ways as there are counties and little is known on the State level about how county services are provided. This information vacuum prevents the State from accurately assessing the state of public defense in California and understanding the needs of counties. In September 2022 the Legislative Analyst's Office reported that the Legislature would benefit from accurate data on indigent defense to make decisions about what role the State should play in funding and standard setting. As part of its obligation to improve the quality of indigent defense, the Office of the State Public Defender (OSPD) sought to fill this basic knowledge deficit by conducting a survey of county counsel and administrators. The purpose of this endeavor is to map how indigent defense services are provided across the State. This report synthesizes the data collected by OSPD between April 12 and April 28, 2023, through a survey sent to and completed by all 58 counties.

In addition to mapping defense systems across counties, this report compares resources across systems within a county where possible. Resources often differ across types of indigent defense systems within a county. Often it is a matter of mere chance as to whether a person is represented by the primary system or by the "conflict" system.

The primary author of this report, Tatyana Kaplan, thanks Jason Gundel, Brigid-Leigh Brady, and Ashanti Mitchell for their support in gathering data and the many county stakeholders who completed surveys and patiently answered follow up questions. Acknowledgment also goes to Laurel Arroyo, Galit Lipa and Mary McComb for their substantial contributions to this report.

October 2023

Survey Results

Types of Indigent Defense Systems

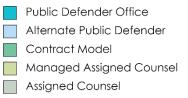
Respondents detailed their primary, first level conflict, and second level conflict indigent defense/public defense providers. Thirty-three counties (57 percent) reported using a public defender office as the primary indigent defense provision and 21 counties (36 percent) reported using a contract model. For first level conflicts, 12 counties (21 percent) reported using an alternate public defender office and 37 counties (64 percent) reported using a contract model (see Table 1). Figure 1 provides a map of indigent defense providers by county.

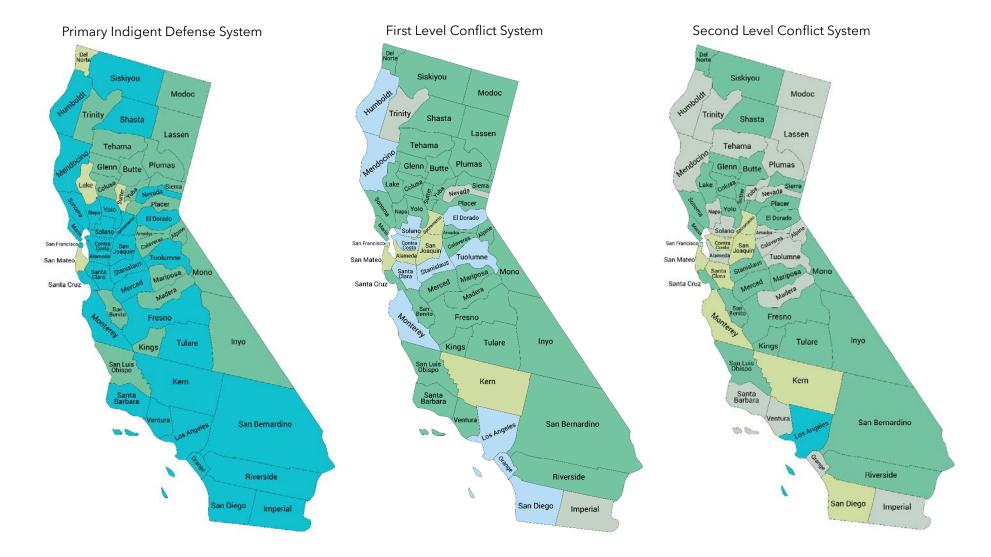
	PRIMARY PD PROVIDER		FIRST LEVEL CONFLICT			D LEVEL Flict			
	Count	% of	Count	% of	Count	% of			
		Total		Total		Total			
PUBLIC DEFENDER OFFICE	33	57%	-	-	1	2%			
ALTERNATE PD OFFICE	-	-	12	21%	-	-			
ASSIGNED COUNSEL	-	-	4	7%	22	38%			
MANAGED ASSIGNED COUNSEL	4	7%	5	9%	8	14%			
CONTRACT MODEL	21	36%	37	64%	27	47%			
TOTAL	58	100%	58	100%	58	100%			
Nata Las Angelas County assault		Note: Les Angeles County accord level conflicte ave bandled by a division of their DD office							

Table 1. Types of Indigent Defense Providers in California

Note: Los Angeles County second level conflicts are handled by a division of their PD office.

Figure 1: Indigent Defense Systems by County





Staffed or Contracted Resources

Respondents were asked to report whether their indigent defense system included administrative, paralegal, social worker, and investigator county employees and/or dedicated contract employees. Even in counties with well-resourced primary systems, a person's access to services and professional staff may be limited depending on whether they are represented by the primary or conflict system. Effective and efficient legal services require staffing in addition to criminal defense attorneys. Investigators collect and document evidence and talk to witnesses. Administrative staff create files, handle discovery, answer client calls and coordinate with court staff. Social workers connect clients to behavioral health services, do critical mitigation and sentencing preparation and help clients with significant trauma histories participate meaningfully in their trial preparation. ¹ Immigration counsel provide constitutionally mandated legal advice to non-citizens.²

Administrative Support

All counties with a public defender office or managed assigned counsel system as their primary indigent defense system reported having administrative support either through county or contract employment. All alternate public defender offices reported the same. About one-third of contract models reported receiving administrative support for all levels. (See Table 2).

	YES NO		-		NOT SURE/ NO DATA		
	Count	% of Total	Count	% of Total	Count	% of Total	Count
PRIMARY PD SYSTEM							
PUBLIC DEFENDER OFFICE	33	100%	0	0%	0	0%	33
CONTRACT MODEL	8	38%	7	33%	6	29%	21
MANAGED ASSIGNED COUNSEL	4	100%	0	0%	0	0%	4
TOTAL (ALL COUNTIES)	45	78%	7	12%	6	10%	58
FIRST LEVEL CONFLICTS							
ALTERNATE PD OFFICE	12	100%	0	0%	0	0%	12
CONTRACT MODEL	13	35%	11	30%	13	35%	37
ASSIGNED COUNSEL	1	25%	2	50%	1	25%	4
MANAGED ASSIGNED COUNSEL	3	60%	0	0%	2	40%	5
TOTAL (ALL COUNTIES)	29	50%	13	22%	16	28%	58

Table 2. Administrative Support by Indigent Defense System

¹ Andreea Matei et al., <u>Assessing a Social Worker Model of Public Defense</u>, Urban Institute (2021); Paul Heaton, <u>Enhanced public defense improves pretrial outcomes and reduces racial disparities</u>, Indiana Law J. 96, 701 (2021); James M. Anderson et. al., <u>The Effects of Holistic Defense on Criminal Justice</u> <u>Outcomes</u>, 132 Harv. L. Rev. 819 (2019).

² Eagly, Ingrid et. al., <u>Restructuring Public Defense After Padilla</u>, 74 Stan. L. Rev 1, 4.

	Yes		No		Not Sure/ No Data		Total
	Count	% of Total	Count	% of Total	Count	% of Total	Count
SECOND LEVEL CONFLICTS							
PUBLIC DEFENDER OFFICE	1	100%	0	0%	0	0%	1
CONTRACT MODEL	9	33%	8	30%	10	37%	27
ASSIGNED COUNSEL	0	0%	13	59%	9	41%	22
MANAGED ASSIGNED COUNSEL	6	75%	1	13%	1	13%	8
TOTAL (ALL COUNTIES)	15	26%	22	38%	20	34%	58

Paralegal Support

Counties with a public defender office reported the highest occurrence of paralegal support through county or contract employment (85 percent). Alternate public defender offices also reported relatively high paralegal support (75 percent). About one-third or less of contract models reported receiving paralegal support, while assigned counsel system varied across levels. (See Table 3).

Table 3. Paralegal Support by Indigent Defense System

	YE	ES .	NO		NOT SURE/ NO DATA		TOTAL
	Count	% of Total	Count	% of Total	Count	% of Total	Count
PRIMARY PD SYSTEM							
PUBLIC DEFENDER OFFICE	28	85%	4	12%	1	3%	33
CONTRACT MODEL	6	29%	8	38%	7	33%	21
MANAGED ASSIGNED COUNSEL	1	25%	3	75%	0	0%	4
TOTAL (ALL COUNTIES)	35	60%	15	26%	8	14%	58
FIRST LEVEL CONFLICTS							
ALTERNATE PD OFFICE	9	75%	3	25%	0	0%	12
CONTRACT MODEL	7	19%	16	43%	14	38%	37
ASSIGNED COUNSEL	0	0%	3	75%	1	25%	4
MANAGED ASSIGNED COUNSEL	0	0%	3	60%	2	40%	5
TOTAL (ALL COUNTIES)	16	28%	25	43%	17	29%	58
SECOND LEVEL CONFLICTS							
PUBLIC DEFENDER OFFICE	1	100%	0	0%	0	0%	1
CONTRACT MODEL	5	19%	10	37%	13	48%	27
ASSIGNED COUNSEL	1	5%	12	55%	9	41%	22
MANAGED ASSIGNED COUNSEL	1	13%	5	63%	2	25%	8
TOTAL (ALL COUNTIES)	8	14%	27	47%	23	40%	58

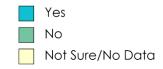
Investigators

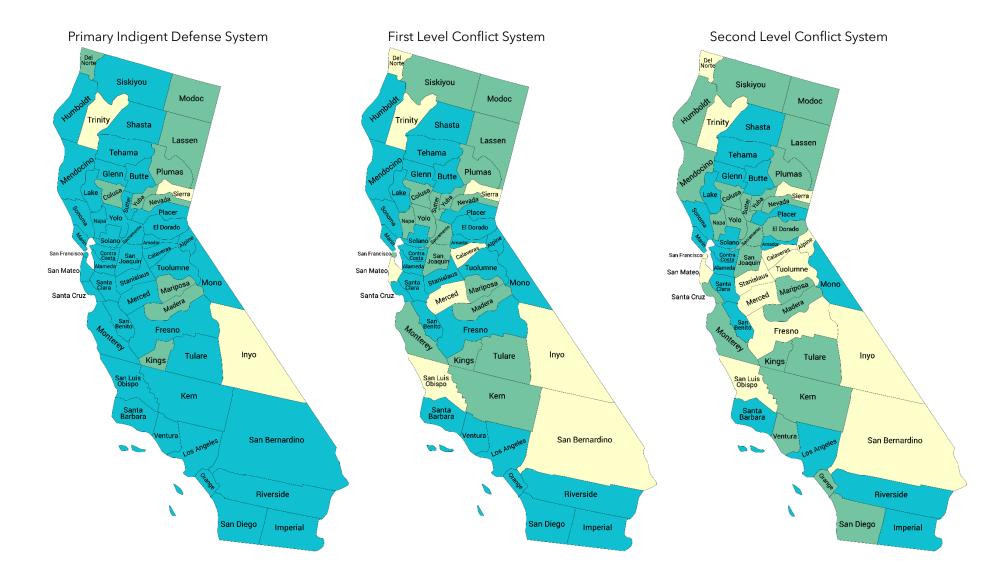
Counties with a public or alternate defender office reported the most frequent use of investigator county or contract employment. Most primary assigned counsel systems reported the same. About one-half of counties using a contract model as a primary or first level conflict system reported having an investigator as a county or contract employee. (See Table 4 and Figure 2).

	YE	S	NO		NOT SURE/ NO DATA		TOTAL
	Count	% of Total	Count	% of Total	Count	% of Total	Count
PRIMARY PD SYSTEM							
PUBLIC DEFENDER OFFICE	32	97%	1	3%	0	0%	33
CONTRACT MODEL	10	48%	8	38%	3	14%	21
MANAGED ASSIGNED COUNSEL	3	75%	1	25%	0	0%	4
TOTAL (ALL COUNTIES)	45	78%	10	17%	3	5%	58
FIRST LEVEL CONFLICTS							
ALTERNATE PD OFFICE	11	92%	1	8%	0	0%	12
CONTRACT MODEL	17	46%	13	35%	7	19%	37
ASSIGNED COUNSEL	1	25%	2	50%	1	25%	4
MANAGED ASSIGNED COUNSEL	1	20%	3	60%	1	20%	5
TOTAL (ALL COUNTIES)	30	52%	19	33%	9	16%	58
SECOND LEVEL CONFLICTS							
PUBLIC DEFENDER OFFICE	1	100%	0	0%	0	0%	1
CONTRACT MODEL	10	37%	9	33%	8	30%	27
ASSIGNED COUNSEL	6	27%	11	50%	5	23%	22
MANAGED ASSIGNED COUNSEL	2	25%	5	63%	1	13%	8
TOTAL (ALL COUNTIES)	19	33%	25	43%	14	24%	58

Table 4. Investigator County or Contract Employment by Indigent Defense System

Figure 2: Investigator(s) as County/Contract Employees by County





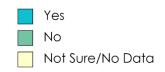
Social Workers

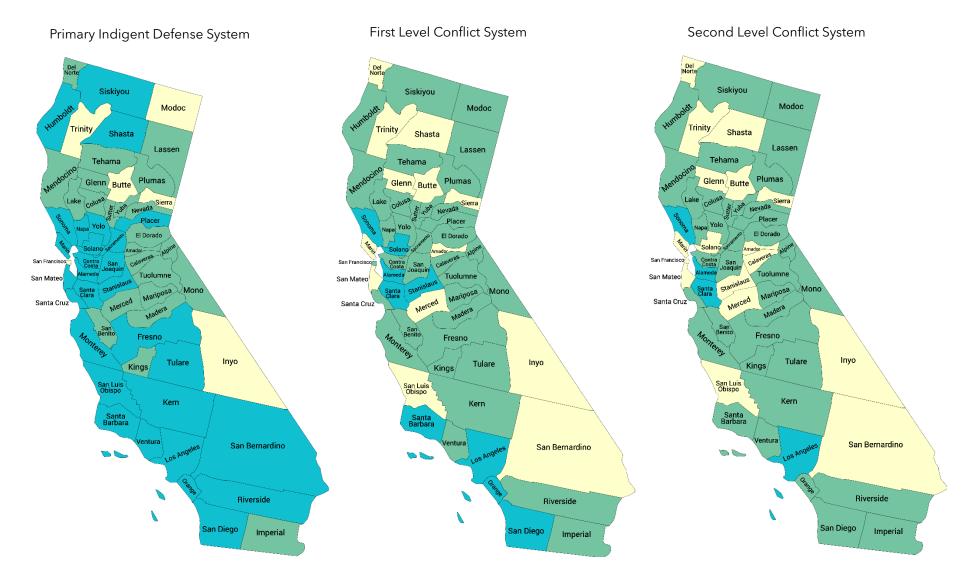
Counties with public defender offices reported the highest instance of social worker county or contract employment. Half of the alternate public defender offices reported the same. In contrast, all other indigent defense systems reported relatively low instances of social worker county or contract employees (see Table 5 and Figure 3).

	YE	S	N	D	NOT S NO E		TOTAL
	Count	% of Total	Count	% of Total	Count	% of Total	Count
PRIMARY PD SYSTEM							
PUBLIC DEFENDER OFFICE	27	82%	6	18%	0	0%	33
CONTRACT MODEL	2	10%	14	67%	5	24%	21
MANAGED ASSIGNED COUNSEL	1	25%	3	75%	0	0%	4
TOTAL (ALL COUNTIES)	30	52%	23	40%	5	9%	58
FIRST LEVEL CONFLICTS			•				
ALTERNATE PD OFFICE	6	50%	6	50%	0	0%	12
CONTRACT MODEL	2	5%	24	65%	11	30%	37
ASSIGNED COUNSEL	0	0%	3	75%	1	25%	4
MANAGED ASSIGNED COUNSEL	1	20%	3	60%	1	20%	5
TOTAL (ALL COUNTIES)	9	16%	36	62%	13	22%	58
SECOND LEVEL CONFLICTS							
PUBLIC DEFENDER OFFICE	1	100%	0	0%	0	0%	1
CONTRACT MODEL	1	4%	15	56%	11	41%	27
ASSIGNED COUNSEL	1	5%	16	73%	5	23%	22
MANAGED ASSIGNED COUNSEL	1	13%	6	75%	1	13%	8
TOTAL (ALL COUNTIES)	4	7%	37	64%	17	29%	58

Table 5. Social Worker County or Contract Employment by Indigent Defense System

Figure 3: Social Worker(s) as County/Contract Employees by County





Immigration Attorney Funding

Respondents were asked whether their indigent defense budget included funding for immigration attorneys. Options included:

- Yes, there is at least one immigration attorney on staff (Staff)
- Yes, there is a contract in place with a nonprofit or university (Contract)
- Yes, funding exists but must be requested on a case-by-cases basis (Case by Case)
- No
- I'm not sure. [Respondents who selected "I'm not sure" or did not provide a response were coded as "Not Sure/No Data".]

Sixty-six percent of counties with a public defender office reported funding for immigration attorney services in various formats, such as staff or contracts (see Table 6). In contrast, only 5 percent of counties using a contract model for their primary indigent defense system reported immigration attorney funding. A little over half (59 percent) of counties with an alternate public defender office reported funding for immigration attorneys. However, immigration attorney funding was notably lower for second level conflict systems. See Figure 4 for a map of immigration attorney funding by county.

	STAFF	CONTRACT	CASE BY CASE	NO	NOT SURE/ NO DATA	TOTAL
		(COUNT (% OF	TOTAL)		
PRIMARY PD SYSTEM						
PUBLIC DEFENDER OFFICE	15 (45%)	7 (21%)	4 (12%)	4 (12%)	3 (9%)	33
CONTRACT MODEL	0 (0%)	1 (5%)	3 (14%)	14 (67%)	3 (14%)	21
MANAGED ASSIGNED COUNSEL	0 (0%)	1 (25%)	1 (25%)	1 (25%)	1 (25%)	4
TOTAL (ALL COUNTIES)	15 (39%)	9 (16%)	8 (14%)	19 (33%)	7 (12%)	58
FIRST LEVEL CONFLICTS						
ALTERNATE PD OFFICE	2 (17%)	5 (42%)	0 (0%)	3 (25%)	2 (17%)	12
CONTRACT MODEL	2 (5%)	1 (3%)	7 (19%)	17 (46%)	10 (27%)	37
ASSIGNED COUNSEL	0 (0%)	0 (0%)	0 (0%)	2 (50%)	2 (50%)	4
MANAGED ASSIGNED COUNSEL	0 (0%)	1 (20%)	2 (40%)	0 (0%)	2 (40%)	5
TOTAL (ALL COUNTIES)	4 (7%)	7 (12%)	9 (16%)	22 (38%)	16 (28%)	58
SECOND LEVEL CONFLICTS						
PUBLIC DEFENDER OFFICE	0 (0%)	0 (0%)	0 (0%)	1 (100%)	0 (0%)	1
CONTRACT MODEL	1 (4%)	0 (0%)	7 (26%)	10 (37%)	9 (33%)	27
ASSIGNED COUNSEL	0 (0%)	0 (0%)	2 (9%)	12 (55%)	8 (36%)	22
MANAGED ASSIGNED COUNSEL	0 (0%)	1 (13%)	2 (25%)	3 (38%)	2 (100%)	8
TOTAL (ALL COUNTIES)	1 (2%)	1 (2%)	11 (19%)	26 (45%)	19 (33%)	58

Table 6. Funding for Immigration Attorneys by Indigent Defense System

Figure 4: Immigration Attorney Funding by County



First Level Conflict System Second Level Conflict System Primary Indigent Defense System Siskiyou Siskiyou Siskiyou Modoc Humboldt Modoc Modoc ______ / Trinity/ Shasta Trinity Shasta Shasta Lassen Lassen Lassen Tehama Tehama Tehama Glenn Butte Plumas Plumas Glenn Butte Plumas Glenn Butte Lake Lake Lake Nevada Placer Placer Placer Yolo Yolo El Dorado El Dorado El Dorado Solar lador San Franci 29 San Franc San Joaquin San Francisc San Joaquii CS Tuolumne Alameda Tuolumne San Mateo Alameda Tuolumne San Mateo Stanislaus San Mateo Mariposa Mariposa Mono Mono Mariposa Santa Mono Merced Merced Santa Cruz Merced Santa Cruz Santa Cruz Mader Made Made San Benito Fresno nito Fresno Fresno nierey erey Tulare Inyo Tulare Inyo Kings, Tulare Inyo Kings Kings San Luis Obispo San Luis Obispo San Luis Obispo Kern Kern Kern Santa Barbara Santa Barbara Santa Barbara entura /entura San Bernardino San Bernardino San Bernardino 00 Los An Riverside Riverside Riverside San Diego San Diego San Diego Imperial Imperial Imperial

Public Defense vs. District Attorney Funding

This section examines budgetary and grant data related to district attorney and indigent defense funding. Budgetary data was collected from the State Controller's Office for FY 2020-21. Indigent defense budget totals are a sum of budgetary funds allocated to a public defender and to court appointed counsel, ensuring a complete view of public defense spending. The State Controller's Office did not have data for Humboldt County and San Francisco County.

County Budget Spending

Table 7 below provides an overview and ranking of budget allocations for district attorney and indigent defense. This comparison starkly demonstrates the magnitude of disparities between the funds allocated to the district attorney's office and the amount spent on public defense. No county allocated equivalent funding for indigent defense and for prosecution. The counties with the largest disparities in the 2020-21 fiscal year include Alpine, Plumas, Colusa, and Sutter counties. Furthermore, 31 counties (53.4 percent) allocated 50 percent or less than what was earmarked for the district attorney to indigent defense. The ranking of counties is based on the size of this funding gap, with the county exhibiting the smallest disparity ranked at the top.

COUNTY	% OF TOTAL BUDGET EXPENDITURES FOR DA	% OF TOTAL BUDGET EXPENDITURES FOR PD	% OF DA FUNDING FOR PD	RANK
CONTRA COSTA	1.0%	0.9%	82%	1
DEL NORTE	1.8%	1.3%	73%	2
SIERRA	0.9%	0.7%	71%	3
LOS ANGELES	1.4%	1.0%	71%	3
SOLANO	3.3%	2.3%	70%	5
SHASTA	2.3%	1.6%	69%	6
MENDOCINO	2.0%	1.4%	69%	6
KERN	1.6%	1.1%	68%	8
GLENN	1.0%	0.6%	64%	9
SANTA CRUZ	2.3%	1.4%	63%	10
MARIN	1.7%	1.0%	62%	11
SISKIYOU	2.3%	1.4%	61%	12
IMPERIAL	1.4%	0.8%	61%	12
FRESNO	2.2%	1.3%	60%	14
MADERA	1.8%	1.1%	58%	15
TULARE	2.5%	1.4%	58%	15
SANTA CLARA	1.8%	1.0%	57%	17
SAN BERNARDINO	1.7%	1.0%	56%	18
ORANGE	2.9%	1.6%	55%	19
SANTA BARBARA	2.4%	1.3%	54%	20

Table 7. County Budget Spending for District Attorney and Public Defense

ALAMEDA	1.9%	1.0%	54%	20
SAN MATEO	1.5%	0.8%	54%	20
TUOLUMNE	1.8%	1.0%	54%	20
STANISLAUS	1.7%	0.9%	53%	24
KINGS	2.6%	1.4%	52%	25
SAN JOAQUIN	2.4%	1.2%	50%	26
YUBA	1.1%	0.6%	50%	26
NEVADA	2.2%	1.1%	49%	28
YOLO	4.3%	2.0%	47%	29
SAN DIEGO	3.3%	1.5%	46%	30
LAKE	1.9%	0.9%	46%	30
SACRAMENTO	1.9%	0.9%	46%	30
NAPA	3.0%	1.4%	45%	33
SONOMA	2.2%	1.0%	45%	33
MONTEREY	2.6%	1.1%	44%	35
MODOC	1.6%	0.7%	44%	35
TRINITY	1.6%	0.7%	43%	37
MONO	2.3%	1.0%	43%	38
RIVERSIDE	2.2%	0.9%	42%	39
LASSEN ³	2.0%	0.8%	41%	40
SAN LUIS OBISPO	2.7%	1.1%	40%	41
VENTURA	2.2%	0.9%	40%	41
PLACER	3.1%	1.2%	40%	41
SAN BENITO	1.5%	0.6%	38%	44
INYO	2.0%	0.7%	37%	45
CALAVERAS	1.9%	0.7%	35%	46
MERCED	1.9%	0.7%	35%	46
EL DORADO	2.7%	0.9%	34%	48
TEHAMA	1.9%	0.6%	30%	49
BUTTE	2.8%	0.8%	29%	50
MARIPOSA	1.8%	0.5%	28%	51
AMADOR	4.4%	1.1%	26%	52
ALPINE	1.5%	0.3%	19%	53
PLUMAS	0.2%	0.0%	19%	53
COLUSA	2.5%	0.5%	18%	55
SUTTER	2.1%	0.3%	16%	56
HUMBOLDT	No Data	No Data	No Data	No
				Data
SAN FRANCISCO	No Data	No Data	No Data	No
				Data

³ Lassen County includes expenditures only for public defense.

On average, the proportion of the total county budget allocated to indigent defense versus prosecution varies slightly based on the type of primary indigent defense provider (see Figure 5). However, there is a consistent trend: the proportion of the total county budget allocated to the District Attorney typically is greater than for the primary public defense system.

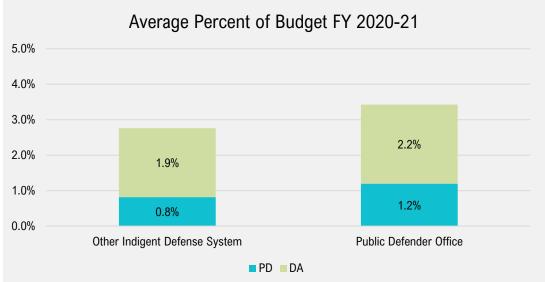
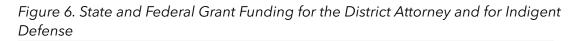
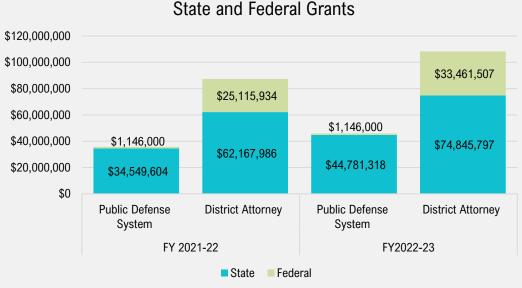


Figure 5. Average Percentage of Total Budget Allocated to Indigent Defense and the District Attorney

Grant Funding

Respondents were also asked to report state and federal grant funding awarded to the indigent defense system and to the District Attorney's Office for fiscal years 2021-22 and 2022-23. The most common grants reported for the District Attorney were victim/witness assistance grants, auto fraud grants, and insurance fraud grants. The most common grants reported for indigent defense included the Indigent Defense Grant (BSCC) and the Public Defense Pilot Program (SB 129). As shown in Figure 6 below, counties reported receiving a much larger amount from state and federal funding for the District Attorney compared to the indigent defense system. Importantly, the Indigent Defense Grant is a one-time grant for small and medium sized public defender offices and the Public Defense Pilot Program is a three-year grant that began in FY 2021-2022.





Compensation Structure

In our survey, respondents detailed the compensation structures for different levels of indigent defense (see Table 8). Government employee salaries were the most common for primary indigent defense providers (57 percent), followed by annual or hourly flat fees (26 percent) and monthly payments with allowances for additional compensation (14 percent). For first level conflicts, the most common form of compensation included monthly payments with allowances for additional compensation (29 percent) and flat fee payments (26 percent). Hourly rates delineated by class of crime or services made up almost half (47 percent) of the compensation structure for second level conflicts. The "other" category included a combination of the various forms of compensation listed below. See Figure 8 (page 18) for an overview of compensation structures by county.

	PRIMARY PD PROVIDER		FIRST LEVEL CONFLICTS			D LEVEL
PAYMENT STRUCTURE	Count	% of Total	Count	% of Total	Count	% of Total
GOVERNMENT EMPLOYEE SALARY	33	57%	8	14%	0	0%
FLAT FEE (HOURLY OR ANNUALLY)	16	28%	15	26%	7	12%
EQUAL MONTHLY PAYMENTS W/ALLOWANCES	8	14%	17	29%	13	22%
HOURLY RATE – CLASS OF CRIME/SERVICE	1	2%	10	17%	27	47%
OTHER COMPENSATION STRUCTURE	0	0%	4	7%	4	7%
NO DATA	0	0%	4	7%	7	12%
TOTAL	58	100%	58	100%	58	100%

Table 8. Compensation Structure by Level of Representation

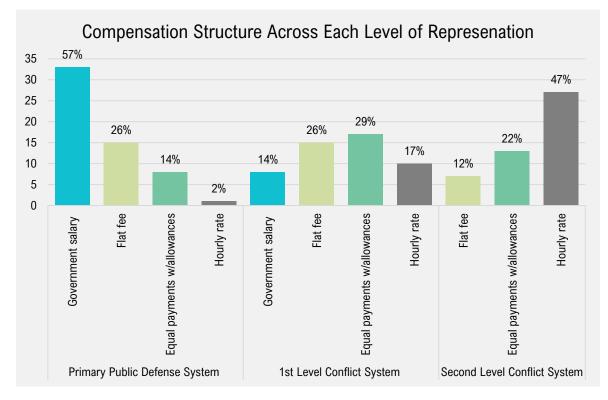


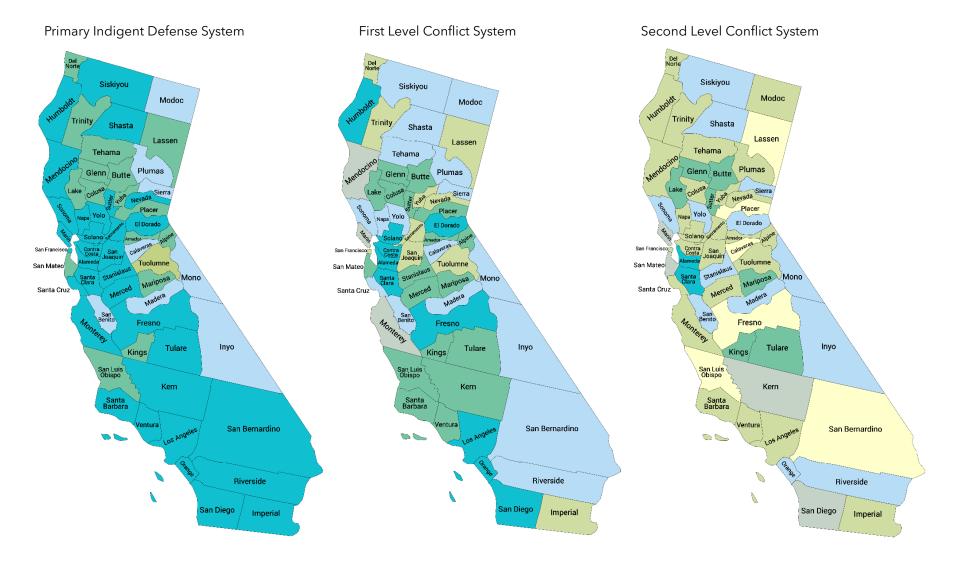
Figure 7. Compensation Structure by Level of Representation

Work Alternative Program

Respondents were asked about the availability of a work alternative program in their counties as an alternative to incarceration, specifically excluding electronic monitoring or house arrest. Fifty-five counties responded to this question. Of these, 44 counties (76 percent) reported that a work alternative program which did not include electronic monitoring/house arrest was available. The remaining 11 counties (19 percent) reported that their county had no such program available.

Figure 8. Compensation Structure by County

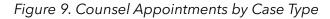




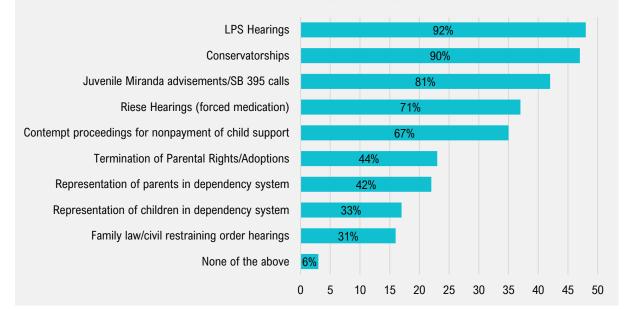
Non-Criminal Indigent Defense Counsel Appointments

Table 7 on page 13 of this report illustrates that District Attorney offices receive approximately double the funding in comparison to public defender systems. Additionally, there are grants available to prosecution systems that are not available to defense systems, widening the gap. Another factor that increases the disparity is the assignment of civil cases to indigent defenders. We asked respondents to select from a list of non-criminal case types where the public defender must represent clients. These case types represent situations where the district attorney is not typically present. Fifty-two counties responded to this question.

Figure 9 below aggregates the responses. At least two-thirds of counties reported that their primary public defense provider was appointed to LPS Hearings, conservatorships, juvenile Miranda advisements/SB 395 calls, involuntary medication (Riese hearings), and contempt proceedings for child support nonpayment. The most common public defense appointments were LPS hearings (in 92 percent of counties), conservatorships (in 90 percent of counties), and juvenile Miranda advisements/SB 395 calls (in 81 percent of counties). Family law/civil restraining order hearings and representation of children in dependency systems were the least frequent case types in which the primary defense provider was appointed. It's noteworthy that in nearly all these case types, the appointment of a District Attorney is very rare.



Percentage of California Counties with Public Defense Counsel Appointments by Case Type



Attorney Populations

OSPD gathered data from the State Bar of California on the number of people with active bar licenses in each county for 2022.⁴ The number per county includes nonpracticing attorneys, attorneys practicing outside of criminal law, professors, and prosecutors.

Forty-eight counties (82 percent) had less than 3 attorneys per 1,000 people living in the county. But in about one-third of these counties the ratio is even lower, with one or fewer attorneys per 1,000 people. See Figure 10 below for a map of attorneys per capita by county. See Appendix A for detailed attorney per capita rates and ranking for each county.

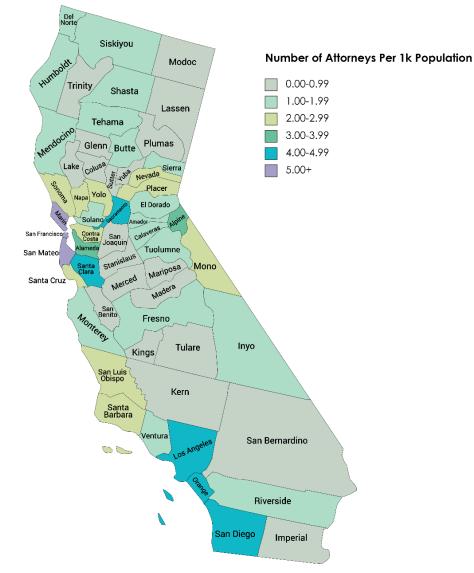


Figure 10. Number of Attorneys per 1K Population

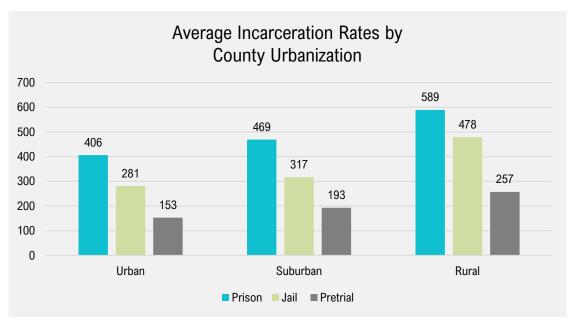
⁴ See <u>https://apps.calbar.ca.gov/members/demographics_search.aspx.</u>

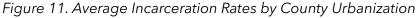
Incarceration Rates

This section explores jail and prison incarceration rates juxtaposed against various characteristics of California indigent defense systems. It focuses on factors such as degree of urbanization, the type of indigent defense system, the manner of resource support, and whether positions are staffed or contracted.

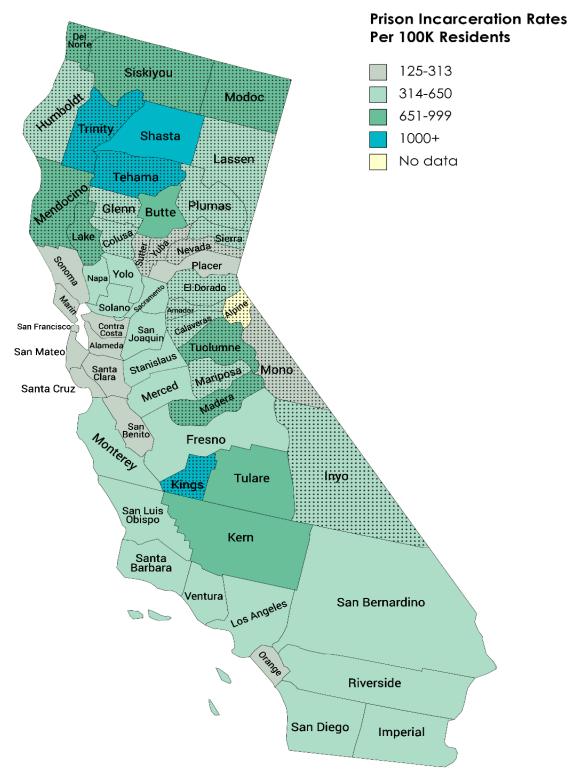
Urbanization

Figure 11, below, illustrates that rural California counties exhibit notably elevated rates of incarceration, both in local jails and state prisons. The pronounced lack of attorneys in these rural regions, often referred to as "attorney deserts" might partially explain this distribution.⁵ See also Figure 14 (page 23) for a map of prison incarceration rates by county urbanization.





⁵ This report utilizes the California State Association of Counties (CSAC) county classifications, https://www.counties.org/pod/california-county-caucuses.



Note: Dotted counties are rural

Primary Indigent Defense Provider

The contract model is a prevalent form of indigent defense in California. Yet, as Figure 12, below shows, counties with an institutionalized public defender officer have lower jail and prison incarceration rates.



Figure 12. Average Incarceration Rates by Public Defender and Contract Model Systems

Supplemental Staff

The availability of staffed or contracted resources varies by type of indigent defense system and the level of representation. Notably, staffed or contracted resources are much more common for the first level of representation than in conflict systems. This disparity in resources appears to translate to differences in incarceration rates: systems with more staffed or contracted resources generally align with lower rates of incarceration. (see Figure 13).



Figure 13. Average Incarceration Rates by Staffed or Contracted Resources for Primary Indigent Defense Systems

Conclusion

Each California county is a unique ecosystem—some have populations the size of an urban high school and some have a GDP larger than many states. Yet, significant funding disparities between prosecution and defense functions persist across counties. Each county is responsible for providing effective public defense services to its constituents. They must ensure that everyone has equal access to services, regardless of whether they are represented by attorneys in the primary system or the conflict systems. Recognizing the structures, funding, and staffing that are needed to provide effective representation is the first step. This awareness paves the way for consistent, high-quality service across and within counties for those needing public defenders.

OSPD thanks county stakeholders who contributed to and enriched this report with their data. We urge stakeholders to assess their current delivery system, study incarceration rates, and delve into funding disparities. This examination can guide counties to wisely allocate their limited resources, ensuring that constituents are provided with the most efficient and effective indigent defense possible.

Appendix A

The following table identifies counties by the number of attorneys with active licenses per 100,000 county residents. The county with the highest attorney-to-resident ratio, indicating the greatest number of attorneys per capita, is ranked first, while the county with the lowest number of attorneys per capita is ranked last.

County	Total Active 2022 Attorneys	Total Population 2021	Attorneys Per Capita (1K)	Residents Per Attorney	Rank
Alameda	7,364	1,648,556	4.47	223.87	9
Alpine	4	1,235	3.24	308.75	12
Amador	70	36,592	1.91	522.74	23
Butte	331	208,309	1.59	629.33	31
Calaveras	54	45,306	1.19	839.00	37
Colusa	19	21,898	0.87	1,152.53	47
Contra Costa	4018	1,161,413	3.46	289.05	10
Del Norte	46	25,140	1.83	546.52	29
El Dorado	364	193,221	1.88	530.83	25
Fresno	1960	1,013,581	1.93	517.13	22
Glenn	15	28,805	0.52	1,920.33	58
Humboldt	212	136,310	1.56	642.97	32
Imperial	120	179,851	0.67	1,498.76	53
Inyo	35	18,963	1.85	541.80	28
Kern	830	917,673	0.90	1,105.63	44
Kings	94	153,443	0.61	1,632.37	55
Lake	75	68,766	1.09	916.88	39
Lassen	20	25,286	0.79	1,264.30	51
Los Angeles	57088	9,829,544	5.81	172.18	4
Madera	105	159,410	0.66	1,518.19	54
Marin	2109	260,206	8.11	123.38	2
Mariposa	14	17,094	0.82	1,221.00	50
Mendocino	169	91,305	1.85	540.27	27
Merced	151	286,461	0.53	1,897.09	57
Modoc	5	8,661	0.58	1,732.20	56
Mono	41	13,217	3.10	322.37	16
Monterey	818	437,325	1.87	534.63	26
Napa	428	136,207	3.14	318.24	14
Nevada	277	103,487	2.68	373.60	20
Orange	17627	3,167,809	5.56	179.71	5
Placer	1260	412,300	3.06	327.22	17

Plumas	38	19,915	1.91	524.08	24
Riverside	3278	2,458,395	1.33	749.97	35
Sacramento	8484	1,588,921	5.34	187.28	6
San Benito	55	66,677	0.82	1,212.31	48
San Bernardino	2319	2,194,710	1.06	946.40	40
San Diego	16259	3,286,069	4.95	202.11	8
San Francisco	17601	815,201	21.59	46.32	1
San Joaquin	749	789,410	0.95	1,053.95	42
San Luis Obispo	733	283,159	2.59	386.30	21
San Mateo	5006	737,888	6.78	147.40	3
Santa Barbara	1400	446,475	3.14	318.91	15
Santa Clara	9779	1,885,508	5.19	192.81	7
Santa Cruz	718	267,792	2.68	372.97	19
Shasta	300	182,139	1.65	607.13	30
Sierra	5	3,244	1.54	648.80	33
Siskiyou	63	44,207	1.43	701.70	34
Solano	541	451,716	1.20	834.96	36
Sonoma	1537	485,887	3.16	316.13	13
Stanislaus	522	552,999	0.94	1,059.39	43
Sutter	95	99,063	0.96	1,042.77	41
Tehama	54	65,498	0.82	1,212.93	49
Trinity*	14	16,101	0.87	1,150.07	46
Tulare	363	477,054	0.76	1,314.20	52
Tuolumne	63	53,008	1.19	841.40	38
Ventura	2794	839,784	3.33	300.57	11
Yolo	621	216,986	2.86	349.41	18
Yuba	75	83,421	0.90	1,112.28	45

County population data retrieved from the 2020 U.S. Census. The number of attorneys with an active license per county was retrieved from

https://apps.calbar.ca.gov/members/demographics_search.aspx.

Appendix B

This appendix provides an overview of selected responses from all counties. Tables 11-12 display the crosstabulations of counties and questionnaire responses.

Table Label	Description
PD Туре	Type of Public Defense System
	PD = Public Defender
	CM = Contract Model
	MAC = Managed Assigned Counsel System
	AC = Assigned Counsel System
	O = Other
Population	Census Population for 2020
Incarceration Rate	https://www.vera.org/california-state-of-incarceration/
Incarceration Rate Rank	Ranking ranges from 1 - 57 for prison incarceration rate (missing data for one county) and 1-55 for jail incarceration (missing data for three counties), with a higher number indicating a higher rate of incarceration
Compensation Structure Resource Access	The structure of compensation for PD services GES = Government Employee Salar EP = Equal monthly payments for a predetermined amount with no allowances for additional compensation (flat fee) EPA = Equal monthly payments for a predetermined amount with allowances for additional compensation LS = A lump sum for the entirety of the contract of fiscal year (flat fee) HR = A set hourly rat O = Other Whether public defense system includes dedicated staff or dedicated contracted employees
	Y = Yes N = No Blank = Not sure/No data/Not applicable
Immigration Attorney	Whether public defense budget includes funding for immigration attorney(s) S = Yes, at least one on staff C = Yes, contract in place with nonprofit or university CBC = Yes, requested on a case-by-case basis N = No Blank = Not sure/No data/Not applicable
Dependency Cases	Whether the public defender's office handles dependency cases Y = Yes N = No

Table 10. Table Labels with Corresponding Questionnaire Response Content

Table Label	Description
	Blank = Not applicable or no data (if PD Office)
Prison Cases	Who handles criminal cases arising from CDCR prison facilities
	(if one in county)
	PDO = Public Defender's Office
	SG = Specific group of attorneys assigned to prison cases
	O = Other
	ND = No data
	Blank = No CDCR facility in county
Pleas Entered Prior to	Whether there are courts in the county where pleas are entered
Appointment of Counsel	in misdemeanor cases prior to the appointment of counsel.
	Y = Yes
	N = No
	Blank = I'm not sure/No data
Work Alternative	Whether the county offers a work alternative program which
Program	does not including house arrest/monitoring in lieu of jail
	Y = Yes
	N = No
	Blank = I'm not sure/No data

County	Primary PD Type	Population (2020)	Prison Incarceration Rate per 100k	Prison Incarceration Rate Per 100k Rank	Jail Incarceration Rate Per 100k	Jail Incarceration Rate Per 100k Rank	Compensation Structure for Primary System	Resources: Social Worker (Primary System)	Resources: Investigator (Primary System)	Immigration Attorney (Primary System)	Pleas Entered Prior to Appointment of Counsel
Alameda	PD	1,648,556	234	11	192	11	GES	Y	Y		
Alpine	СМ	1,235					EP	Ν	Y	Ν	
Amador	СМ	36,592	519	40	291	32	EP	Ν	Y		
Butte	СМ	208,309	502	39	392	43	EP		Y	Ν	
Calaveras	СМ	45,306	241	12	279	30	EPA	Ν	Y		
Colusa	СМ	21,898	446	32	400	45	EP	Ν	Ν	Ν	
Contra Costa	PD	1,161,413	207	6	102	1	GES	Y	Y	S	Ν
Del Norte	MAC	25,140	798	53	245	24	LS	Ν	Ν	Ν	
El Dorado	PD	193,221	286	19	236	22	GES	Ν	Y	С	Ν
Fresno	PD	1,013,581	462	34	417	47	GES	Y	Y	S	Ν
Glenn	СМ	28,805	410	30	424	48	EP	Ν	Y	CBC	Ν
Humboldt	PD	136,310	396	28	320	37	GES	Y	Y	С	Ν
Imperial	PD	179,851	224	10	194	12	GES	Ν	Y	Ν	Ν
Inyo	СМ	18,963	275	18	427	49	EP			Ν	
Kern	PD	917,673	597	44	303	34	GES	Y	Y	С	Y
Kings	СМ	153,443	956	57	462	51	EPA	Ν	Ν	Ν	
Lake	MAC	68,766	620	46	482	52	EP	Ν	Y	CBC	Ν
Lassen	СМ	25,286	653	48	569	53	EP	Ν	Ν	Ν	Ν
Los Angeles	PD	9,829,544	449	33	212	14	GES	Y	Y	S	Y
Madera	СМ	159,410	564	43	407	46	EPA	Ν	Ν	Ν	Y
Marin	PD	260,206	116	2	128	3	GES	Y	Y	S	Ν
Mariposa	СМ	17,094	546	42	290	31	LS	Ν	Ν	CBC	Ν
Mendocino	PD	91,305	604	45	0		GES	Ν	Y	Ν	Ν
Merced	PD	286,461	472	35	267	29	GES	Ν	Y	CBC	Ν
Modoc	СМ	8,661	803	54	627	54	EPA		Ν	Ν	Y
Mono	СМ	13,217	141	3	214	15	EPA	Ν	Y	С	
Monterey	PD	437,325	501	38	291	33	GES	Y	Y	S	Y
Napa	PD	136,207	313	21	227	20	GES	Y	Y	S	Y
Nevada	PD	103,487	186	5	263	28	GES	Ν	Ν	CBC	Y

Orange	PD	3,167,809	242	13	156	5	GES	Y	Y	S	Y
Placer	СМ	412,300	207	7	251	25	EP	Y	Y	CBC	Ν
Plumas	СМ	19,915	334	24	351	41	EPA	Ν	Ν	Ν	Y
Riverside	PD	2,458,395	479	36	218	16	GES	Y	Y	S	Ν
Sacramento	PD	1,588,921	523	41	313	35	GES	Y	Y	С	Y
San Benito	СМ	66,677	222	9	188	10	EPA	Ν	Y	Ν	
San Bernardino	PD	2,194,710	404	29	358	42	GES	Y	Y	S	Y
San Diego	PD	3,286,069	288	20	184	9	GES	Y	Y		Ν
San Francisco	PD	815,201	91	1	125	2	GES	Y	Y	S	Ν
San Joaquin	PD	789,410	483	37	261	27	GES	Y	Y	С	Y
San Luis Obispo	СМ	283,159	319	23	221	18	LS	Y	Y	Ν	Ν
San Mateo	MAC	737,888	171	4	148	4	LS	Y	Y	С	Ν
Santa Barbara	PD	446,475	340	25	223	19	GES	Y	Y	S	Ν
Santa Clara	PD	1,885,508	251	14	182	8	GES	Y	У	С	Ν
Santa Cruz	PD	267,792	256	16	176	7	GES	Y	Y	S	Ν
Shasta	PD	182,139	917	56	333	38	GES	Y	Y		
Sierra	СМ	3,244	375	26			EPA			Ν	
Siskiyou	PD	44,207	746	50	319	36	GES	Y	Y	CBC	Ν
Solano	PD	451,716	254	15	209	13	GES	Y	Y	Ν	
Sonoma	PD	485,887	213	8	220	17	GES	Y	Y	S	Ν
Stanislaus	PD	552,999	380	27	346	40	GES	Y	Y	С	
Sutter	MAC	99,063	426	31	254	26	GES	Ν	Y	С	Y
Tehama	СМ	65,498	780	52	338	39	EP	Ν	Y	Ν	Y
Trinity	СМ	16,101	813	55	812	55	LS				
Tulare	PD	477,054	641	47	433	50	GES	Y	Y	Ν	Y
Tuolumne	PD	53,008	768	51	228	21	HR	Ν	Y	CBC	
Ventura	PD	839,784	264	17	241	23	GES	Y	Y	S	Ν
Yolo	PD	216,986	317	22	161	6	GES	Y	Y	S	Y
Yuba	СМ	83,421	723	49	399	44	LS	Ν	N	Ν	

		n		-	
County	Primary PD Type	Population (2020)	Work Alternative Program	Dependency Cases	Prison Cases
Alameda	PD	1,648,556	N	N	
Alpine	СМ	1,235	Ν		
Amador	СМ	36,592	Ν		PDO
Butte	СМ	208,309	Y		
Calaveras	СМ	45,306	Y		
Colusa	СМ	21,898	N		
Contra Costa	PD	1,161,413	Y	Ν	
Del Norte	MAC	25,140	Ν		SG
El Dorado	PD	193,221	Y	Ν	PDO
Fresno	PD	1,013,581	Y	Ν	PDO
Glenn	СМ	28,805	Ν		
Humboldt	PD	136,310	Y	Ν	
Imperial	PD	179,851	Y	Y	PDO
Inyo	СМ	18,963	Ν		
Kern	PD	917,673	Y	Y	
Kings	СМ	153,443	Y		SG
Lake	MAC	68,766	Y		
Lassen	СМ	25,286	Y		SG
Los Angeles	PD	9,829,544	Ν	Ν	PDO
Madera	СМ	159,410	Y		PDO
Marin	PD	260,206	Y	Ν	PDO
Mariposa	СМ	17,094	Y		
Mendocino	PD	91,305	Y	Ν	PDO
Merced	PD	286,461	Y	Ν	
Modoc	СМ	8,661	Y		
Mono	СМ	13,217	Ν		
Monterey	PD	437,325	Y	Ν	0
Napa	PD	136,207	Ν	Ν	
Nevada	PD	103,487	Y	Ν	PDO

Table 12. Questionnaire Responses by County

Orange	PD	3,167,809	Y	Y	
Placer	СМ	412,300	Y		ND
Plumas	СМ	19,915	Ν		
Riverside	PD	2,458,395	Y	Ν	PDO
Sacramento	PD	1,588,921	Y	Ν	PDO
San Benito	СМ	66,677			
San Bernardino	PD	2,194,710	Y	N	PDO
San Diego	PD	3,286,069	Y	Ν	PDO
San Francisco	PD	815,201	Y	Ν	PDO
San Joaquin	PD	789,410	Y	Y	PDO
San Luis Obispo	СМ	283,159	Y		
San Mateo	MAC	737,888	Y		
Santa Barbara	PD	446,475	Y	Ν	
Santa Clara	PD	1,885,508	Y	Ν	
Santa Cruz	PD	267,792	Y	Ν	
Shasta	PD	182,139	Y	Ν	
Sierra	СМ	3,244	Y		0
Siskiyou	PD	44,207	Y	N	
Solano	PD	451,716	Y	Ν	SG
Sonoma	PD	485,887	Y	Ν	
Stanislaus	PD	552,999		Ν	
Sutter	MAC	99,063	Y		
Tehama	СМ	65,498	Y		
Trinity	СМ	16,101	Y		
Tulare	PD	477,054	Y	Ν	
Tuolumne	PD	53,008	Y	Ν	PDO
Ventura	PD	839,784	Y	N	
Yolo	PD	216,986	Y	N	
Yuba	СМ	83,421			

Appendix C

Indigent Defense Questionnaire

1) Which option below best describes the *primary* public defense provider in your county:

() Public Defender Office

() Contract attorneys managed by a county employee who is an experienced defense attorney

() Primary contract awarded to specified individual attorney(s) who sign a contract with the county but work independently without oversight

() Primary contract awarded to a private attorney who then subcontracts with private contractors () List of rotating attorneys appointed by the court on a case-by-case basis

() Primary contract with a for-profit law firm with employees

() Primary contract with a non-profit, such as a Bar Association

() Other (please describe):_____

() I'm not sure

If you would like to elaborate on your response, please feel free to do so below:

Responses were categorized as follows:

Description	Category
Public Defender Office	Public Defender Office
Alternate Public Defender Office	Alternate Public Defender Office
Primary contract awarded to specified individual attorney(s) who sign a contract with the county but work independently without oversight	Contract Model
Primary contract awarded to a private attorney who then subcontracts with private contractors	Contract Model
Primary contract with a for-profit law firm with employees	Contract Model
Primary contract with a non-profit, such as a Bar Association	Managed Assigned Counsel
Contract attorneys managed by a county employee who is an experienced defense attorney	Managed Assigned Counsel
List of rotating attorneys appointed by the court on a case-by-case basis	Assigned Counsel System

2) Who represents the first level of indigent criminal defense conflicts in your county?

() Alternate Public Defender Office

() Contract attorneys managed by a county employee who is an experienced defense attorney

() Primary contract awarded to specified individual attorney(s) who sign a contract with the county but work independently without oversight

() Primary contract awarded to a private attorney who then subcontracts with private contractors () List of rotating attorneys appointed by the court on a case-by-case basis

() Contract with a for-profit law firm with employees

() Primary contract with a non-profit, such as a Bar Association

() Other (please describe):_____

() I'm not sure

Comments:

3) Who represents the second level of indigent criminal defense conflicts in your county?

() Attorneys managed by a county employee who is an experienced defense attorney

() Primary contract awarded to specified individual attorney(s) who sign a contract with the county but work independently without oversight

() Primary contract awarded to a private attorney who then subcontracts with private contractors () List of rotating attorneys appointed by the court on a case-by-case basis

() Contract with a for-profit law firm with employees

() Primary contract with a non-profit, such as a Bar Association

() Other (please describe):_____*() I'm not sure

4) Which of the following best describes the compensation structure for the following levels of representation? If none of the options presented adequately capture your response, please feel free to add an option ("enter another option").

	Primary Public Defense System	1st Level Conflict System	2nd Level Conflict System
Government employee salary	[]	[]	[]
A lump sum for the entirety of the contract or fiscal year	[]	[]	[]
Equal monthly payments for a predetermined amount with no allowances for additional compensation	[]	[]	[]
Equal monthly payments for a predetermined amount with allowances for additional compensation for certain cases	[]	[]	[]
A set hourly rate	[]	[]	[]
An hourly rate delineated by class of crime or services	[]	[]	[]
(Enter another option)	[]	[]	[]

5) If you have a CDCR prison facility in your county and a new criminal case arises from within the facility (e.g., assault), who is appointed to represent the defendant?

() Public Defender's Office
() Specified group of lawyers assigned to prison cases () Other rotating list of courtappointed lawyers
() N/A. There is no CDCR prison facility in my county
() Other (please describe):

6) Does your indigent defense system (PD or otherwise) include county employees and/or dedicated contract employees for the following: (not when judges approve case-specific requests). Drop down menu: Yes, No, I'm not sure, Not Applicable.

	The primary public defense system	The 1st level conflict system	The 2nd level conflict system
Social Workers	Choose an item.	Choose an item.	Choose an item.
Investigators	Choose an item.	Choose an item.	Choose an item.
Paralegals	Choose an item.	Choose an item.	Choose an item.
Administrative support staff	Choose an item.	Choose an item.	Choose an item.

Comments:

7) Does your county offer a work alternative program in lieu of incarceration (not electronic monitoring/house arrest)?

() Yes, a Sheriff's work program in lieu of jail

() Yes, other (please specify):_____

() No

8) Does your indigent defense budget include funding for immigration attorney(s)? Please answer for each level of representation. If none of the options presented adequately capture your response, please feel free to add an option ("enter another option").

	Primary Public Defense System	1st Level Conflict System	2nd Level Conflict System
Yes, there is at least one immigration attorney on staff	[]	[]	[]
Yes, there is a contract in place with a nonprofit or university	[]	[]	[]
Yes, funding exists but must requested on a case- by-case basis	[]	[]	[]
No	[]	[]	[]
l'm not sure	[]	[]	[]

9) Does your Public Defender's office handle dependency cases?

()Yes

() No

() Other (please specify):_____*

() I'm not sure

10) Are there any courts in your county where guilty/no contest pleas are entered in misdemeanor cases prior to appointment of counsel?

() Yes () No () I'm not sure

11) Please let us know whether the primary defense provider and/or the district attorney is appointed in your county by checking the box under the appropriate column for each case type listed.

	Primary Defense Provider Appointed	District Attorney Appointed
Conservatorships	[]	[]
LPS Hearings	[]	[]
<i>Riese</i> Hearings (forced medication)	[]	[]
Representation of parents in dependency system	[]	[]
Representation of children in dependency system	[]	[]
Termination of Parental Rights/Adoptions	[]	[]
Juvenile <i>Miranda</i> advisements/SB 395 calls	[]	[]
Contempt proceedings for nonpayment of child support	[]	[]
Family law/civil restraining order hearings	[]	[]
None of the above	[]	[]

12) What is the dollar amount of state and federal grants that was awarded to your indigent defense system in the fiscal years 2021-22 and 2022-23?

	State	Federa I
FY 2021-22		
FY 2022-23		

13) What is the dollar amount of state and federal grants that was awarded to your District Attorney's office in the fiscal years 2021-22 and 2022-23?

	State	Federal
FY 2021-22		
FY 2022-23		