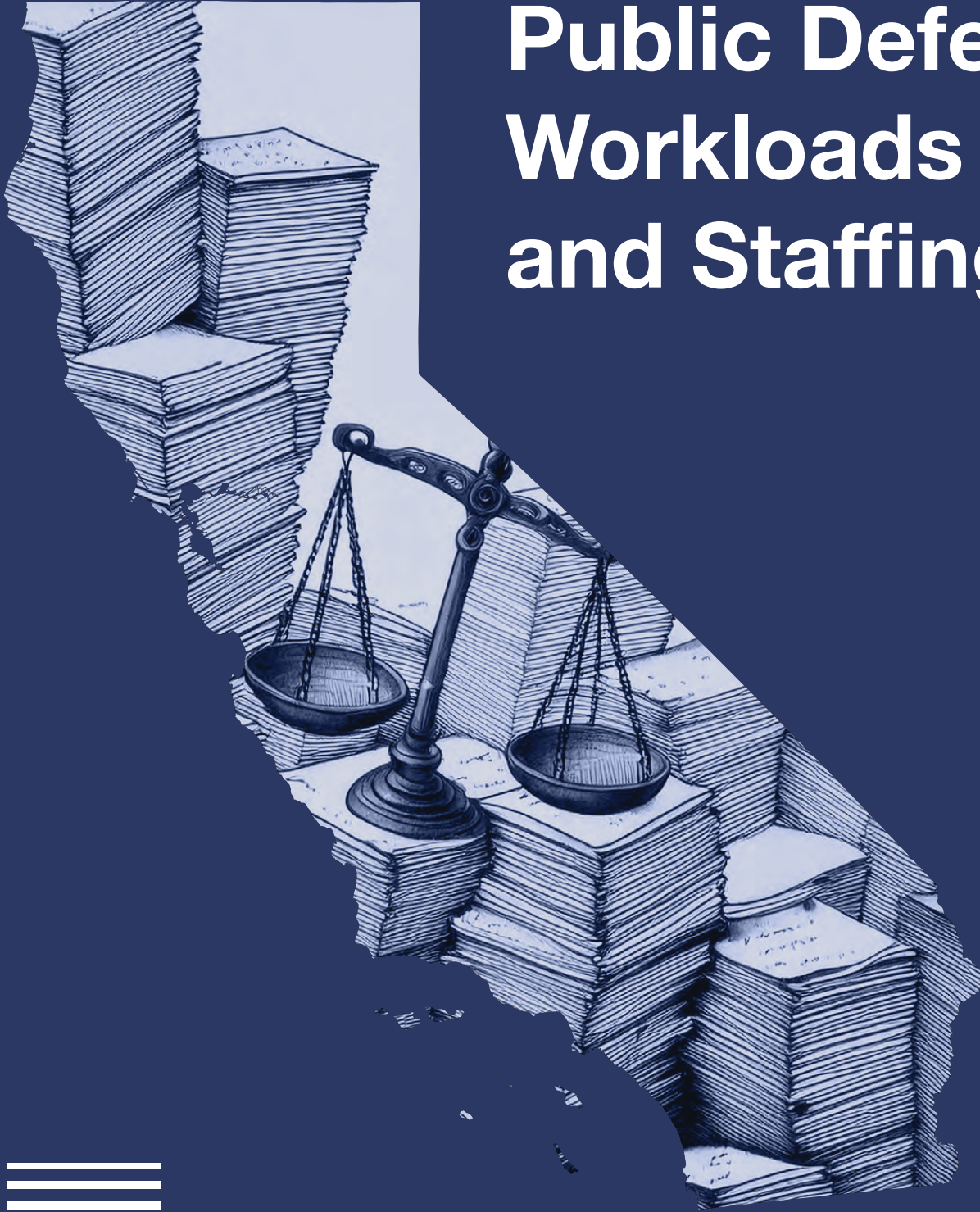


REPORT & RECOMMENDATIONS

# California Public Defense Workloads and Staffing



The Deason Criminal Justice Reform Center submitted this report, *California Public Defense Workloads and Staffing*, to the Office of the State Public Defender on September 29, 2025. This report was produced pursuant to CA AB 625 (2021), codified as Cal. Govt. Code § 15403 (2021).

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# Summary

The Sixth Amendment provides that “[i]n all criminal prosecutions, the accused shall . . . have the Assistance of Counsel for his defence.”<sup>1</sup> In 1963, in *Gideon v. Wainwright*, the Supreme Court recognized that “[e]very defendant [should] stand equal before the law . . . [but] this noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer[.]”<sup>2</sup> The Sixth Amendment thus requires the state to appoint a lawyer for any accused person who cannot afford to hire one.<sup>3</sup>

California was an early leader on the right to counsel. Indeed, 17 California counties established public defender offices even before the Supreme Court’s decision in *Gideon*.<sup>4</sup> After *Gideon* mandated that the states provide public defense counsel, California delegated that responsibility to the counties.<sup>5</sup> Historically, the state has played almost no role in monitoring or funding county public defense systems.<sup>6</sup> The state has also collected little data on public defense. A 2022 report by the Legislative Analyst’s Office observed:

*The state lacks comprehensive and consistent data that directly measures the effectiveness or quality of indigent defense representation provided across the state. This makes it difficult for the Legislature to assess the specific levels and effectiveness of indigent defense being provided across counties.*<sup>7</sup>

Based on public reports, the quality of California’s county-based public defense programs varies widely.<sup>8</sup> There are undoubtedly public defense providers in California with exceptional programs.<sup>9</sup> At the same time, there is evidence that many California counties struggle to deliver the constitutional right to counsel.

- Several lawsuits have alleged inadequate public defense services.<sup>10</sup>
- Evaluations have concluded that numerous county systems fail to provide constitutionally adequate public defense services.<sup>11</sup>
- News reports have documented public defense workloads and availability problems in a number of counties.<sup>12</sup>

# The AB 625 California Public Defense Workload Study

In 2021, the Legislature passed AB 625 (Arambula), authorizing “the State Public Defender, in consultation with the California Public Defender Association and other subject matter experts, [to] undertake a study to assess appropriate workloads for public defenders and indigent defense attorneys and [to] submit a report with their findings and recommendations to the Legislature.”<sup>13</sup> The Legislature funded this study in the FY 2022-23 budget.

The Office of the State Public Defender (OSPD) engaged a facilitator to survey stakeholders including the California Public Defender Association (CPDA) to ensure that the Request for Proposals (RFP) for this workload study reflected the concerns and expertise of the public defense community. At that time, the National Public Defense Workload Study (NPDWS) was nearing completion. The NPDWS establishes national public defense workload standards in the form of numeric case weights (hours per case) for adult criminal cases.<sup>14</sup> To avoid unnecessary duplication with the NPDWS and to maximize the study’s value to the state, the RFP requested that the California workload study look beyond setting hours per case metrics. Instead, it directed that, to the fullest extent possible, the study document existing public defense conditions, assess those conditions against ethical rules and practice standards, and recommend how public defense providers should be staffed to meet modern workload demands.

In 2023, OSPD selected the Deason Criminal Justice Reform Center at the SMU Dedman School of Law (Deason Center) to conduct this study.<sup>15</sup> The Deason Center began by conducting a comprehensive literature review of materials on public defense services in California, reviewing prior studies, academic articles, news publications, and litigation materials, as well as analyzing existing data on California public defense.<sup>16</sup> With assistance from OSPD and CPDA, the Deason Center convened an Advisory Group that included representatives from the public defense community, criminal justice reform organizations, and other key constituencies. With the Advisory Group’s input, the Deason Center conducted comprehensive site visits in nine California counties. The Center team observed court proceedings and program operations, and conducted interviews with public defense providers, including supervising lawyers, trial attorneys, non-trial attorneys, investigators, social workers, administrative assistants, and other support staff. The Center also met with court personnel, county administrators, and criminal justice reform advocates. The Deason Center also conducted focus groups with public defense providers, former clients, and client family members. Finally, the Deason Center surveyed chief public defenders regarding their current staffing, staffing sufficiency, data collection capacity, and existing attorney workload analyses.

Based on this information, the Deason Center prepared this report to provide the California Legislature with critical information about public defense workloads and recommendations to ensure that all those accused of crime in California are able to receive the effective assistance of counsel required by the Sixth Amendment.

## Summary of Findings

The vast majority of California's public defense attorneys<sup>17</sup> are devoted to their profession. They see their work as critical to protecting the innocent and upholding the Constitution. Most want to provide exceptional representation to their clients, as well as help them address any underlying issues and avoid future contact with the criminal legal system.

**But California's public defense attorneys are almost universally burdened by excessive workloads:**

- Many describe their workloads as “overwhelming” or “crushing.”
- The best available data demonstrates that public defense attorneys' caseloads far exceed nationally recommended workload standards.
- Compared to district attorneys' offices in the same jurisdictions, public defender offices typically have 20-45% fewer attorneys.

At the same time, the responsibilities of California's public defense attorneys have greatly expanded in the last decade. In addition to their traditional responsibilities, they must now screen their clients for possible diversion, represent clients in a growing list of collaborative court programs, and advocate for past clients seeking resentencing.

**Public defense attorneys also lack the support staff – investigators, social workers, paralegals, and administrative assistants – necessary to efficiently and effectively represent their clients.** Out of the 33 public defender offices that reported and verified their staffing data with the Deason Center, **none** met the recommended standard for support staffing set by the National Association for Public Defense.<sup>18</sup> As a result, their public defense attorneys routinely spend time performing work that could be completed by non-attorneys, such as filing paperwork with the court, requesting records, drafting simple motions to compel discovery or extend time, and conducting initial reviews of discovery materials.

At their current workload and staffing levels, public defense attorneys simply cannot do all that their job requires. As a result, public defense attorneys across California are forced to skip or delay critical work for some clients in order to focus on other clients' cases. Attorneys told the Deason Center that they are often unable to meet with clients, complete discovery reviews, conduct factual investigations, research legal issues, file motions, or prepare for trials. These limitations violate well-established ethical rules and standards. **In short, under current conditions, California's county-based public defense systems often cannot provide all of their clients with constitutionally adequate representation.**

Chief public defenders and public defense program administrators are aware of these excessive workloads and the resulting deficiencies in representation. About half of chief public defenders have assessed their offices caseloads using the NPDWS

workload standards. These analyses demonstrated that they need far more attorneys to effectively represent their current clients. Some have sought to reduce attorney workloads by slowing or temporarily declining new appointments. Most have not. Those that have not sought to address their excessive workloads reported two common fears about declining new cases — clients would be represented by contract or unmanaged assigned defense providers (whom they perceive as less effective), and county officials would retaliate, perhaps even by reducing already inadequate public defense expenditures.

**The situation is often worse in California’s less-populous, more rural counties, where attorney vacancies frequently exacerbate public defense workloads.** Rural counties tend to have more attorney vacancies. When an attorney leaves their public defense position, their workload is distributed across the remaining attorneys until a new attorney is hired, increasing their workloads. When vacancies persist, the increased workloads put inordinate pressure on the remaining lawyers, often leading to further departures. Chief public defenders and program administrators reported that attorney vacancies often remain open for months. As a consequence, they are increasingly recruiting attorneys from farther and farther away.

The Deason Center investigated attorney availability in California and concluded that the availability of attorneys is growing in metropolitan counties but diminishing in non-metropolitan areas. The least populous and most rural counties also have the lowest proportion of newly barred attorneys. Absent significant intervention, public defense attorney shortages in rural areas of California will worsen.

## Summary of Recommendations

California has an obligation to provide constitutionally adequate public defense services throughout the state. However, California stands almost alone among states in failing to create public defense standards or provide sufficient funding to ensure that every accused person receives effective assistance of counsel. To honor every Californian’s Sixth Amendment right, the state should take steps to limit public defense attorney workloads and ensure adequate support staffing for public defense attorneys. The state should also support recruitment and retention efforts that address the attorney shortages that particularly plague California’s rural counties.

The state should **limit attorney workloads** to ensure that public defense attorneys can meet their constitutional and ethical obligations to each client:

- Adopt attorney workload standards for public defense providers consistent with the NPDWS standards.
- Fund California’s public defense programs to ensure they can meet these workload standards.
- Provide statutory protection for public defense offices and independent providers who decline case appointments to comply with ethical obligations.



The state should **require appropriate support staffing** for public defense attorneys:

- Adopt minimum standards for adequate support staff per attorney.
- Guarantee that public defense programs have independent access to investigators and social workers.
- Fund county public defense systems to obtain and retain support staff at the recommended attorney-to-staff ratios.

The state should **provide attorney recruitment and retention support, particularly for rural counties:**

- Create incentive programs to encourage new lawyers to choose rural public defense careers.
- Fund public defense in a manner that ensures baseline levels of support for small and rural jurisdictions.

To assess public defense workloads and staffing sufficiency, **the state must regularly collect reliable data on public defense.** At present, the state collects some staffing data from counties with public defender offices, but no staffing data from counties relying on contract or assigned counsel public defense systems. And the state collects no data at all on public defense caseloads. To better understand and assess California's public defense systems, the state should regularly collect data on public defense services from all counties:

- Require counties to submit annual public defense plans that detail how the county provides defense services and reports staffing levels.
- Provide funding to increase data collection capacity and enable compliance with data reporting requirements.
- Increase the data reporting requirements over time to include caseloads by case type categories.
- Make aggregated data available to the public.

State funding is critical to improving California's overburdened and under-resourced public defense systems. Many states provide all or almost all funding for public defense services. Even other large states that delegate the provision of public defense services to counties provide substantial resources in each budget cycle to support this core constitutional right. California is virtually alone among states in failing to provide regular, annual state funding for trial-level public defense services. Absent regular state support, California's county-based public defense programs will remain unable to meet any standards designed to ensure appropriate public defense staffing and attorney workloads. **Only regular, stable, and substantial state funding can ensure that the effective assistance of counsel is available to all throughout California.**



# Background and Introduction

The Sixth Amendment provides that “[i]n all criminal prosecutions, the accused shall . . . have the Assistance of Counsel for his defence.”<sup>19</sup> In 1963, in *Gideon v. Wainwright*, the Supreme Court recognized that “[e]very defendant [should] stand equal before the law . . . [but] this noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer[.]”<sup>20</sup> In *Gideon*, the court held that the Sixth Amendment requirement that counsel be provided to those accused of crimes who could not afford to hire private counsel applied to the states under the Fourteenth Amendment.<sup>21</sup> The Sixth Amendment thus requires the state to appoint a lawyer for any accused person who cannot afford to hire an attorney.<sup>22</sup>

## Public Defense in California

California was an early leader on the right to counsel. Indeed, California established the right to counsel more than 90 years before *Gideon v. Wainwright*.<sup>23</sup> As early as 1872, California law guaranteed appointed counsel for accused people who could not afford an attorney.<sup>24</sup> However, these appointed lawyers were not paid,<sup>25</sup> and their appointments were ad hoc; judges often appointed any attorney who happened to be in the courtroom, regardless of their experience.<sup>26</sup>

In 1893, Clara Shortridge Foltz, California’s first female attorney, called for a professional indigent criminal defense bar.<sup>27</sup> She noted that appointed lawyers “have no money to spend in an investigation of [a] case, and come to trial wholly unequipped either in ability, skill or preparation to cope with the man hired by the state.”<sup>28</sup> She proposed that “[f]or every public prosecutor there should be a public defender” – a professional with training and cultivated expertise, devoted to their client’s best interests.<sup>29</sup> In 1913, Los Angeles established the first public defender office in the country.<sup>30</sup> Several other California counties followed suit and established public defender offices during the first half of the twentieth century.<sup>31</sup>

When *Gideon* mandated that the states provide public defense counsel, the State of California delegated responsibility for providing public defense services to the counties.<sup>32</sup> In each of the state’s 58 counties, the Board of Supervisors decides how to provide public defense services.<sup>33</sup> Therefore the structure of public defense differs among California counties.

Traditionally, public defense services are delivered in one of three ways: a public defender office, an assigned counsel program, or a contract program.

- **Public defender office:** An office under the direction of a chief public defender, in which attorneys and support staff are government employees who receive government benefits. These offices specialize in public defense. They often provide their attorneys with training and mentorship, as well as access to support staff.
- **Assigned counsel program:** A program in which private attorneys are appointed on a case-by-case basis. Assigned counsel programs generally fall into two sub-categories: managed assigned counsel programs and unmanaged assigned counsel programs.
  - A *managed assigned counsel* (MAC) program has a program director – typically an experienced public defense lawyer – who assigns attorneys to cases. MACs often require attorneys to submit applications for participation and set lawyer-qualification standards for assignment to different types of cases. MACs also often provide attorney support akin to the support found in a public defender office, including in-house training and access to support staff such as investigators and social workers.<sup>34</sup>
  - In an *unmanaged assigned counsel program*, lawyers are typically assigned by a judge or a county official, often on a rotational or random basis.
- **Contract system:** A program in which the government contracts with one or more lawyers or law firms to provide public defense services.

Each California county relies on one of these program types as a primary means of providing public defense services. However, conflicts of interest generally prevent a primary public defense provider from accepting all public defense cases. To address these conflicts of interest, most jurisdictions must have multiple public defense programs.

## Conflicts of Interest

When a public defender's ethical duties to one client interfere with their ability to provide unbiased legal representation to another, they have a conflict of interest. Common conflicts include representing co-defendants, having represented a former client with interests adverse to a current client, or having a personal relationship with an involved person. When a conflict prevents the primary public defense program from accepting a representation, the representation must be assigned to a conflict public defense program.

In many California counties, it would be difficult for a casual observer to discern the type of public defense program. In some counties, a law firm contracts with the county to provide public defense services but calls itself a public defender office.<sup>35</sup> Similarly, it can be almost impossible to distinguish unmanaged assigned counsel programs from contract programs. Often the county has a contract with individual attorneys, but they are assigned or accept appointments on a case-by-case basis like assigned counsel.

## Primary Public Defense Systems<sup>36</sup>



Thirty-four California counties use a public defender office as their primary public defense provider.<sup>37</sup>

Two counties (Sutter and San Mateo Counties) use a managed assigned counsel (MAC) program as their primary public defense system.

Twenty-two California counties rely on contract or unmanaged assigned counsel programs to provide primary public defense services.<sup>38</sup> Most of these counties contract with individual lawyers or law firms to provide public defense services. Other counties maintain a list of attorneys who accept appointments on a case-by-case basis.<sup>39</sup>

## Conflict Public Defense Systems



Most counties have at least one additional system for delivering conflict representation. However, because each attorney in a MAC operates independently, counties that utilize a MAC for their primary public defense system generally do not need a separate conflict program. Accordingly, neither San Mateo County nor Sutter County have conflict public defense programs.

Twelve counties that use a public defender office of their primary public defense system also use a public defender office for conflicts. Los Angeles and El Dorado counties have two separate public defender offices – a primary office and a separate conflict office. In the remaining 10 counties, the public defender office has a conflict division, which is overseen by the chief public defender and is, for budget purposes, a part of the primary public defense office.<sup>40</sup> In some of these counties, the public defender office has multiple conflict divisions.<sup>41</sup> In others, the county also has a contract or assigned counsel program for cases in which both the primary and conflict public defender offices or divisions have conflicts.<sup>42</sup>



Five counties use MAC programs for conflict cases. In some counties, the bar association administers the MAC.<sup>43</sup> In others, the program administrators are county employees.<sup>44</sup>

## **The State of California's Role in Public Defense**

Most states provide funding for public defense, even when public defense is administered at the county level. But, historically, the state of California has played almost no role in supporting the county-based public defense systems. This makes California an outlier among states. Most states also set standards to ensure that the public defense services provided meet ethical and constitutional requirements. Again, California is an outlier. In the absence of state support or standards, California's county-based public defense systems vary widely, and there is significant evidence that many struggle to provide constitutionally sufficient services.

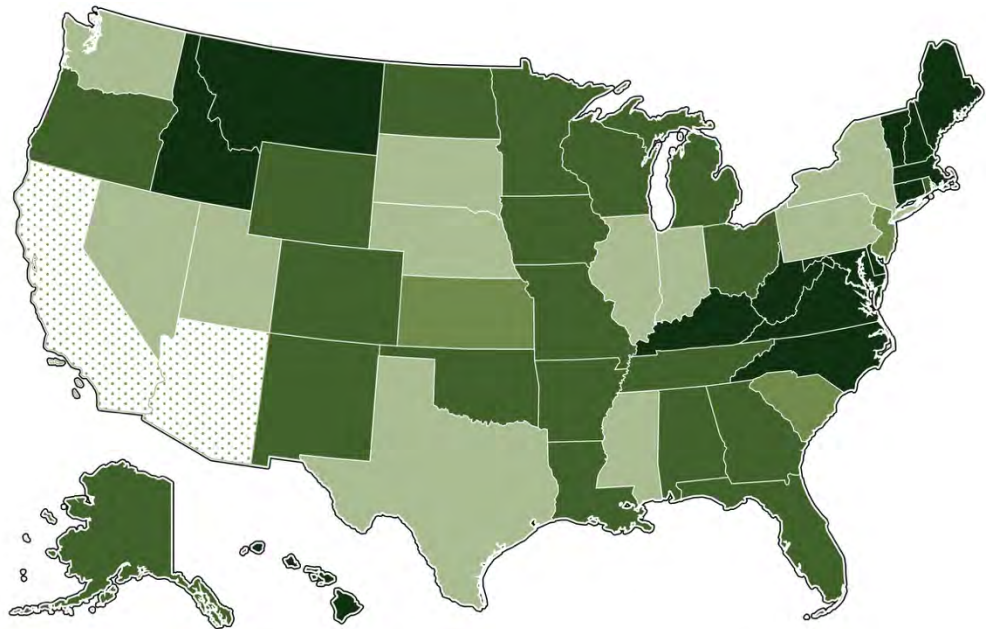
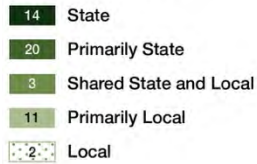
Until recently, California provided little to no funding for trial-level public defense services. In 2016, the ACLU of Northern California sued the state of California and Fresno County, alleging a systemic failure to provide constitutionally sufficient public defense services.<sup>45</sup> In 2020, the state settled the Fresno lawsuit and agreed to provide some ongoing non-financial support to county-based public defense systems.<sup>46</sup> The same year, the Legislature authorized a one-time grant program that distributed just under \$10 million to small and medium-sized counties to support public defender offices.<sup>47</sup>

Historically, the state also provided no substantive support or guidance to county-based public defense systems to ensure constitutionally adequate representation. Nor did California collect data on how public defense was provided at the county level. The California Legislature also recognized how little information it has about county-based public defense systems. In 2022, the Legislative Analyst's Office produced a report on public defense in California.<sup>48</sup> The LAO observed:

*The state lacks comprehensive and consistent data that directly measures the effectiveness or quality of indigent defense representation provided across the state. This makes it difficult for the Legislature to assess the specific levels and effectiveness of indigent defense being provided across counties.*<sup>49</sup>

Unlike California, most states provide significant funding for public defense services. In a majority of states, the state is the primary source of funding for public defense.<sup>50</sup> States that directly administer public defense, such as Montana and New Jersey, typically provide most, if not all, of the funding. But even where public defense is organized on the county-level, most states provide significant funding to support those county-based systems. California is one of only two states that contribute almost nothing to trial-level public defense services.

### What level of government pays for public defense?

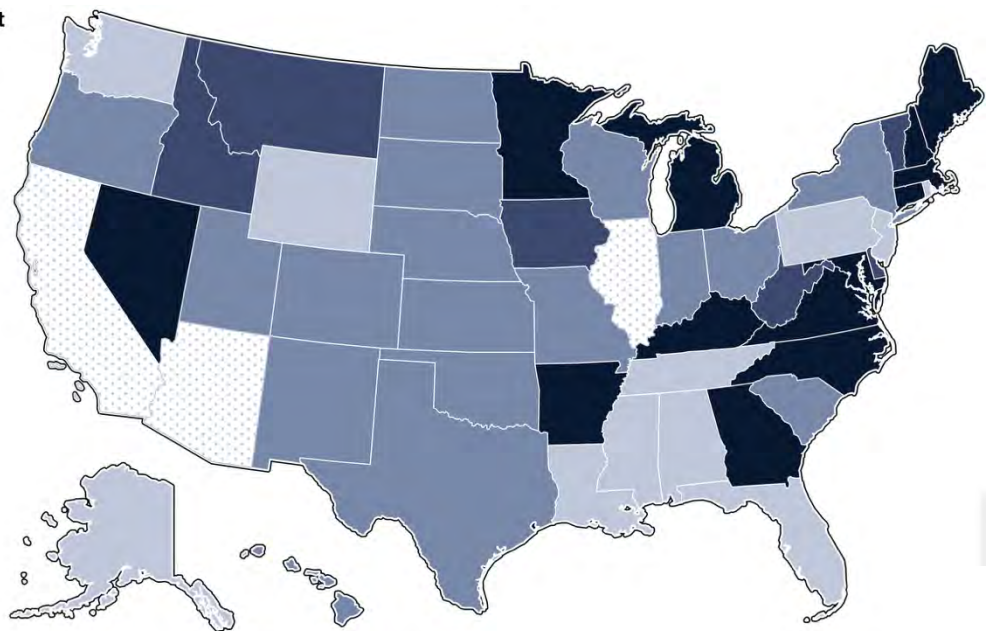
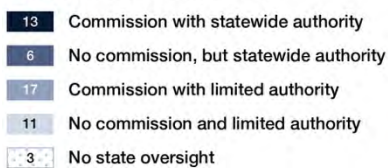


**6AC** SIXTH AMENDMENT CENTER

Source: Sixth Amendment Center (6AC), [www.6AC.org](http://www.6AC.org). 6AC is a national nonprofit nonpartisan organization that provides technical assistance to governments on ensuring the Sixth Amendment right to counsel.

California is similarly an outlier in its failure to ensure that public defense services meet minimum levels of quality. Forty-seven states establish and administer standards for public defense services. Only three states have no statewide system of setting standards. California is one of those three states.<sup>51</sup> Thirty-three states have a statewide public defense commission that establishes standards.<sup>52</sup> In other states, an office with statewide authority establishes standards.

### To what extent does state government set and enforce standards?



**6AC** SIXTH AMENDMENT CENTER

Source: Sixth Amendment Center (6AC), [www.6AC.org](http://www.6AC.org). 6AC is a national nonprofit nonpartisan organization that provides technical assistance to governments on ensuring the Sixth Amendment right to counsel.

## The Illinois FAIR Act

At present, Illinois is one of the two other states that – like California – have not adopted standards for public defense. In 2025, the Illinois Legislature passed the Funded Advocacy and Independent Representation (FAIR) Act. The FAIR Act creates a public defense commission and requires that the commission adopt “standards for the trial-level public defense to guarantee the right of indigent defendants to the assistance of counsel as provided under the Sixth Amendment of the United States Constitution. The standards shall include, but are not limited to:

- (1) maximum workload standards for felony, misdemeanor, traffic, juvenile, and post-conviction cases . . .
- (2) minimum staffing levels for non-attorney staff, such as investigators, mitigators, social workers, and administrative support staff[.]”<sup>53</sup>

In 2021, California began to provide some support for counties when it funded the Indigent Defense Improvement Division (IDID) in the Office of State Public Defender.<sup>54</sup> The IDID began operations in 2022. In its first three years, IDID gathered critical information on county-based public defense systems and issued important guidance on ensuring constitutionally adequate public defense. But California still does not provide stable, substantial financial support, set standards to ensure that all county public defense systems meet constitutional standards, or regularly collect public defense data.

In the absence of robust state support, the quality of California’s county-based public defense programs varies widely.<sup>55</sup> Significant public evidence suggests that several California counties struggle to deliver quality public defense services. Following the 2016 ACLU lawsuit against the state of California and Fresno County,<sup>56</sup> similar lawsuits alleging systemic deficiencies in public defense services were filed against two other California counties.<sup>57</sup> Since 2022, outside evaluations of five different counties have documented significant concerns with regard to public defense services.<sup>58</sup> California news outlets frequently report on problems with public defense attorney availability and workloads.<sup>59</sup> These reports show that several counties have suffered significant public defense lawyer shortages, leading to grossly excessive workloads.<sup>60</sup>

There are undoubtedly public defense providers in California with exceptional programs.<sup>61</sup> But where some programs shine, others often struggle. Take, for example, compliance with *Padilla v. Kentucky*, which requires public defense providers to advise their clients of the potential immigration consequences of a criminal conviction.<sup>62</sup> Several California public defense programs have attorneys with immigration expertise who can consult with trial attorneys to ensure that they provide their clients with specific and accurate immigration advice.<sup>63</sup> But other programs have no access to immigration attorneys and struggle to provide this advice.<sup>64</sup>

# The AB 625 California Public Defense Workload Study

To better understand public defense workloads in California, in 2021, the Legislature passed AB 625 (Arambula), authorizing “the State Public Defender, in consultation with the California Public Defender Association and other subject matter experts, [to] undertake a study to assess appropriate workloads for public defenders and indigent defense attorneys and [to] submit a report with their findings and recommendations to the Legislature.”<sup>65</sup> The Legislature funded the study in the FY 2022-23 budget.

The Office of the State Public Defender (OSPD) engaged a facilitator to survey stakeholders including the California Public Defender Association (CPDA) to ensure that the Request for Proposals (RFP) reflected the concerns and expertise of the public defense community. At that time, the National Public Defense Workload Study (NPDWS) was scheduled for publication. The NPDWS established national public defense workload standards in the form of numeric case weights (hours per case) for adult criminal cases. To avoid unnecessary duplication with the NPDWS and to provide the most value to the state, the RFP requested that the California workload study look beyond setting hours per case metrics. Instead, it directed that the study should, to the fullest extent possible, document existing conditions, assess those conditions against ethical rules and practice standards, and recommend how public defense providers should be staffed to meet modern workload demands.

In 2023, OSPD selected the Deason Criminal Justice Reform Center at the SMU Dedman School of Law (Deason Center) to conduct this study. Located in Dallas, Texas, the Deason Center is a nonpartisan center for criminal justice research and advocacy. Launched in 2017, the Center conducts, supports, and disseminates research with practical implications for criminal justice reform. It also educates about criminal justice issues and advocates for best practices. The Deason Center’s work focuses on the Sixth Amendment right to counsel, the operation of rural criminal courts, and the use of prosecutorial charging discretion. Deason Center faculty and staff are nationally recognized experts on public defense workloads.

## Summary of Methodology<sup>66</sup>

The Deason Center team began by conducting a comprehensive review of literature on public defense services in California. The Deason Center team gathered and reviewed existing public defense data as well as relevant court decisions, law review articles, and other published materials. The Center’s team also reviewed lawsuit filings and reports from news agencies, civil grand juries, and outside evaluators.<sup>67</sup>

With advice from OSPD and the California Public Defender Association (CPDA), the Deason Center convened an Advisory Group to help guide the Center’s work. The Advisory Group included representatives of the public defense community – chief public defenders, directors of assigned counsel programs, line attorneys, and support staff members. The Group also included representatives of CPDA and the California Attorneys for Criminal Justice (CACJ), as well as criminal justice reform advocates,

advocates for impacted community members, and a representative of the California State Association of Counties.<sup>68</sup> The Advisory Group met four times over an 18 month period, providing input on site visit selection, focus group outreach, and preliminary findings. Additionally, the Deason Center team met bi-monthly with CPDA leadership.

The Deason Center conducted site visits to nine diverse counties across the state. On site, the team observed arraignments, preliminary hearings, motions hearings, trials, specialty dockets, and other criminal court proceedings. The team also interviewed primary and conflict public defense providers, including chief public defenders, program administrators, trial and specialty attorneys, paralegals, social workers, administrative assistants, and other specialty staff. In some counties, the team also met with county judges and administrators. The team devoted over 55 days to site visits, interviewing more than 180 administrators, supervisors, attorneys, and support staff.

The Deason Center also conducted 10 focus groups. The Center organized these focus groups by the participants' role in public defense, gathering groups of misdemeanor public defense attorneys, felony public defense attorneys, investigators, social workers, paralegals, and administrative personnel, as well as impacted people and their family members.

Additionally, the Deason Center administered a survey to chief public defenders, gathering data about their attorney and support staffing levels and their vacancy rates.<sup>69</sup> The survey asked respondents to evaluate the sufficiency of their staffing levels to address their current adult criminal caseloads. Additionally, the survey inquired about existing public defense data systems and collected information about defense providers' readiness to apply the National Public Defense Workload Study (NPDWS).

Based on the information gathered through the literature and data review, site visits, focus groups, and survey, the Deason Center prepared this report to:

- Document how public defense services are provided across California
- Describe public defense providers' workloads
- Assess public defense attorney sufficiency
- Evaluate the ability of California counties to apply the NPDWS
- Assess the causes of excessive workloads
- Evaluate the availability of critical public defense support staff
- Assess the data collection capacity of public defense providers

## **Evaluation Criteria**

This report evaluates California's county-based public defense programs against the right to counsel standards established by the United States Supreme Court and the California courts. These courts have held that the mere presence of an attorney is not



sufficient.<sup>70</sup> The state must supply competent counsel who provides reasonably effective assistance of counsel pursuant to prevailing professional norms.<sup>71</sup> Appropriate attorney workloads are at the heart of the state's ability to provide effective assistance of counsel. Without enough time to devote to their clients, public defense attorneys simply cannot undertake the tasks necessary to provide competent representation. For this reason, AB 625 and OSPD's Request for Proposals directed that this report focus on attorney workloads and key factors impacting attorney workloads, including public defense support staffing and attorney availability.

This study assesses California's public defense workloads, staffing, and practices against state and national standards, including ethical rules and practice standards, such as the California Rules of Professional Conduct (CRPC), the ABA Model Rules of Professional Conduct, and the ABA Criminal Justice Standards.<sup>72</sup> The report also looks to the ABA Ten Principles of a Public Defense Delivery System (Ten Principles).<sup>73</sup>

The Ten Principles are sometimes described as the "conditions precedent" to good public defense, as they specify the critical infrastructure a public defense system must have to provide effective assistance of counsel.<sup>74</sup> First adopted by the ABA in 2002, the Ten Principles provide "practical guid[ance] for governmental officials, policymakers, and other parties who are charged with creating and funding new, or improving existing, public defense delivery systems."<sup>75</sup> In 2023, the ABA updated the Ten Principles to reflect current defense practice.<sup>76</sup>

## Looking Beyond California

The report also evaluates California's practices against public defense practices nationwide. In comparing California to other jurisdictions, this report looks first to the most similar jurisdictions, including New York, Michigan, and Texas. Like California, these are large states that delegate the administration of public defense to the counties. Like California, these states have counties that vary in size, population density, and proximity to urban centers. And, like California, these states only recently began providing support for trial-level public defense funding.

- After a statewide report concluded that "New York's current fragmented system of county-operated and largely county-financed indigent defense services fail[ed] to satisfy the state's constitutional and statutory obligation" to deliver the right to counsel, the New York Civil Liberties Union sued the state.<sup>77</sup> In 2010, the New York Legislature created the Office of Indigent Legal Services (ILS) to support and disburse funding to county public defense systems.
- The Michigan Legislature created the Michigan Indigent Defense Commission (MIDC) in 2013 following both a lawsuit alleging inadequate public defense services and a statewide assessment that concluded that the state's indigent defense system failed to meet national or constitutional standards.<sup>78</sup> The

Legislature tasked MIDC with distributing state funding, establishing mandatory standards for public defense, and monitoring standards compliance.

- The Texas Legislature created the Texas Indigent Defense Commission (TIDC) in 2011 after a Task Force recommended increased state engagement to improve the quality of public defense services and data collection. TIDC is tasked with supporting and improving public defense in Texas's 254 counties.

Based on these evaluative criteria, the report makes recommendations on steps the State of California should take to ensure that public defense services meet constitutional standards.



# Public Defense Attorney Workloads<sup>79</sup>

To ensure a fair justice system, the Sixth Amendment requires that the state provide defense counsel for anyone facing incarceration who cannot afford to hire an attorney.<sup>80</sup> Merely having a defense lawyer present in the courtroom does not satisfy an accused person's right to counsel. The Constitution requires that defense counsel provide "effective assistance" under "prevailing professional norms."<sup>81</sup> To define these norms, courts routinely look to both ethical rules and professional practice standards.<sup>82</sup> Both require lawyers to be diligent and thorough. Both also require lawyers to perform key tasks, including communicating with their clients, reviewing the prosecutor's evidence, and investigating each case.<sup>83</sup>

When a lawyer has too many cases, they cannot meet their required obligations for at least some of their clients.<sup>84</sup> An excessive workload forces attorneys to focus on the most serious case or the next trial, while delaying critical investigation and litigation in other cases. Without enough time to effectively represent all of their clients, public defense attorneys are unable to fulfill their systemic roles as a check on the power of the police and prosecution and a guarantor of accuracy and due process in criminal adjudication. Excessive workloads thus not only severely impact clients but also threaten the reliability of the criminal legal system.

During site visits, focus groups, and surveys, California's public defense attorneys almost universally reported that they are burdened by excessive workloads. Many described their workloads as "overwhelming" or "crushing." Attorney workload standards help jurisdictions and public defense systems understand how many lawyers they need to provide constitutional representation. The best available data strongly suggest that the caseloads of most California public defense attorneys far exceed nationally recommended workload standards. At these reported workload levels, these lawyers simply cannot do all that their job requires. As a result, public defense attorneys across California resort to triage – skipping or delaying critical work for some clients to focus on other clients' cases.

Chief public defenders and public defense program administrators are aware of the excessive workloads and the resulting triage. Many have applied national workload standards and concluded that they need far more attorneys to effectively represent their current clients. Others lack the data needed to effectively conduct a workload analysis.

## The Duties of Public Defense Attorneys

A criminal defense attorney must do more than simply stand by their client's side. Both the California Rules of Professional Conduct and the ABA Model Rules require attorneys to provide competent and diligent representation.<sup>85</sup> CRPC Rule 1.1 states that "[a] lawyer shall not intentionally, recklessly, with gross negligence, or repeatedly fail to perform legal services with competence."<sup>86</sup> According to the Model Rules, competence requires not only legal knowledge and skill, but also the "thoroughness" and "adequate preparation" that are "reasonably necessary for the representation."<sup>87</sup> Under CRPC Rule 1.1(b), diligence requires a lawyer to "act[] with commitment and dedication to the interests of the client."<sup>88</sup> A diligent lawyer "does not neglect or disregard, or unduly delay a legal matter entrusted" to them.<sup>89</sup> As the ABA explains, diligence also means that a "lawyer's workload must be controlled so that each matter can be handled competently."<sup>90</sup>

Representing someone with competence and diligence requires time to undertake all critical attorney tasks.<sup>91</sup> These tasks are set out in the ethical rules and national practice standards. They include:

- Interviewing a client<sup>92</sup>
- Seeking a client's release from custody (if necessary)<sup>93</sup>
- Communicating regularly with a client<sup>94</sup>
- Reviewing the prosecution's evidence<sup>95</sup>
- Investigating the facts<sup>96</sup>
- Researching the law<sup>97</sup>
- Identifying and consulting with expert witnesses (if necessary)<sup>98</sup>
- Filing appropriate motions<sup>99</sup>
- Preparing for and attending court hearings<sup>100</sup>
- Negotiating with prosecutors<sup>101</sup>
- Promptly conveying all plea offers to the client<sup>102</sup>
- Advising a client on collateral consequences of a potential conviction<sup>103</sup>

Defense attorneys must perform these tasks in every case – regardless of whether the case proceeds to trial or is resolved with a plea agreement.<sup>104</sup> In trial cases, defense counsel has additional obligations, including preparation for *voir dire*, opening statement, presentation of evidence, examination and cross-examination of witnesses, and closing argument.<sup>105</sup> If a client is convicted, whether as part of a plea agreement or after a trial, the defense attorney must also prepare for sentencing, including by investigating and presenting mitigation evidence.<sup>106</sup> California's sentencing scheme heightens the importance of this sentencing advocacy.<sup>107</sup>

## Law Changes Have Increased Public Defense Workloads

Modern law enforcement and prosecution practices have increased the work required to effectively represent a client facing even simple criminal charges. Exponential increases in the use of digital evidence (social media, phone data), camera-based evidence (body cameras, traffic cameras), and scientific evidence (lab tests, ballistics, DNA) demand exponential increases in the time defense lawyers spend on investigation and preparation.<sup>108</sup> Changes in criminal law and procedure have also increased the temporal demands on public defense attorneys. For example, California's complex sentencing procedures require that a lawyer conduct detailed mitigation investigation.<sup>109</sup>

Recently, changes in California law have compelled public defense attorneys to take on several new types of cases, as well as to consider new types of case resolutions. These reforms benefit clients and communities, but they also substantially increase the work and responsibilities of California's public defense attorneys.

**Mental Health Diversion:** In 2023, the California Legislature expanded eligibility for pretrial mental health diversion.<sup>110</sup> The attorney work associated with seeking mental health diversion is significant. Defense attorneys must assess each client for qualifying mental health conditions and arrange for professional mental health evaluations. Often they must also secure treatment for their clients. If the court allows the client to participate in the diversion program, the attorney must continue to represent them and monitor progress toward successful completion. And if the client is not approved for diversion or the diversion program is not completed, the attorney may still have to prepare the case for trial.

**Immigration Consequences:** In 2010, in *Padilla v. Kentucky*, the United States Supreme Court held that defense attorneys must advise non-citizen clients regarding their specific risk of deportation if they are convicted.<sup>111</sup> To provide individualized, accurate immigration advice to their clients, defense attorneys must regularly research the constantly evolving area of the immigration law.<sup>112</sup>

**Collaborative Courts:** Across California, courts have established collaborative courts, such as drug courts, DUI courts, domestic violence courts, mental health courts, veterans' courts, and Community Assistance, Recovery, and Empowerment (CARE) courts. These specialized courts require attorneys to spend extensive time researching, navigating, and securing appropriate client services. Additionally, collaborative court programs often extend the time a case is open, which may require defense attorneys to prepare for and attend status appearances, and to report on client progress, often for years.

**Post-Conviction and Resentencing Work:** California policymakers have created several new avenues for convicted individuals to return to court for possible resentencing. These include juvenile resentencing, felony murder



resentencing, and modifications for those sentenced under now-repealed sentencing enhancements.<sup>113</sup> Additionally, courts can resentence anyone whose sentence might have been different had recent sentencing reforms been in place at the time or whose circumstances warrant resentencing.<sup>114</sup>

**The California Racial Justice Act:** The California Racial Justice Act (RJA) provides that “[t]he state shall not seek or obtain a criminal conviction or seek, obtain, or impose a sentence on the basis of race, ethnicity, or national origin.”<sup>115</sup> The RJA applies both prospectively – allowing the defense to raise the issue of racial bias in current prosecutions – and retroactively – allowing challenges to prior convictions. Public defense attorneys must not only investigate and litigate RJA claims in their pending trial court matters, but also raise RJA claims for past clients. This RJA litigation is complex and laborious, often involving large amounts of data, extensive investigation, and heavy reliance on experts.

## The Obligation to Manage Public Defense Attorney Workloads

A lawyer who has too many cases cannot meet their constitutional and ethical obligations to provide effective representation to *each* client. They simply lack sufficient time to be competent and diligent in each case. They cannot regularly communicate with their clients or adequately prepare, investigate, negotiate, and litigate each case in a manner consistent with the State’s constitutional obligation to provide effective counsel.

Excessive workloads also create unethical conflicts of interest for public defense attorneys. California Rule of Professional Conduct 1.7(b) prohibits a lawyer from representing “a client if there is a significant risk the lawyer’s representation of the client will be materially limited by the lawyer’s responsibilities to or relationships with another client[.]”<sup>116</sup> Excessive workloads force lawyers to prioritize some clients above others: to provide effective assistance for some clients, the lawyer must sacrifice the duties they owe to other clients. For example, a lawyer might have to forego investigation of one client’s case so that they can adequately prepare for another client’s trial. This is precisely the type of concurrent conflict of interest that Rule 1.7 forbids.<sup>117</sup>

For these reasons, ethical rules and practice standards have long required public defense programs to limit their workloads:

- Comment 2 to the ABA Model Rule on Competency notes that a “lawyer’s workload must be controlled so that each matter may be handled competently.”<sup>118</sup>

- The ABA Ten Principles of a Public Defense Delivery System require that a public defense attorney’s workload “should be regularly monitored and controlled to ensure effective and competent representation.”<sup>119</sup>

In fact, the California Penal Code acknowledges that public defense attorneys cannot accept cases that create a conflict of interest.<sup>120</sup>

Because excessive workloads impinge on a lawyer’s ability to provide constitutionally adequate and ethically compliant representation, when workloads become excessive, a public defense program must take corrective action.<sup>121</sup> Corrective action can include curtailing new assignments or reassigning cases from overburdened attorneys.<sup>122</sup> If internal action is insufficient, a public defense program should take additional steps, including asking courts to curtail assignments or allow program attorneys to withdraw from cases.<sup>123</sup> California courts have long acknowledged both the public defense attorney’s ethical duty to control their workload and the importance of workload relief to ensure effective assistance of counsel.<sup>124</sup>

## Efforts to Establish Public Defense Workload Standards

The constitutional obligation to provide effective assistance of counsel includes an ethical obligation to limit public defense workloads. This leads inevitably to the question: how many cases are too many?

### 1973 NAC Workload Standards

In 1971, the United States Department of Justice established the National Advisory Commission (NAC) on Criminal Justice Standards and Goals to “formulate for the first time national criminal justice standards and goals for crime reduction and prevention at the state and local levels.”<sup>125</sup> In 1973, the NAC adopted workload standards for public defenders that quantified the maximum number of new cases that an attorney should accept each year (150 felonies per year or 400 misdemeanors per year).<sup>126</sup> For decades, the NAC Workload Standards served as the default standard for public defense attorney workloads nationwide.<sup>127</sup>

At the time of their release, experts and practitioners criticized the NAC standards for simply being too high.<sup>128</sup> They also criticized the standards for failing to use a rigorous methodology for calculating workloads and for relying upon an oversimplified assessment of case types.<sup>129</sup> For example, the felony caseload standard was criticized for treating homicide cases identically to a drug or theft case.<sup>130</sup>

The NAC standards are now more than 50 years old. They were developed before desktop computers, cell phones, DNA, and body-worn cameras. They neither reflect modern criminal defense practice nor account for the massive quantities of digital information defense lawyers must review.

## Weighted Caseload Studies

To more accurately quantify appropriate workloads, researchers developed weighted caseload studies.<sup>131</sup> The weighted caseload method looks to the specific requirements of public defense practice to produce more robust and accurate assessments of appropriate caseloads. Weighted caseload studies often use attorney surveys, jurisdictional data about case types, focus groups, and lawyer-timekeeping records, when available, to evaluate how much time attorneys need for specific case types.<sup>132</sup> Importantly, these studies seek to quantify needed time, not simply document time currently devoted to case work. For each case type, these studies establish a case weight – an average number of attorney hours needed to provide constitutionally adequate representation.<sup>133</sup> These case weights (or average hours needed) increase with case complexity. For example, a homicide has a higher case weight than a mid-level felony, such as a drug distribution case. The case weights can then be used to assess program staffing needs, as well as calculate annual workload standards.

Between 2005 and 2022, across the United States, 16 jurisdictions conducted 17 public defense weighted caseload studies.<sup>134</sup> These studies confirmed that the 1973 NAC standards were far too high for modern public defense practice.<sup>135</sup> They also demonstrated the importance of differentiating case types, particularly among felonies.<sup>136</sup> These studies place the appropriate annual workload for (non-capital) homicide cases at between 4-15 new cases annually<sup>137</sup> and the appropriate workload for low-level felonies at 40-70 new cases annually.<sup>138</sup>

## The National Public Defense Workload Study

In 2023, to develop new, more accurate national public defense workload standards, researchers reviewed these 17 jurisdiction-specific weighted caseload studies and conducted a national attorney survey, Delphi panel, and focus group.<sup>139</sup> The participants were experienced criminal defense attorneys from across the country. The panel of 33 attorneys included five attorneys from California.<sup>140</sup> From these data, the NPDWS establishes case weights for 11 adult criminal case types, ranging from low-level misdemeanors to life without parole (LWOP) felonies. These case weights are used to calculate staffing needs based on past or projected caseloads. They can also be used to monitor case assignments to avoid excessive workloads. The chart below shows the NPDWS case weights. The last column on the right shows the annual workload calculation from those case weights, *i.e.*, how many new cases an attorney can be assigned annually, provided that the attorney only accepts cases of that one case type.<sup>141</sup>

## NPDWS Standards<sup>142</sup>

Case Type	Case Weight (avg. attorney hours per case)	Annual Standard (new case assignments per year) <sup>143</sup>
<b>Felony-High-LWOP</b>	286.0	7
<b>Felony-High-Murder</b>	248.0	8
<b>Felony-High-Sex</b>	167.0	12
<b>Felony-High-Other</b>	99.0	21
<b>Felony-Mid</b>	57.0	36
<b>Felony-Low</b>	35.0	59
<b>DUI-High</b>	33.0	63
<b>DUI-Low</b>	19.0	109
<b>Misdemeanor-High</b>	22.3	93
<b>Misdemeanor-Low</b>	13.8	150
<b>Probation/Parole Violations</b>	13.5	154

The NPDWS findings demonstrate that public defense attorneys need significantly more time per case to effectively represent clients than was prescribed under 1973 NAC Standards.<sup>144</sup> This increase reflects the practical and legal realities of modern criminal practice. The NPDWS standards elucidate how public defense staffing and budgets must adapt to address these new realities.

## California Public Defense Attorney Workloads Are Often Excessive

The Deason Center's investigation demonstrates that excessive workloads burden most California attorneys providing trial-level adult public defense services. There are simply not enough public defense attorneys to handle California's large volume of cases and clients. As a result, too many cases are not investigated, too many clients are ignorant about the status of their cases, and too many cases languish before resolution. These delays impact not only public defender clients, but also victims. Public defense attorneys also suffer damaging negative effects, including anxiety and depression. When burnout forces these lawyers out of public defense practice, the workload crisis deepens.

In every interview and focus group with public defense attorneys, Deason Center researchers asked them to characterize their workloads as too low, about right, or too high. Across California's varied public defense systems, most public defenders, contract attorneys, and assigned counsel reported that their workloads were too high. Over and over again, interview and focus group participants described their workloads as overwhelming:

- "It is a crushing amount of cases, and I worry I'm not effectively representing everybody."<sup>145</sup>
- "[My] workload is so high, it's not personally and professionally sustainable."
- "I'm on like this rat race hamster wheel . . . I feel like . . . [I'm] constantly trying to catch up, I'm unable to give clients the time of day . . . it's like a frantic scramble."

Other attorneys described their workload as "unmanageable," "ginormous," and "too many to be able to handle properly."

### Caseload Definitions

Annual Caseload – The number of new cases assigned to an attorney in a year.

Open Caseload – The number of cases an attorney has open at a point in time.

While attorneys almost universally reported feeling overwhelmed by their workloads, few could reliably quantify their caseloads. When asked to report their current caseloads, many answered that they could not even provide an estimate. Several responded: "no idea."<sup>146</sup> Some attorneys could use their case management system (CMS) to look up their open caseloads.<sup>147</sup> However almost none could report how many new cases they were assigned in the last calendar year – the most common metric used to assess attorney workload.<sup>148</sup>

The NPDWS standards can be used to calculate an open caseload standard by accounting for the typical time-to-disposition of each case type.<sup>149</sup> To calculate the open caseload for each case type, a jurisdiction would multiply the NPDWS annual workload standard by the years to disposition typical for that case type. For example, the NPDWS felony-high-LWOP annual standard is 7 new cases per year. If the typical felony-high-LWOP case takes two years to resolve, the open caseload standard for felony-high-LWOP would be 14 open cases ( $7 \times 2 = 14$ ). Similarly, the NPDWS low-misdemeanor annual standard is 150 new cases per year. If the typical low-

misdemeanor case takes four months (1/3 of a year) to resolve, the open caseload standard would be 50 open cases ( $150 \times 1/3 = 50$ ).

Once the open caseload standard for each case type is calculated, the range of open caseloads standards across case types can be used to establish a blended open caseload standard for common case groupings, e.g., major felonies, felonies, or misdemeanors. An open caseload standard for felonies based on the NPDWS standards commonly falls between 20 and 40 cases.<sup>150</sup> Felony public defense attorneys in California reported far higher open caseloads.

- “I have over 90 [open] cases . . . but I would say 75 individual clients.”<sup>151</sup>
- “[M]y caseload was vacillating between about 80 and 120 [open] felony cases, which was probably somewhere between 60 and 80 clients for the last two years . . . and I’m high enough up that I have a couple [of] homicides. I have some life exposure cases.”
- “Currently [I have] like 40-42 clients. Maybe closer to 70-80 [open] cases. Five facing life: two murders, one attempted murder, two ‘three-strikes’ [cases].”

These caseloads all exceed the NPDWS standards. Consider, for example, the attorney above who was representing five clients facing life imprisonment. Those five cases alone constitute more than half of an annual attorney caseload (1,430 hours of work). That attorney also represents 35-37 other clients in 65-75 other cases, which would constitute nearly a full NPDWS annual caseload of low-level felonies (2,275 hours of work) or nearly two annual NPDWS caseloads of mid-level felonies (3,705 hours of work).

An open caseload standard for misdemeanors based on the NPDWS standards commonly falls between 40 and 80 cases.<sup>152</sup> Misdemeanor attorneys in California reported open caseloads that far exceeded these numbers:

- “I don’t have a great sense right now, [but] the last time we had run the numbers . . . I had, like, somewhere around 300 cases that were . . . set for trial.”
- In one county, one misdemeanor attorney had 454 open cases. Another misdemeanor lawyer in the same office had 214 open cases.<sup>153</sup>

One misdemeanor attorney reported that, in the first ten months of their public defender practice, they had been assigned to approximately 2,000 misdemeanor cases. This amounts to a caseload of approximately 2,400 misdemeanor cases per year. If this attorney worked eight hours per day, five days per week, 52 weeks per year (2,080 hours per year), that lawyer would have less than one hour to spend on each case.

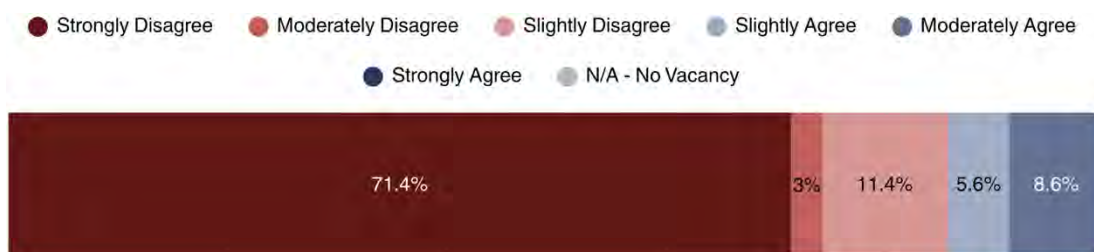


## Most California Public Defender Offices Do Not Have Enough Attorneys

Chief public defenders confirm that they simply do not have sufficient attorneys to handle their offices' current caseloads. An overwhelming 86% of chief public defenders disagreed with the statement, "The number of trial attorneys currently working in our office on our adult criminal caseload is sufficient to address our clients' needs." Seventy-one percent strongly disagreed.<sup>154</sup>

### Current Trial Attorney Staffing is Inadequate

*The current number of trial attorneys is sufficient to address our clients' needs*



While vacancies contribute to this shortage in some offices, the vast majority of chief public defenders (77%) report that either they do not have vacancies or that filling those vacancies would not solve the problem.<sup>155</sup>

Several California public defender offices have endeavored to apply the NPDWS standards to evaluate their current staffing levels. Approximately half of California's chief public defenders have applied the NPDWS case weights to their office caseloads.<sup>156</sup> Several reported that, because of data deficiencies, their analyses were incomplete or limited.<sup>157</sup> All but two offices reported that they would need additional trial attorneys to meet the NPDWS standards: one office did not report findings and the second was still in the process of collecting the data required to apply the standards.

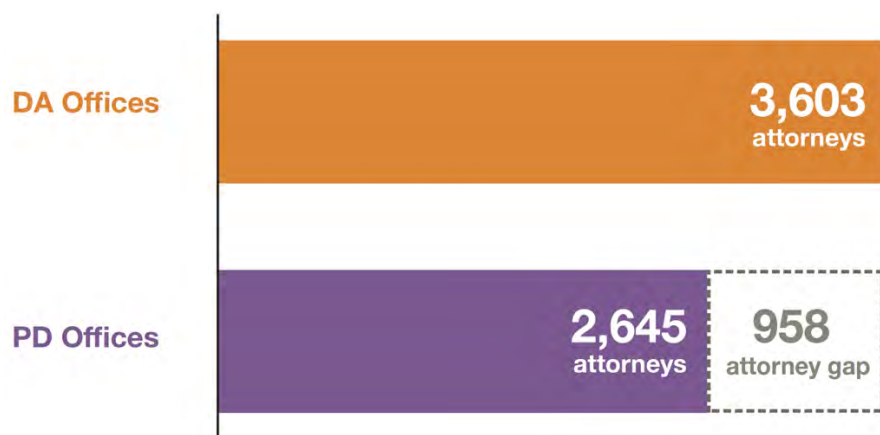
- Several offices noted that they would need to double their trial attorney numbers to meet the NPDWS standards.
- One office applied the NPDWS standards assuming that its attorneys would devote all of their hours to client representation, *i.e.*, spend no time on administrative work, training or general meetings and use no leave. That assessment revealed a need for 45% more attorneys. Properly accounting for vacation, sick leave, training, and administrative work would demonstrate an even greater need.
- Another office reported needing 22% more trial attorneys.

As one chief public defender explained, application of the NPDWS standards showed "that we are even more understaffed and underfunded than any of us realized. It is a startling disparity."

## California Public Defender Offices Have Far Fewer Attorneys Than Prosecutor Offices

Prosecution drives defense. When prosecutors have attorneys to bring criminal cases, public defense providers must have attorneys to defend against those charges. Yet in California, public defender offices have fewer attorneys than their district attorney counterparts.

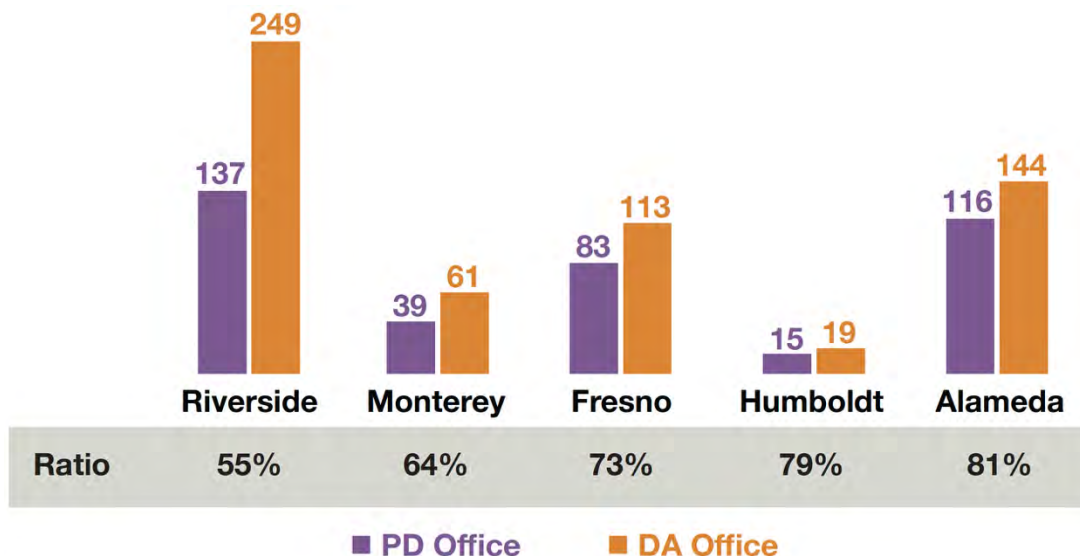
## California Public Defenders Are Understaffed Compared to District Attorneys



Data from 31 counties that report staffing data to California Department of Justice (2022)

The California Department of Justice regularly collects county-level data on criminal justice staffing, including the number of attorneys in every district attorney's office and public defender office.<sup>158</sup> The 2022 data show that attorney staffing in public defender offices was only 73% of attorney staffing in district attorneys' offices.<sup>159</sup> Five public defender offices (Merced, Napa, Riverside, San Bernardino, and San Joaquin) had less than 60% of the attorneys of their district attorney counterparts.<sup>160</sup>

## Attorney Staffing Comparisons (2022)



## Why Staffing Parity Matters

Public defense attorneys represent the vast majority of people accused of crimes (80-90%).<sup>161</sup> The public defense representation rate is often higher for people facing more serious charges, whose cases require more attorney time.<sup>162</sup> At the same time, a single prosecutor can litigate a case against multiple defendants accused of involvement in the same crime. However, conflict of interest rules require that each defendant have a separate defense attorney. In other words, a single case for the prosecutor may require multiple public defense attorneys. For this reason, the ABA Ten Principles call for the “parity of resources between public defense counsel and prosecution.”<sup>163</sup> Without attorney staffing parity, the defense cannot be the effective adversary needed to ensure the proper functioning of our justice system.

## Despite Excessive Workloads, Most Public Defender Offices Continue to Accept New Cases

Ethical rules require public defense programs to address excessive workloads, first by trying to reallocate cases internally, then by refusing to accept additional appointments, and finally, if necessary, by seeking to withdraw from existing cases.<sup>164</sup> California case law recognizes this duty to correct excessive workloads.<sup>165</sup> In their survey responses, however, only 20 chief public defenders reported that their office could refuse or suspend appointments due to excessive workloads.<sup>166</sup> Only seven reported that they sought to refuse cases or suspend appointments within the past 12 months.<sup>167</sup>

In focus groups and interviews, chief public defenders and attorney supervisors acknowledged that they avoid case refusal, despite knowing their attorneys have excessive caseloads. Several noted that declining new cases would lead to accused people either being represented by a local conflict program that, in their view, provided inferior representation, or going unrepresented.<sup>168</sup> Their concerns highlight real risks to accused people and the functioning of the legal system. But the result – that trial attorneys continue to labor under excessive workloads – is also deeply problematic.

Several chief public defenders also reported that refusing cases would be politically fraught, even if their attorney workloads were demonstrably excessive. Because their programs rely on their county’s Board of Supervisors for funding, these chiefs believed that refusing appointments would place them at risk of retaliatory action, such as budget reductions.

## Excessive Workloads Are Harming Public Defense Attorneys

For attorneys, the constant stress of managing excessive workloads causes physical and mental health issues, burnout, and family conflict. During the Deason Center's study, several public defense supervisors reported that at least one of their attorneys was out on medical leave attributed to stress. Many reported that, in recent years, several attorneys had taken similar leaves.

**“People burn out not because of the work, but because you don’t have enough time to work well.”**

**– A California public defense attorney**

Many attorneys reported routinely working 50-, 60-, or even 70-hour weeks. “I really do feel like I could work seven days a week, 24 hours a day, and not catch up,” said one public defense attorney. “I only have time for work and sleep,” explained another. Even when they leave the office, attorneys cannot leave the stress behind: “At night ... [I] find myself at home just constantly suffering about things I didn’t do, or reliving moments in court where I thought I messed up.”

Attorneys reported a wide variety of physical manifestations of stress, including:

- Anxiety
- Depression
- Dental problems resulting from tooth grinding
- Temporomandibular joint disorders
- Autoimmune disorders
- Hair loss
- Eczema and other skin problems
- Sciatica

Attorneys also reported low morale and high burnout rates. As one attorney explained, “It’s the stress, the chronic, everyday stress associated with representing clients . . . Then you add on top of that the psychological burden that you are never doing what really needs to be done on the case. You simply can’t do what you know needs to be done, and that eats your soul. It’s killing me, and I know I am not alone.” Other lawyers told the Center:

- “I am pretty burned out.”
- “It is hard to give everything your all when you don’t really have the time.”
- “I feel like I’m drowning and overwhelmed.”

## Attorneys with Excessive Workloads Cannot Adequately Represent Clients

Deason Center researchers asked California public defense attorneys how their workloads impacted their practice. No matter where they practiced or in what type of system they provided defense, most public defense attorneys had the same response: “triage.” Faced with crushing workloads and limited time, these attorneys focused their limited resources on what they perceived as the most critical priorities, primarily looming trial deadlines. Several attorneys analogized their practice to constantly fighting wildfires. As one attorney explained, “as soon as one fire’s out, another fire springs up. So, it’s very difficult ... to get to the things that aren’t on fire.” Another elaborated, “[y]ou are triaging. You are putting band-aids on everything.” One chief defender told the Deason Center:

*I worry that due to the crushing workloads, things are slipping through the crack[s]; motions that should be run are not; investigation that should be performed isn’t happening[.] . . . And clients suffer. I worry that clients are remaining incarcerated when they shouldn’t be, that while their defense is zealous, that only goes so far in light of extremely limited resources.*

Excessive workloads inevitably force lawyers to prioritize some clients over others. This often disproportionately impacts clients accused of lower-level offenses. As one attorney reported: “My low-level cases tend to get neglected because there’s just so much to do on the other cases that I might not call someone for two months or three months and do nothing on their case, which it’s not really fair to them. But you know, if they’re out of custody, and I have all these other these prelims and trials to do, in other cases, just can’t get to everything.” Disturbingly, these are the clients who are the most likely to receive dismissals or diversion if their attorneys had enough time to spend on their cases.

In some counties, attorney staffing reflects a more formal prioritization of higher-level cases. Offices assign more attorneys to felony divisions, and far fewer attorneys to handle misdemeanor cases. This requires misdemeanor attorneys to handle grossly excessive caseloads so that felony attorneys can have more reasonable caseloads. One senior felony attorney reported that misdemeanor lawyers in his office have between 150 and 175 open cases and “[i]t is killing them.” A misdemeanor open caseload of 150-175 cases is more than three times the national standard.

A misdemeanor attorney working in such a system explained: “I’m unable to plan for cases, like for farther ahead. So if a case gets set out, like a month or two out, I’m almost never going to think about it, because I’m not thinking about all the other cases that are on for next week, the week after, . . . until it comes back again, and it’s

like a frantic scramble to try to take care of that case again when it comes back around.”

For clients facing misdemeanor charges, these attorney workloads mean insufficient communication, inadequate investigation, reduced access to alternative dispositions, weaker motion practice, and an overall failure to provide the advocacy required by the California and United States Constitutions.

## **Reduced Client Communication**

Regular client communication is an essential component of ethical and effective representation. California ethical rules require that an attorney “keep a client reasonably informed about significant developments relating to the representation” and explain matters to the client in a way that allows the client to make informed decisions.<sup>169</sup> The ethical rules prioritize communication because regular and thorough client communication builds the rapport and trust necessary to provide effective representation. Without such trust, clients may be unwilling to rely on their lawyer’s advice or reluctant to share information essential to case preparation.<sup>170</sup>

A lawyer may need to meet with their client several times before that client is willing to share the critical information that can change a case outcome, such as the name of a potential witness, the evidence of an alibi, or a medical or psychological history or diagnosis. As one public defense attorney explained, “very often our clients don’t trust us, and they think we’re just ... part of the system. But the more time you spend with them and develop a relationship with them, the more they begin to open up and trust you and provide you with information that you can then use to help them.”

Once negotiations with the prosecution begin, an attorney must meet with their client to discuss any plea offer, making sure that the client understands the rights they would give up, the sentence they could receive, and the potential collateral consequences of that conviction. Trial preparation requires many more meetings.

During interviews and focus groups, many attorneys reported that their excessive workloads prevented them from having sufficient communication with their clients. This, in turn, hindered their ability to obtain positive outcomes.

- One lawyer reported that the greatest consequence of excessive workloads “is that I cannot communicate with my clients in a way that is remotely adequate. I do not have the chance to talk to my clients, let alone strategize with them and discuss case theory, witnesses, etc. I just don’t have time to meet with my clients long enough to develop rapport [and] trust and explore all the facts and possible defenses.”
- Another attorney explained why in-person client contact matters: “If you go to the jail and you sit down and you show [your client] the discovery, and you show them the pictures, and read through every report, maybe play them some



recordings ... I think they not only appreciate the evidence, but they understand why you think there's problems with the case. When you can print out for them the jury instructions ... look at what [the prosecution has] to prove; now let's look at the evidence. When you can physically show it to them, they get it ... I think they also see that you're actually on their side, and that you're prepared, and that you want to fight for them."

Attorneys reported that it was particularly difficult for them to maintain adequate contact with clients who were detained while awaiting trial. Jail visits often require long drives to correctional facilities. There attorneys endure long waits for limited visiting hours. Attorneys reported that, as a result, they visited their clients in jail less frequently than necessary and spent less time at each visit than they felt was appropriate.

To save time, some attorneys met with incarcerated clients via videoconference, which attorneys felt was less effective than in-person visits for building client-attorney relationships. One attorney noted that "video conference has evolved to become the default means of client interviews and that is a shame, because it doesn't lend itself to client rapport and trust . . . [but] I can't afford to take the time and run the risk of wasting a day driving up [to the jail] only to have my client on lockdown . . . and the entire rest of the day is wasted."

Participants in the Deason Center's client and family focus group described the lack of communication from public defense attorneys as a pervasive and critical problem. Several former clients said that their public defense attorneys had repeatedly failed to return their phone calls and had not communicated with them or their families after hearings. These former clients reported that they had only seen their lawyers in court, where they had just two or three minutes to speak with them before a hearing. Often, they had not understood what had happened in court and did not receive advice about what would happen next.

- The parent of a client facing a murder charge reported that their son only saw his attorney in court. The parent "could never get in touch with anyone or get any answers, even when they were picking a jury."
- One former client advised attorneys to "spend a little more time with the person, at least get to know the person's name. If you are going to represent them, get to know the person . . . at least the very basics. You shouldn't be confusing your clients."
- Another described being rushed by a busy attorney: "Having more time with the public defender would be nice. It seems like they are very limited on how much time to give each of us. It's very quick. So when you are not ready with your questions or you don't know what to ask, they are in and out within a few minutes . . . and there is no way of getting back to them to ask them these questions. . . . You feel like, all right, it's too late. Now who do I talk to?"

During court observations, the Deason Center team repeatedly saw evidence of inadequate client communication. During court proceedings, several clients complained about a lack of attorney communication, noting that they had not spoken with their attorney before the hearing.

## **Underuse of Alternative Disposition Programs**

California endorses diversion programs, collaborative court programs, and other alternative dispositions that can provide clients with services and reduce criminogenic behavior. By addressing the root causes of criminality and decreasing recidivism, these alternatives help clients and their communities. But excessive workloads often mean that attorneys lack the time to pursue these programs, even if their clients could be eligible.

Both lawyers and participants in Deason Center's client and family focus group agreed that public defense attorneys lack the time to pursue mental health or substance abuse evaluations, refer clients to treatment services, and advocate for alternative dispositions. Attorneys told researchers:

- "I'd like to be able to find more time to find and review my clients' school, psych, and medical records. Ordering them, litigating whether I can access them, and reviewing them - there's simply not enough time."
- Another lawyer noted that if they had more time, they would "work[ ] up my cases with the assistance of experts, especially psychiatrists. It takes too much time to get them appointed, so sometimes we don't have a chance."
- "My priority right now is to get my caseload down. I want to prioritize getting my clients into programs, but sometimes it does not work out that way because of the amount of work and time it takes to get that to happen."

## **Inadequate Factual Investigation**

To effectively defend a criminal case, the attorney must thoroughly understand the state's evidence and thoroughly investigate all possible defenses. When attorneys are forced to triage their cases, they frequently neglect investigation. One supervising attorney noted that the lawyers in their office "are so taxed, they can't do basic attorney functions, such as . . . investigations because there are simply too many cases and not enough time in the day." Without proper investigation, bad police practices persist. When lawyers overlook legitimate defenses and fail to present mitigation evidence, devastating mistakes occur.

When asked what they would do if they had more time to devote to their cases, numerous public defense attorneys reported that they would spend more time on investigation. But because of their excessive workloads, they rarely pursue any independent case investigation. They do not try to locate additional witnesses or find new evidence. Many also report that they do not visit crime scenes: "we often don't

have time to go out to the scene, you know, which is not good at all ... I had a serious case where it was in a parking lot, and [I got on Google Street View] gauging where this person was standing, versus where my client was alleged to have been.”

Body-worn camera and other video footage (e.g., from traffic cameras, retail surveillance cameras, or residential security cameras) pose a particular challenge for public defense attorneys. Video footage can reveal a client’s innocence or another party’s guilt.<sup>171</sup> It can reveal inconsistencies in police reporting that might produce impeachment at trial or capture police misconduct that could lead to dismissal.

Beyond its benefits in each individual case, regular review of police camera footage is also essential to ensure that dashboard and body-worn cameras serve their intended function and promote law enforcement accountability. When footage routinely goes unreviewed, the public resources invested in the purchase and use of body-worn cameras are wasted. Police misconduct goes undetected.

Many attorneys reported that, because of their caseloads, they did not have time to review critical body camera footage. Indeed, one chief public defender calculated that, over the past year, their office had received 620 hours of body camera footage per attorney. “Put another way, [each] attorney would have to work full time for over 15 weeks, just to review the footage.”

- “We need help reviewing body-worn camera video. It is incredibly hard in some cases to watch it all.”
- “[If I had fewer cases], I would spend more time reviewing bodycam video, location video, etc. . . . [W]e are overloaded with digital discovery. It can be dispositive in cases, so it is vital, but we need help doing it. There isn’t enough time in the day.”
- “Every single case basically now has like hours and hours and hours of body cam footage to watch. And there’s just so much more digital discovery, so much more for us to [do] if we’re going to be effective, to review to in order to be prepared.”

## Reduced Advocacy

Excessive workloads prevent attorneys from vigorously litigating on behalf of their clients. They cannot file motions, negotiate vigorously with prosecutors, or take cases to trial as often as is warranted. When public defense attorneys lack the time for zealous litigation, it increases the likelihood of error, jeopardizing the reliability of the entire criminal legal system.

“I’m not being the attorney I want to be.”

— A California public defense attorney

Motion practice can immediately change the trajectory of a case. A motion to suppress evidence may compel the prosecutor to dismiss the charges.<sup>172</sup> A motion to reduce a felony charge to a misdemeanor can drastically reduce a client's potential sentence and the collateral consequences of any conviction.<sup>173</sup> A motion for diversion can provide clients with treatment or enable them to perform community service in lieu of incarceration.<sup>174</sup> But public defense attorneys consistently reported that they were unable to devote adequate time to motions practice.

- “If I had the right number of cases,” said one attorney, “I would file five times the number of motions I currently file.”
- “There is simply not [enough] time to do the proper research and litigation.”
- “I am an effective writer and wish that I had more time to do basic written legal litigation such as filing motions, etc., but I simply don't have the time.”

Client and family focus group participants particularly highlighted their frustration over lawyers' failure to file motions for pretrial release. As a result, clients often remained in pretrial detention. Attorneys acknowledged that they did not revisit pretrial detention determinations or move for bail reductions as often as they should have.

Motions practice is not only critical to outcomes in individual cases, but also to justice system practices. When excessive workloads preclude defenders from filing motions to suppress, for example, unconstitutional police practices can persist without consequences.

The overwhelming majority of criminal cases are resolved by agreement. Even as attorneys need to file motions and prepare to go to trial, they also must negotiate on behalf of clients. In this negotiation, a defense attorney's job is to secure the most favorable plea deal possible. To do this, defense attorneys must marshal evidence and arguments in support of dismissal, treatment, charge reduction, or sentence reduction. Both investigation and vigorous motion practice enable defense attorneys to more effectively negotiate with prosecutors.

But overwhelming workloads inhibit vigorous negotiation and put pressure on both attorneys and clients to resolve cases as quickly as possible. Excessive workloads incentivize lawyers to encourage their clients to plead guilty rather than pursuing an alternative disposition or demanding a trial. One attorney admitted, “I know some of the clients suffer because my priority is to lower [my] caseload.” This workload pressure also gives prosecutors undue leverage in plea negotiations:

*Our lack of adequate staffing means that clients ultimately pay the price. The DA can make garbage offers because they know we are overwhelmed, and we have to dispose of cases to stay above water. If we had sufficient staffing and could prepare our cases for trial and actually go to trial, the balance of power would shift ... [but without that,] the one thing that gives is the client's welfare.*

Participants in the client and family focus group asserted that inadequate time with attorneys led them to agree to pleas without understanding the consequences.

- A family member described how a loved one accepted a misdemeanor plea offer without understanding the impact it would have on their employment or housing prospects.
- A former client noted that they had pled “no contest” without understanding that this plea was, in essence, a guilty plea. Only later did the client realize that their no-contest plea had resulted in a criminal record.
- A former client described being pressured to accept a plea deal at arraignment, before the lawyer had conducted any investigation.

Attorneys agreed that clients often confront a Hobson’s choice: accepting a disappointing plea deal or proceeding to trial with an ill-prepared lawyer. One attorney explained, “the stress of having that many life [imprisonment] cases just wears on you and it makes your dealings with some of the clients, unfortunately, ... you know, ‘plead or don’t plead.’ ... I don’t like being like that with people, but I think you tend to do that because you’re like, I gotta either figure this out or move on or set up a trial.” One client reported that their attorney did not present the plea offer as a decision for the client to make. Instead, the attorney said: “you are going to do this”.

## Recommendations

### **The state should limit public defense workloads and provide funding to ensure that county-based public defense systems can comply with workload limits.**

Across California, public defense attorneys are carrying excessive workloads. Without workload limits, they often triage cases – limiting their representation on some cases to conserve time for other cases. This triage jeopardizes the proper functioning of California’s justice system. It also places public defense attorneys at risk for professional discipline.<sup>175</sup>

California public defense attorneys need workload standards. The California ethical rules and court precedents are clear. Public defense attorneys must control their workloads. But, for understandable reasons, they often cannot. Chief public defenders and program administrators do not feel empowered to say no. They feel pressure from county administrators and from judges. They worry that saying ‘no’ will jeopardize both their offices budgets and their own careers.<sup>176</sup> But saying ‘yes’ to one more case – over and over again – has led many public defense programs to overwhelming overloads.

These workload limits must be accompanied by funding to ensure counties can comply with those limits. By setting limits and providing funding, California would lay the critical foundation – across all 58 counties – for constitutionally sufficient assistance

of counsel. Ensuring access to counsel who have appropriate time to investigate and litigate each case will, in turn, improve the functioning of California's justice system.<sup>177</sup>

*California should adopt public defense workload standards consistent with the National Public Defender Workload Study.*

In the two years since their publication, the NPDWS standards have been widely embraced by the legal community. The National Association for Public Defense, the National Legal Aid & Defender Association, the American Council of Chief Defenders, and the Black Public Defender Association have endorsed the NPDWS standards.<sup>178</sup> In June 2025, the Washington State Supreme Court ordered the adoption of NPDWS-based workload standards.<sup>179</sup> As noted above, several California public defense programs are already applying the NPDWS standards to evaluate their attorney workloads.<sup>180</sup>

California should formally adopt standards consistent with the NPDWS. A growing body of research demonstrates that public defense attorneys with more time get better outcomes for their clients. In one study, a single standard deviation increase in lawyer workloads increased both the likelihood of conviction and the length of any sentence.<sup>181</sup> Another study similarly found that higher caseloads led to higher sentences. “[S]hifting a [public defender] from the 25<sup>th</sup> to 75<sup>th</sup> percentile of their caseload nearly doubles the average sentence length.”<sup>182</sup> For all of these reasons, many states – including Michigan, Washington, and New York – have adopted public defense workload standards.<sup>183</sup>

Workload standards can also help the state and the counties to avoid litigation over public defense failures. Jurisdictions across the country, including several California jurisdictions, have been sued for failure to provide constitutionally adequate public defense.<sup>184</sup> Resolving this litigation frequently requires a state to establish workload standards. In 2018, the state of Nevada was sued over its failure to provide constitutional representation in rural counties. The state agreed to settle the lawsuit in August 2020.<sup>185</sup> The settlement required Nevada to “establish minimum standards for indigent defense.”<sup>186</sup> Since the settlement, a court-appointed monitor has overseen the state's compliance and produced 15 reports on the state's progress in adopting and implementing of workload standards.<sup>187</sup>

Public defense workload standards can be adopted through administrative rulemaking, legislation, or court rule. In Michigan, public defense standards were adopted through an administrative rulemaking process.<sup>188</sup> In New York, the Legislature adopted a bill empowering the Office of Indigent Legal Services to establish “numerical caseload/workload standards for each provider of constitutionally mandated publicly funded representation in criminal cases for people who are unable to afford counsel.”<sup>189</sup> Workload standards were adopted for New York City by court rule in 2010.<sup>190</sup> New York State has considered legislation that would codify workload standards.<sup>191</sup> In Washington State public defense standards were adopted by a Supreme Court rule.<sup>192</sup>



In adopting workload standards, California should establish an implementation time frame that allows sufficient time for public defense programs to establish internal data collection systems, measure their workloads, and hire additional attorneys as needed. New York gave counties five years to fully implement and adhere to caseload standards.<sup>193</sup> In Washington State, the Supreme Court allowed systems to take up to ten years to achieve full compliance, so long as they annually reduced caseloads by “at least 10% of the difference between the current standard and the new standard.”<sup>194</sup>

*The state should provide funding in each budget cycle to support county-based public defense systems to meet attorney workload standards.*

As this report comprehensively documents, many California public defense systems do not have enough attorneys to handle their county’s current caseload. Compliance with workload standards will inevitably require these systems to hire additional attorneys. Without state support, these counties simply will not be able to hire the lawyers needed to meet these standards. To help counties meet – and maintain – attorney workload standards, the state of California must provide regular funding for public defense.

As noted above, its failure to regularly fund public defense makes California an outlier. Even other states that delegate primary responsibility for administering public defense to counties commonly provide financial support for those county-based systems. And when such states have adopted workload standards, they also have funded county-based public defense systems to meet those standards.

For example, when New York applied workload standards statewide, the Office of Indigent Legal Services estimated that full implementation of the standards would cost \$250 million annually.<sup>195</sup> The state gave counties a five-year implementation timeline.<sup>196</sup> In 2018, the first year of statewide implementation, the state appropriated \$50 million to support this implementation [\$2.56 per capita].<sup>197</sup> In 2023, the fifth year of implementation, New York met the full commitment of \$250 million [\$12.66 per capita].<sup>198</sup> Similarly, in 2018, when Michigan began appropriating funds for distribution to local systems, the state provided a total of \$86.6 million [\$8.67 per capita].<sup>199</sup>

### **The state should require counties to maintain or increase their current public defense funding.**

To receive state funds, counties should, at a minimum, commit to supporting public defense at their current levels of local funding. In Michigan and New York this is a statutory requirement for the receipt of state funds.

- *New York State Finance Law § 98-b*: “State funds received by a county or city from such fund shall be used to supplement and not supplant any local funds which such county or city would otherwise have had to expend for the provision of counsel and expert, investigative and other services[.]”

- *Michigan Compiled Laws § 780.993(7): “[A]n indigent criminal defense system shall maintain not less than its local share.”*

Because it does not account for inflation, flat funding diminishes in value. When drafting its requirement that counties continue to fund public defense to receive state funds, California should consider requiring counties to increase public defense funding annually at a rate that accounts for inflation.<sup>200</sup>

### **The state should protect public defense providers who seek to comply with their ethical obligation to address excessive workloads.**

Chief public defenders fear retaliation if they seek to decline appointments to comply with their ethical obligations. In other states, chief public defenders have been fired for seeking to address excessive workloads.<sup>201</sup> California should encourage public defense program managers to ensure that their attorneys comply with their ethical duty to avoid excessive workloads, not dissuade them from doing so. In Texas, this protection is statutory.

In Texas, the code of criminal procedure explicitly states:

*A public defender’s office may not accept an appointment, if . . .*

*.*

*(2) The public defender’s office has insufficient resources to provide adequate representation for the defendant;*

*(3) The public defender’s office is incapable of providing representation for the defendant in accordance with the rules of professional conduct;*

*(4) The acceptance of the appointment would violate the maximum allowable caseloads established at the public defender’s office.<sup>202</sup>*

The code continues: “A chief public defender may not be terminated, removed, or sanctioned for refusing in good faith to accept an appointment[.]”<sup>203</sup>

The California Legislature recently passed legislation to protect chief public defenders from termination without cause; it is now awaiting the Governor’s signature.<sup>204</sup> For-cause protection helps to ensure that these public defense leaders can make decisions based on ethical considerations without fear of retaliation.<sup>205</sup> California should also adopt explicit statutory protections for chief public defenders, program administrators, and independent public defense providers who seek, in good faith, to address excessive workloads.

## **California should ban flat fee contracts for public defense services.**

In California, most public defense contracts are flat fee contracts; the county pays an attorney or firm a fixed amount to accept an unspecified number of cases. For example, a county might pay an attorney a fixed monthly fee to accept all cases assigned to a particular courtroom or a particular judge. Flat fee contract attorneys often have contracts with multiple counties, as well as accept private cases.

Flat fee contracts are incompatible with workload standards and raise significant ethical concerns. Flat fee contracts incentivize attorneys to spend as little time as possible on each case.<sup>206</sup> For this reason, several states have banned flat fee public defense contracts.<sup>207</sup> OSPD recently published the California Standards for Contract and Panel Defense Systems, which call for a ban on flat fee arrangements.<sup>208</sup> The California Legislature is currently considering a bill that would enact these standards and forbid flat fee contracts.<sup>209</sup> California should ban the use of flat fee contracts for public defense and ensure that all public defense program structures incentivize meaningful advocacy.

# The Impact of Non-Attorney Staff on Public Defense Attorney Workloads

Non-attorney support staff are essential to public defense attorneys. Support staff enable attorneys to represent clients more efficiently and effectively by performing critical work that does not require attorney training, such as filing paperwork with the court, making requests for records, drafting simple motions to compel discovery or extend time, and conducting initial reviews of discovery materials. This allows public defense attorneys to devote their time to attorney-specific work, including communicating with their client, reviewing critical discovery and investigation materials, drafting substantive motions, negotiating with the prosecutor, and preparing for and attending court hearings. Other non-attorney staff have specialized training, allowing them to perform critical tasks that attorneys cannot, including evaluating clients' mental health needs.

## Non-Attorney Public Defense Support Staff

- **Investigators** conduct factual investigations, including reviewing video and documentary evidence, visiting case-important locations, canvassing for witnesses, conducting interviews, and obtaining records and other evidence.
- **Social Workers**<sup>210</sup> assist clients in addressing mental, behavioral, and emotional problems. They also identify programs for client treatment or client assistance and facilitate client admissions.
- **Mitigation Specialists** investigate and compile a client's psychosocial history. They also draft reports to establish a client's eligibility for diversion or other programs and recommend and pursue alternatives to confinement.
- **Paralegals** conduct legal research and draft legal documents.
- **Administrative Assistants/Clerks** provide administrative support, including opening and maintaining files, entering data, monitoring court dockets and maintaining attorney calendars.

Practice standards have long recognized that support staff are critical to an attorney's ability to provide effective representation. In 1992, the ABA Criminal Justice Standards on Providing Defense Services stated, "[t]he legal representation plan should

provide for investigatory, expert, and other services necessary to quality legal representation.”<sup>211</sup> The Commentary emphasized that support staff are necessary not only for trial, but for “every phase” of the representation.<sup>212</sup> The 2023 ABA Ten Principles similarly emphasize that support staff are essential members of a public defense legal team: “Public Defense Providers should have the assistance of investigators, social workers, mitigation specialists, experts, and other specialized professionals necessary to meet public defense needs.”<sup>213</sup>

In 2020, the National Association for Public Defense (NAPD) published guidance on the attorney-to-support staff ratios necessary for effective representation.<sup>214</sup> In recommending these ratios, NAPD reviewed the practice standards applicable to public defense and drew on the experience of its public defender members.

## The National Association for Public Defense's Recommended Ratios for Support Staff



The Deason Center used the NAPD recommended staffing ratios as a starting place for evaluation. The Deason Center then assessed appropriate staffing ratios in California by examining existing staffing ratios, evaluating their sufficiency through site visit observations, interviews and focus groups with both attorneys and support staff, and surveying chief public defenders.

Most California public defender offices reported falling far short of the NAPD-recommended staffing ratios for investigators, social workers, and paralegals.<sup>215</sup>

- All but two offices had too few investigators.
- All but one office had too few paralegals.
- No office had enough social workers and several offices had none.

Overall, the support staffing in public defender offices was deficient when compared to stated needs, NAPD standards, and the current support staffing of county prosecutors.

In contract and assigned counsel programs, the scarcity of support staff was often worse. Attorneys in these programs usually must ask a judge for funds for an investigator or social worker. Several attorneys reported that judges often denied requests or granted far less support than needed. Further, lawyers in these contract and assigned counsel programs often had to pay for administrative and paralegal support out of their attorney fees. As a result, many did not have any administrative or research support.

Across all program types, attorneys reported needing additional paraprofessional support. In jurisdictions with support staffing that approached NAPD ratios, the need was less acute, except with regard to investigators. The immense amount of digital discovery, and the inability of even well-staffed programs to complete investigations, suggests that the need for investigators in California is even greater than the NAPD-suggested standards.

In the absence of adequate paraprofessional support, attorneys must complete work that could more appropriately and efficiently be completed by support staff. This only increases the already excessive workloads of California's public defense attorneys. Moreover, because attorneys are typically paid more than support staff, having lawyers perform non-lawyer work is a poor use of public resources.





## Investigators

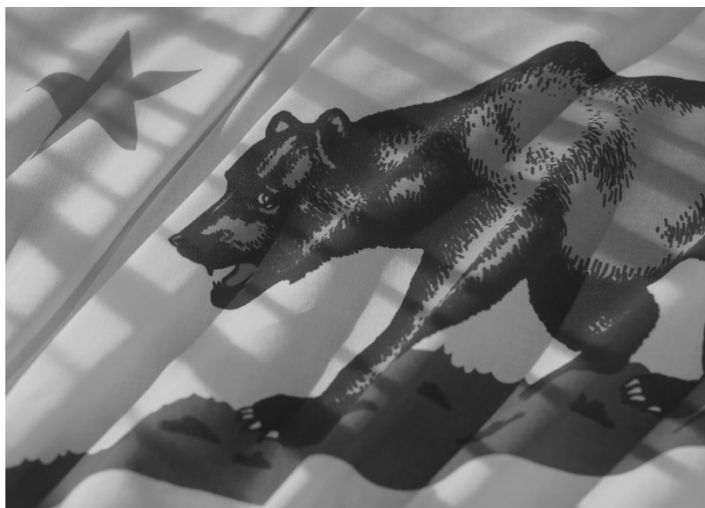
Investigators are instrumental in reviewing and developing the factual aspects of a criminal case. They find and interview witnesses, locate important evidence such as surveillance and security videos, review and summarize police and other video evidence, as well as cell phone and social media evidence, visit crime scenes, and identify, collect, and review relevant records. Investigators also serve subpoenas and coordinate witnesses' court appearances (e.g., scheduling, transportation). Many investigators are fluent in a second language; they also translate documents and communicate effectively with non-English speaking clients and witnesses.

A complete investigation is necessary to enable the attorney to evaluate the strength of the prosecution's case and the viability of any defenses.<sup>216</sup> One attorney observed, "It's ineffective assistance of counsel not to have an investigator on these cases. It's just not competent and it's not good work." Indeed, a 2009 California study concluded that failure to investigate was involved in nearly half of cases in which a court found ineffective assistance of counsel.<sup>217</sup>

Without investigation, an attorney cannot determine whether to recommend a plea, litigate motions, or try the case. As one investigator explained, "Basically, what we do is we gather the information and we present it to the attorney so that they can either tell their clients, 'Hey, we have a shot at doing this,' or advise them to take the best possible deal [in] the situation. So, either way, it's important that we do the work."

Another investigator noted the importance of completing an independent defense investigation. They described how, in one case, their investigation into the location of evidence undermined an element of the charge. The investigator summarized: "We are the check on the DA's office and the police department."

Importantly, investigators can also testify at a trial, describing whatever they saw or heard during an investigation.<sup>218</sup> As one investigator put it, "we're an integral part of the legal team. An attorney can't take a statement from a witness without becoming a witness in their own case. So, what I do allows them to do their job."



## Modern Criminal Defense Practice Has Increased the Need for Investigators

Technological developments have made public defense cases more complicated and time intensive. Today, even simple public defense cases can involve hours of video and audio recordings, and gigabytes of digital data.

**Video Footage:** Most people are familiar with police using dashboard and body-worn cameras to record interactions with suspects. But police now commonly record all parts of an investigation. This includes examinations of crime scenes and all witness interviews. These recordings promote transparency and police accountability, but they also frequently generate hours of video footage even in simple cases.<sup>219</sup>

**Jail Call Recordings:** Prosecutors often request recordings of the phone calls that clients make from jail. Once a prosecutor requests those recordings, a member of the defense team must also review them. Depending upon how long a client has been in jail, this may require listening to hours of phone recordings.

**Cell Phone and Digital Data:** In many cases, a defense team member must review information from a client's cell phone, such as location data, call and message records, and social media posts. Such information can easily establish an alibi that could exonerate the client. Importantly, whenever the prosecution requests such data, the defense must review it.

These increases in digital evidence have increased the importance of investigators in delivering effective public defense

Investigators often review the massive quantities of video and digital evidence in criminal cases. The volume of this evidence can require hours, days, or even weeks to review.

- One attorney reported receiving 482 gigabytes of data in one homicide case, and 982 gigabytes in another non-homicide case.<sup>220</sup>
- Another attorney noted, “[m]y average cell phone dump is a minimum of 10,000 pages, and I have no program that can weed through that and evaluate what might be relevant and what might not be relevant, or what's missing that might be relevant. You get the text, imaging, email, Instagram, direct messaging ... everything that has ever happened on that phone.”<sup>221</sup>
- One office calculated that it received about “620 hours of footage to review per attorney, per year.” Without investigator support, reviewing this material would require each attorney in the office to spend over 15 weeks just reviewing video footage.

Public defense investigators can conduct the first review this digital and video evidence to identify potentially important content and then share their insights with the attorney. The attorney can concentrate their review on the most relevant materials. Without investigative support to filter this massive amount of digital discovery, attorneys simply cannot effectively harness this information to benefit their clients.<sup>222</sup>

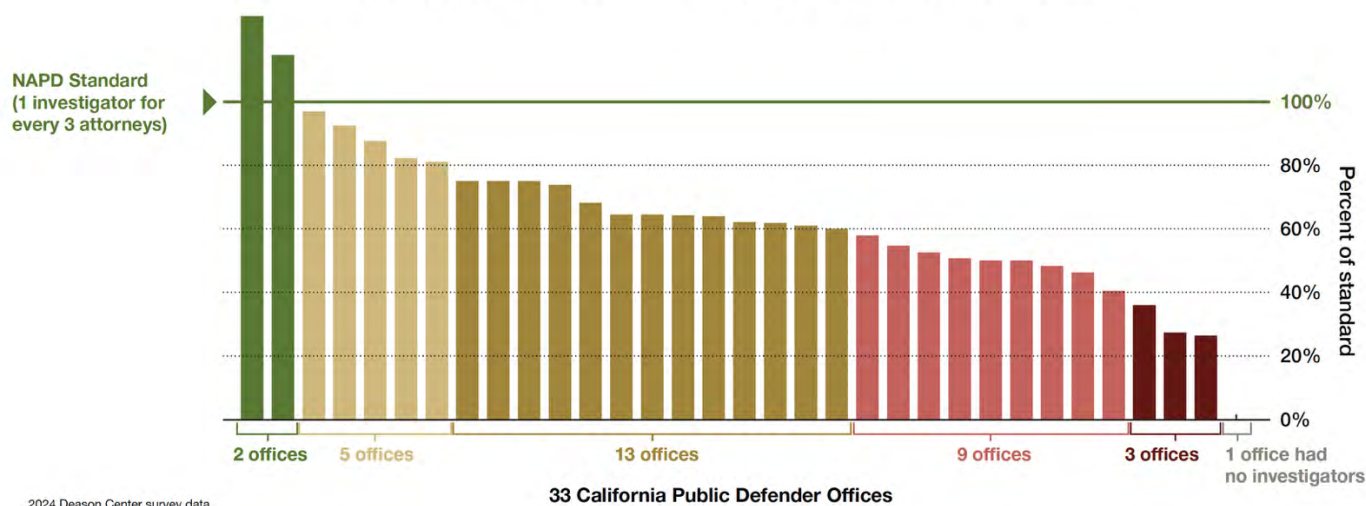
## Access to Investigators

NAPD recommends a minimum of one investigator for every three attorneys. Of the 33 public defender offices that reported and verified their 2024 staffing data, only two offices met the NAPD's recommended ratio.<sup>223</sup>

- One office had no staff investigators.<sup>224</sup>
- Twelve other offices had fewer than one investigator for every five attorneys (less than 60% the recommended ratio).
- Two of those offices had fewer than one investigator for every 10 attorneys (less than 30% the recommended ratio).

## Most California Public Defender Offices Don't Have Enough Investigators

Investigator to Attorney Ratio, by Public Defender Office



Line attorneys and investigators in public defender offices consistently reported that their investigator staffing levels were inadequate to meet their clients' needs.<sup>225</sup> Indeed, they repeatedly described rationing investigative services by prioritizing clients facing the most serious charges and delaying or limiting investigations for clients facing less serious charges.<sup>226</sup>

- “In my experience, there’s just not enough [investigators]. They don’t have time to do all the things, and I really pare down my investigation requests to the bare minimum. I would really like to have much, much more done ... [such as] subpoenaing different records, but in my experience [the investigators] don’t do it so I don’t request it.”
- “I oftentimes feel bad for the poor misdemeanor attorneys . . . we just have to say no to them all the time, because it’s like, ‘Hey, man, like, I’m working on a murder. I can’t put the brakes on a murder because you want me to go like, photo tire marks in, like, a DUI case where a guy’s exposure is literally nine days in jail or something, you know.’”
- “I know [the investigators] are overworked, and there are things ... where I have to explain to my clients why it can’t be done for four weeks just because they are so overworked.... They’re working above and beyond, and we [still] can’t get a lot of the investigations turned around that fast because they’re very backed up, because I don’t think we have enough investigators.”
- One investigator reported that they almost never have the capacity to assist misdemeanor attorneys: “We are always saying no to those guys.”

Simultaneous shortages of both investigators *and* attorneys undermine the collaboration required for effective representation. One attorney explained that defenders cannot “just . . . sit down and talk through a case with the investigators so that they’re aware where our head’s at in terms of what the defense theory might be. We just don’t have the time to meet with [the investigators]. They, for sure, don’t have the time to meet with us unless it’s like a conversation in passing as they’re on their way to do some other task. They’re overstretched because of the lack of bodies that they have. And we’re just as overstretched.”

In contract and assigned counsel systems, attorneys’ access to investigators differed greatly. At least one contract attorney system employed salaried investigators. Another hired investigators on a flat fee contract basis. However, most attorneys in these systems must ask a court for permission to hire an investigator. One attorney described consistently having to argue with judges about why they needed an investigator. Judges often denied their investigation requests because of cost considerations even in serious felony cases, including at least one case with a potential sentence of life in prison.

Recent OSPD reports confirm the extremely low use of investigators in contract and assigned counsel programs:

- In Kings County, attorneys requested investigators in only 7% of criminal cases between 2018 and 2022.<sup>227</sup>
- In Lake County, attorneys requested investigators in only 2% of criminal cases in a three-year period.<sup>228</sup>

Attorneys reported that even when courts approve investigator requests, they often limit the scope of the approval. They also require attorneys to submit a new request for any additional investigative work required. One conflict attorney noted that judges have increasingly placed strict limits on initial requests and then required attorneys to make a second request to expand the investigation.<sup>229</sup>

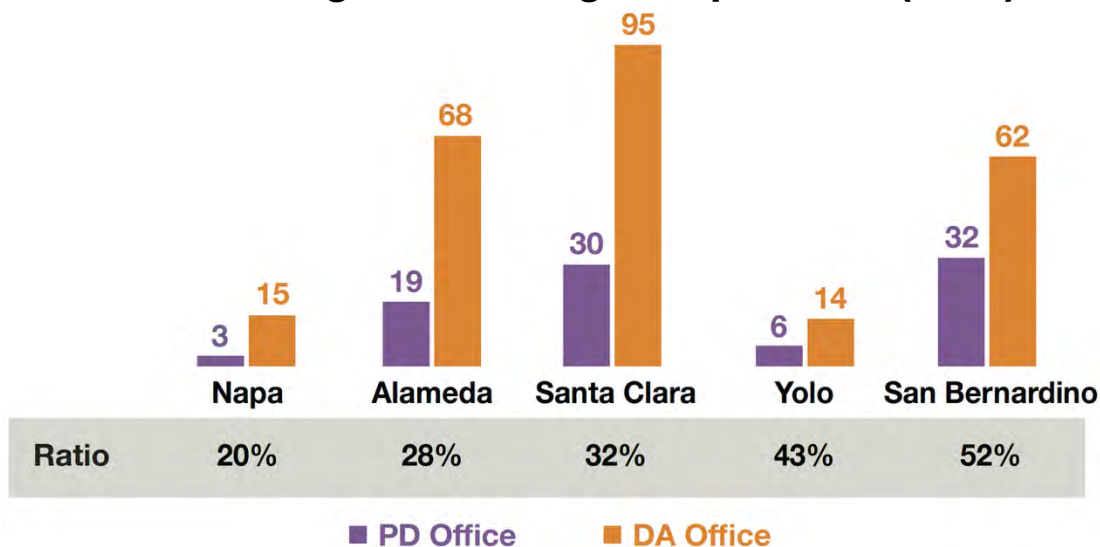
Other courts set structural limits on investigators' tasks. For example, in Los Angeles, court-appointed investigators may not perform any services in the courtroom except as a witness; they also cannot provide transportation or act as an escort for a witness.<sup>230</sup> In San Bernardino, appointed investigators may not prepare subpoenas or sort or index discovery materials.<sup>231</sup>

## Investigator Parity Between Public Defense and Prosecution

Prosecutors receive their cases from law enforcement agencies, which generally have already completed an investigation. Yet, prosecutors' offices also employ their own investigators. The work of these investigators is similar to the work performed by defense investigators. They review and expand upon the evidence from the police investigation, review video and digital evidence, locate and interview witnesses, visit crime scenes, serve subpoenas, and coordinate witnesses before hearings and trials. Yet public defense programs have far fewer investigators than their prosecutor counterparts.

In one county, the district attorney's office had nearly three times as many investigators as the public defender office. "The DA always has far more [investigator] resources," explained one attorney; "there should not be the disparity that we have." In a different jurisdiction, a contract attorney noted that their district attorney's office has a "massive investigator force" that immediately begins to work on every new case. Meanwhile, defense attorneys in that county must justify their investigator requests to a judge, which necessarily delays the investigation even if the request is granted.<sup>232</sup>

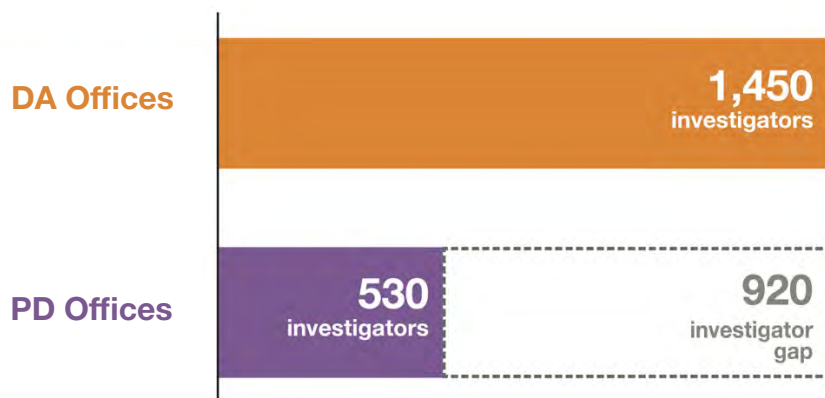
### Investigator Staffing Comparisons (2022)



Data from California Department of Justice (2022)

The staffing data collected by the California Department of Justice validate these disparity concerns. The 2022 data demonstrate that California public defender offices had only 37% of the investigators of their county district attorneys' offices.<sup>233</sup>

## California Public Defenders Have Far Fewer Investigators Than District Attorneys



Data from 31 counties that report staffing data to California Department of Justice (2022)

## Social Workers

Social workers, mitigation specialists, and other mental health specialists serve numerous functions on the defense team. Traditionally, social workers focus on the initial evaluation of the client, identifying their issues and needs, and connecting them with appropriate supportive programs. In contrast, a mitigation specialist investigates the client's psychosocial history to support the attorney's advocacy for alternatives to incarceration or reduced punishment. In many public defender offices, the distinction between these two functions is blurred, and professionals with one job title commonly perform both functions.<sup>234</sup> Because of the overlap in responsibilities and the variation in job titles, this report considers social workers, mitigation specialists, and other, related client assistance positions together and refers to them as social workers, as this is the term most commonly used in California.

Social work requires specialized skills and knowledge that fall outside of an attorney's professional expertise. As one attorney acknowledged, "I use [social workers] for a lot. If I have a client that I think is suffering from some sort of like drug addiction issues or health issues or both or trauma, I am not an expert on that end ... so I defer to [social workers] to conduct or coordinate conduction of evaluations or anyone connected with rehabilitative services like ... mental health placement."



## Social Workers Play Important Roles at Several Stages of Criminal Cases:

- **Pretrial Release:** For some clients, a social worker's involvement can make the difference between pretrial detention and pretrial release. "[Our county] really doesn't let people out of custody unless you have a place to go," explained one attorney. "So, it's really important that we [use] our resources to find places for people to go." A social worker can interview an unhoused client at the jail and find the client a temporary shelter bed, a sober living placement, or another appropriate residential placement.
- **Diversion and Treatment:** Public defenders and staff consistently report that a large percentage of their clients appear to have mental health or substance use disorders. These clients are often eligible for mental health diversion or treatment in lieu of incarceration. Social workers help secure these alternative case dispositions by screening clients, documenting prior diagnoses or treatment, coordinating evaluations and services, and compiling reports for court submission. Social workers also monitor clients' progress, helping clients comply with court and program requirements. One attorney noted that follow-up from a social worker "can keep clients from violating probation, [and] keep them [from] going into custody. [Before I had access to a social worker,] I didn't have an appreciation for all the stuff social workers could do. I think it's a huge value added to the office."
- **Sentencing:** California law requires a sentencing court to consider a client's psychosocial history, including any history of trauma, abuse, or victimization.<sup>235</sup> Similarly, for any youthful offender, a sentencing court must consider the role that youth may have played in the commission of an offense.<sup>236</sup> Social workers are crucial in preparing psychosocial histories for motions to strike a prior "strike" conviction at sentencing (*Romero* motions), establishing mitigating factors for youthful offenders (*Franklin* hearings), and offering mitigation at sentencing. They often also request the client's medical and educational records, interview clients and clients' family members, and write reports that attorneys can incorporate into their motions and arguments to craft appropriate sentences.

An attorney without access to a social worker described their clients' struggles to address their needs and comply with conditions: They need help with "the list of things they need to do, because they just get paralyzed. Oh, you need to get your license, get your Medi-Cal, and you get to ... County Behavioral Health [and participate in therapy and treatment]. Like, for most of us, that's kind of like, okay, cool, all right. But my clients, they hear that, and it's like, you need to drive a spaceship to Mars." And

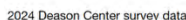
Another attorney enthusiastically explained that social workers are “fantastic for setting up treatment plans, for getting people into programs, for finding people housing, getting people on medication, bridging medications between when somebody is released [from jail] and wherever they’re going. With many of our clients, there’s mental health issues, drug addiction issues, and [the social workers are] the ones who line up programs, and they know the different programs.”

Social workers also assist with building rapport and help encourage clients to engage in their own defense. “Even in misdemeanors ... what we find is most defendants, there’s some sort of mental health issue involved that can be, you know, discussed and brought out. A lot of defendants are embarrassed about it. They don’t like to talk about it, but the social worker has a skill to get that information out of them in various ways, and they’re a bit more skilled at it than the attorney might be.”

The NAPD staffing guidelines recommend a minimum of “one mental health professional, often a social worker, for every three lawyers.”<sup>237</sup> Of the 33 public defender offices that reported and verified staffing data, **none** met this standard:

- Seven offices had no social workers on staff.
- Seven other offices had fewer than one social worker for every 15 attorneys (under 20% of the recommended ratio).
- One of those offices had just one social worker for every 40 attorneys.

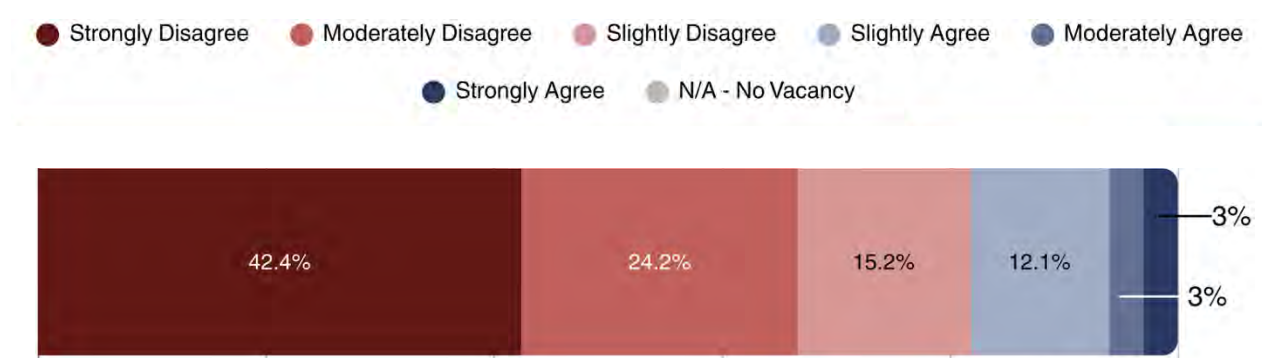
### Social Workers to Attorney Ratio, by Public Defender Office



This insufficiency was confirmed by chief public defenders, who overwhelmingly reported that their attorneys' access to social workers and mitigation specialists is inadequate. Asked if they agreed that their attorneys had sufficient access to social workers to meet their clients' needs, over 80% of chief public defenders disagreed, and over 40% strongly disagreed.

## More Than 80% of Chief Public Defenders Report That Access to Social Workers is Inadequate

*Attorneys' access to social workers is sufficient to address our clients' needs*



During site visits and focus groups, attorneys in public defender offices generally reported that their access to social workers was inadequate. In one large office, attorneys reported that social work and mitigation services were only available in cases with a potential life sentence. Other attorneys reported waiting lists of three to five months for a social worker. According to one attorney, "I'm getting social workers on 10% of cases where they are needed. About 40% to 50% of my clients' cases would benefit from a bio-psychosocial." Another attorney noted that their office just got an additional social worker, but that they still had enough work that, if they doubled their social worker staff, it would still be insufficient.

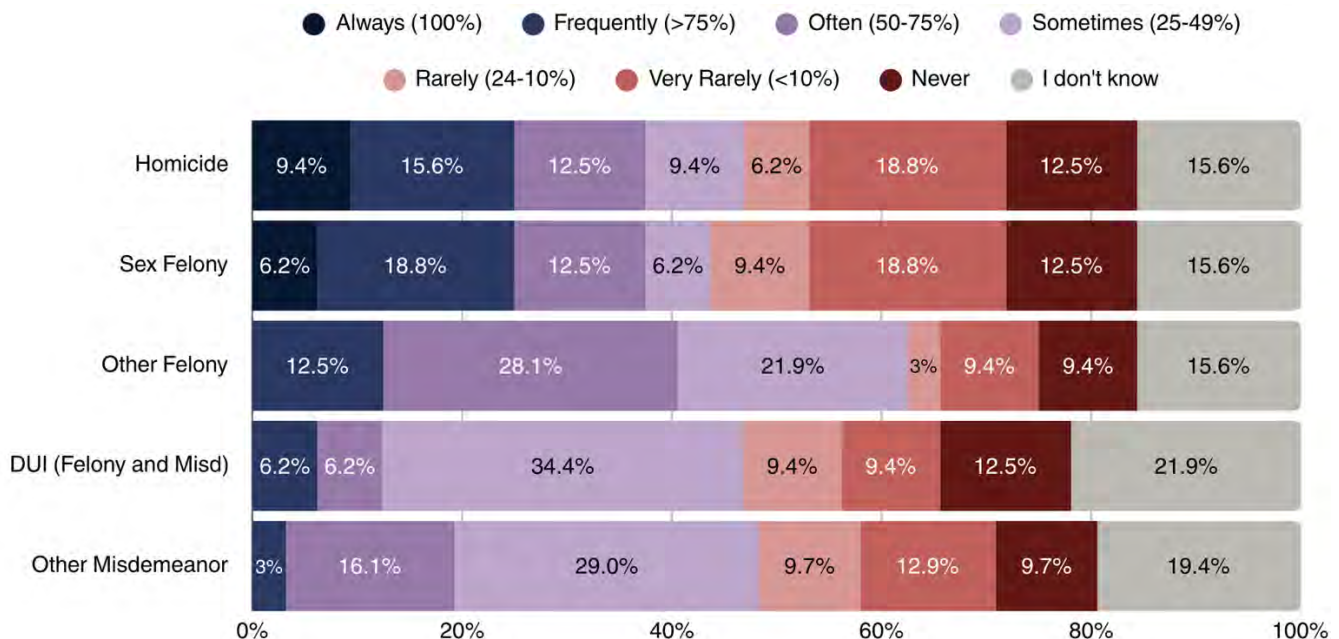
Too few social workers mean that too many clients miss out on better case outcomes. One attorney summarized:

*Having a social worker in the office seems to have a better effect on our clientele. We're able to get people more probation, we're able to get them more drug treatment, we're able to get them more mental health diversion. And [our single social worker is] not able to help everybody on her own. So, there's people that don't get those services, that their case may [have] benefited if they ha[d] the option of that. If we had more social workers, we'd get better outcomes.*

The inadequate access to social workers was confirmed by the survey results concerning which cases receive social worker services. Chief public defenders reported that attorneys used social workers most frequently in homicide and felony sex cases, where potential penalties are severe and the investigation of mitigating factors is essential. However, social workers were not as regularly utilized in lower-level felony cases and even more rarely in misdemeanor cases. Yet, these are the cases in which a social worker's contribution would be most likely to help a client access an alternative disposition program and avoid a conviction.

## Chief Public Defenders Report Limited Use of Social Workers

*In your office, how often are Social Workers used in the below types of ADULT CRIMINAL cases?*



Access to social workers was even more limited in contract or assigned counsel systems. Most contract or assigned counsel attorneys had to ask the county or the court for social work resources. Several attorneys reported difficulty in obtaining approval to retain a social worker. Among the few programs that had contracts with social workers, the social worker-to-attorney ratio far exceeded the NAPD standards. In many such programs, each social worker supported a dozen or more attorneys. Some contract and assigned counsel programs appeared to have no mechanism for requesting social worker support. Attorneys in these programs reported that they were only able to request psychologists, not social workers. One contract attorney noted that the lack of access to social workers “creates less options in terms of resolving cases, less chances in terms of getting on probation, and more chances of reoffending.”

## Paralegals

Paralegals conduct legal research, summarize discovery, and draft basic legal documents, including subpoenas and simple motions. They may also gather criminal history information, redact documents for review with the client, and prepare exhibits for hearings and trials.<sup>238</sup> Unlike administrative assistants, paralegals must have certain educational or training credentials, and they must meet continuing education requirements.<sup>239</sup>

Utilizing paralegals to handle routine legal tasks enables attorneys to concentrate on more complex legal matters. One attorney described paralegals as “amazing. They take a lot of the workload off of us. I think paralegals are kind of crucial. ... They can write motions. They can do a lot of the busy work that we [otherwise] find ourselves doing.” Conversely, without adequate paralegal access, attorneys must spend time on non-legal work. One attorney noted that they spend a lot of time on tasks that a paralegal could do; those tasks “take[] time away from real legal work on cases.”





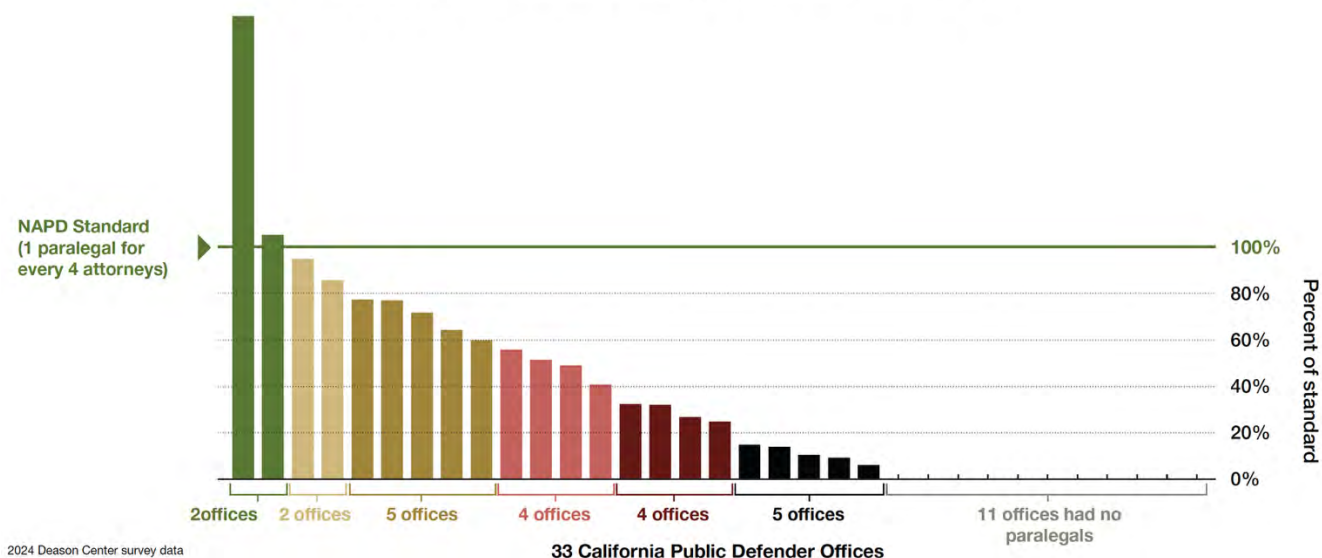
## Access to Paralegals

The NAPD staffing standards call for a minimum of one paralegal for every four attorneys.<sup>240</sup> Only two out of the 33 public defender offices that reported and verified their staffing data met this minimum, and one of those offices appears to classify almost all support staff as paralegals.<sup>241</sup>

- Two other offices came close to meeting the NAPD standard with one paralegal for between four and five attorneys (more than 80% of the recommended ratio).
- Eleven offices had no paralegals at all.
- Nine other offices had fewer than one paralegal for every 10 attorneys (less than 40% of the recommended ratio).

## Only Two California Public Defender Offices Have Enough Paralegals

Paralegal to Attorney Ratio, by Public Defender Office

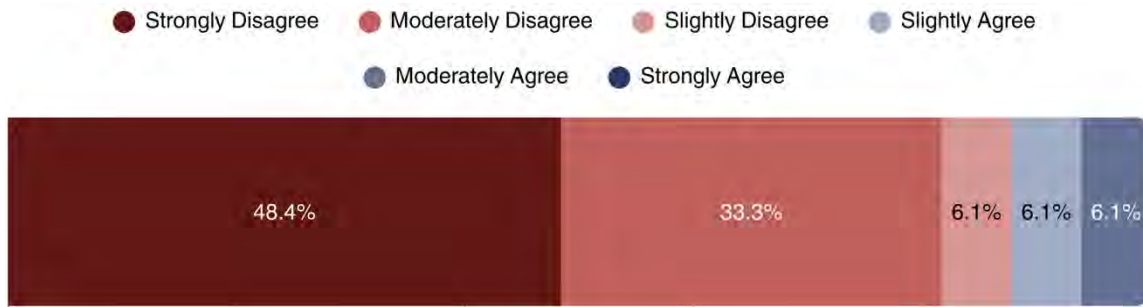


The vast majority of chief public defenders reported their attorneys' access to paralegals is inadequate.



## More Than 80% of Chief Public Defenders Report That Access to Paralegals is Inadequate

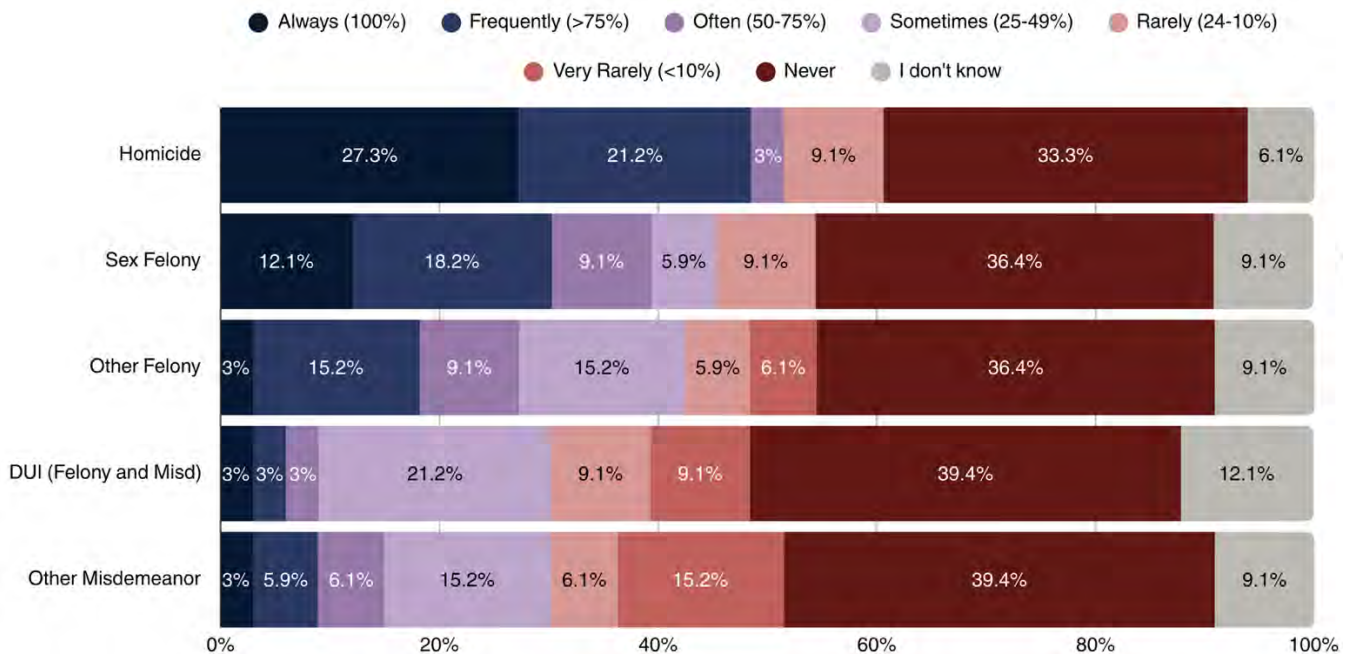
*Attorneys' access to paralegals is sufficient to address our clients' needs*



This inadequacy was confirmed in the reported statistics on paralegal use. For every case type, more than one-third of chief public defenders reported that their attorneys never use paralegals.

## Chief Public Defenders Report Limited Use of Paralegals

*In your office, how often are Paralegals used in the below types of ADULT CRIMINAL cases?*



Several attorneys reported having waiting lists for paralegal assistance. Many described waiting several months for paralegal tasks. And in some jurisdictions, paralegals are only available in murder cases. One attorney noted that, because of strict rules in their office about the types of cases paralegals could work on, they “got very used to doing everything myself.”

In contract and assigned counsel systems, access to paralegals was similarly limited. The best-resourced contract law firm that the Deason Center encountered had one paralegal for every six or seven lawyers, and those paralegals reported being very overwhelmed. In another contract law firm, the office had only recently hired its first paralegal. This person primarily worked on diversion and mitigation matters that would generally be considered a social worker’s responsibility. Most attorneys with individual contracts for public defense services reported that they must hire paralegals at their own expense. This disincentivizes their use of this important resource.<sup>242</sup> Some contract attorneys reported that they had paid for paralegal services, but most reported that they had not.

## Administrative Assistants/Clerks

Administrative assistants commonly answer phones, monitor dockets and maintain attorney calendars.<sup>243</sup> They also handle a wide variety of case management tasks, including:

- **Intake:** Conducting conflict checks, opening case files.
- **Client communication:** Drafting and mailing client correspondence, scheduling and confirming client meetings, arranging videoconferences with in-custody clients, answering client or family phone calls when attorneys are in court or meeting with other clients.
- **Maintaining case files:** Opening and updating case files, checking court calendars, entering data into case management systems.
- **Managing documents and records:** Requesting criminal histories, documents, records, and discovery, downloading discovery, uploading materials to case management systems, filing documents with the court, closing and archiving files.

Attorneys stressed that administrative staff are essential to a well-functioning law office. “Anything dealing with filing or communication with the court,” said one attorney, “they’ll do that.” Another attorney felt fortunate to be “blessed with a good [administrative assistant] – [they are] excellent. [They are] responsive. [They] arrange videoconferences for me, schedules meetings with experts. [They] can locate records better than the paralegals. [They] will draft and serve subpoenas and follow up for proof of service.” One administrative staff member noted that having administrative staff available to talk with clients when an attorney is unavailable helps to build and maintain client trust and rapport.

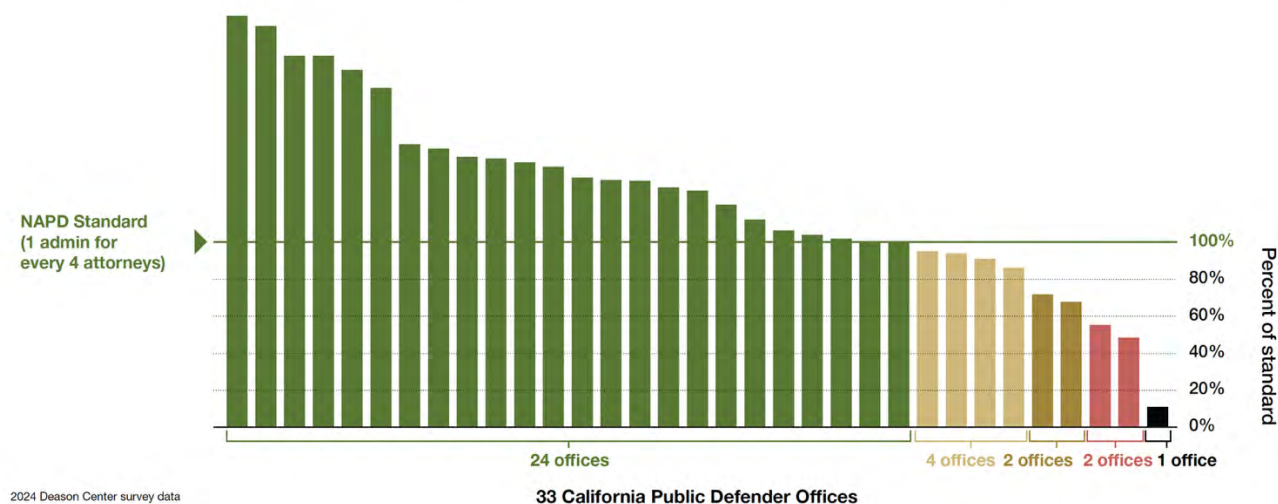
## Access to Administrative Assistants

California public defenders reported having greater access to administrative staff than to other types of staff support. The NAPD staffing standards recommend one administrative assistant for every four lawyers.<sup>244</sup> Of the 33 offices that reported and verified their staffing data:

- Twenty-four met or exceeded the NAPD standard for administrative staffing levels.
- Two offices had fewer than one administrative assistant per eight attorneys (less than 50% the recommended ratio).
- One office reported having virtually no administrative staff but also reported an unusually high level of paralegal support.

## Most California Public Defender Offices Have Adequate Admin Support

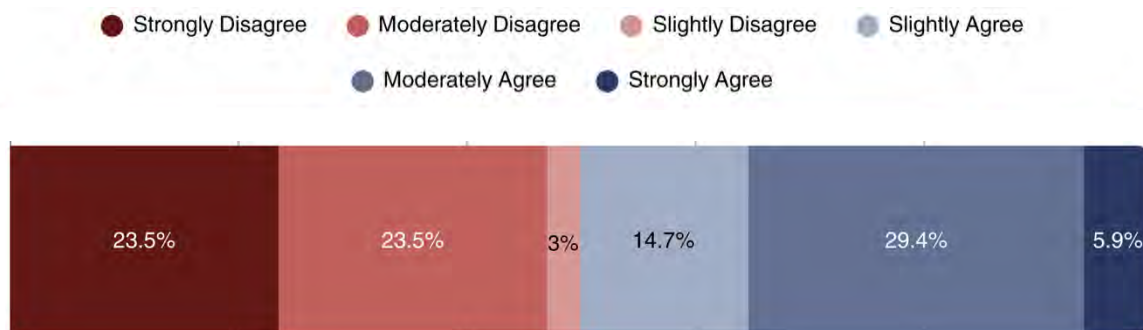
Admin to Attorney Ratio, by Public Defender Office



Chief public defenders similarly reported better access to administrative staff than to other types of support staff, although many still reported inadequate administrative staffing levels.<sup>245</sup> Half of chief public defenders agreed with the statement that their attorneys' access to legal secretaries, administrative assistants, and clerks was sufficient, while the other half disagreed.

## Half of Chief Public Defenders Report Sufficient Access to Admins

*Attorneys' access to legal secretaries/clerks is sufficient to address our clients' needs*



Generally, attorneys in contract and assigned counsel systems must hire administrative staff at their own expense. Attorneys who did so reported that the expense was worthwhile. One attorney lamented the loss of a dedicated legal assistant:

*In private practice ... having a legal assistant, especially a competent one, is the difference between being able to manage your sanity and losing your mind. And I don't have someone here. So today, I just needed to print some discovery. [With a legal assistant], I'd be like, "Hey, can you print this?" and they'll take care of it. Here the printer was jammed, and I'm standing here going back and forth [to my office], spending 30 minutes with just a piece of discovery. [An assistant would have handled it], no problem, I can go on with the work of being a lawyer. [Without a legal assistant] I lose being a lawyer to admin work.*

Most contract and assigned counsel attorneys reported that they did not have any administrative support. As one assigned counsel program manager explained, "the contract attorneys ... rarely have those in-house services. Quite frankly, I don't think the contracts generally pay enough to support that."

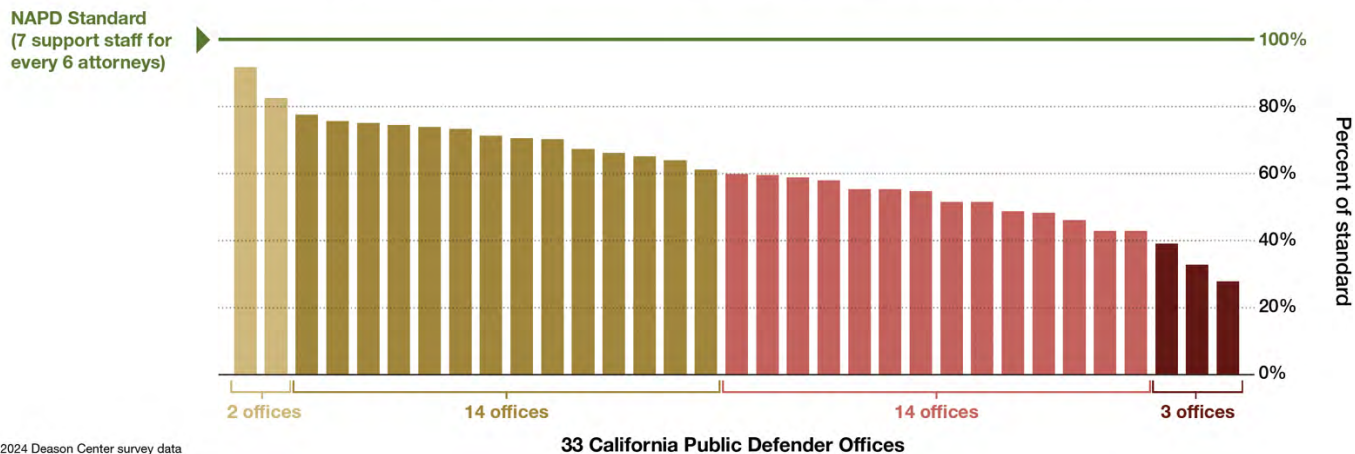
## Total Non-Lawyer Staffing in Public Defense

Support staff positions are not interchangeable. The specialties and training of the different types of support staff are critical. However, because California public defense providers use different titles for various support staff positions, assessing total support staffing against the combined NAPD recommended ratios provides important information about overall support staffing sufficiency.

Taken together, the NAPD standards recommended seven non-attorney staff for every six lawyers. Out of the 33 public defender offices that reported and verified their staffing data directly, **none** met this standard. Eight offices had fewer than half of the non-attorney staff prescribed by the NAPD standard.

## No California Public Defender Office Has Enough Support Staff

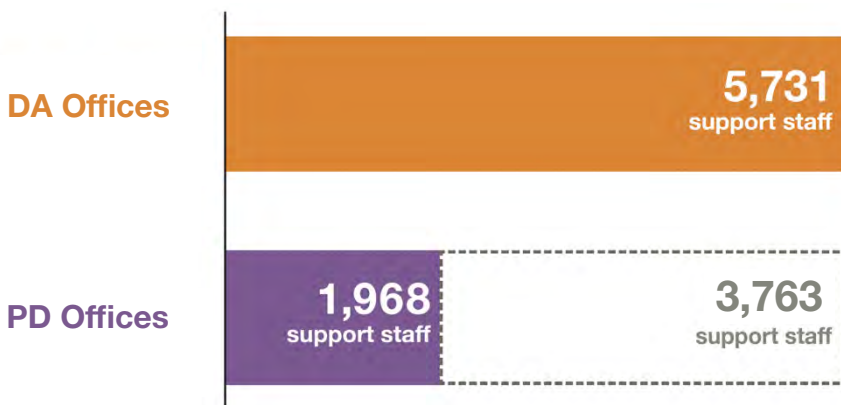
Support Staff to Attorney Ratio, by Public Defender Office



## Prosecutors Have More Support Staff Than Public Defenders

Public defense support staffing appears even more deficient when compared to the support staff available to district attorneys. California DOJ data show that district attorneys' offices had far greater support staff than their public defense counterparts.<sup>246</sup> On average, district attorneys' offices had 1.82 staff per attorney, while public defender offices had only 0.77 staff per attorney, a difference of more than one full-time staff person per attorney.<sup>247</sup> Overall, county public defender offices had only one-third the support staff of their district attorney counterparts.

## California Public Defenders Have Far Fewer Total Support Staff Than District Attorneys

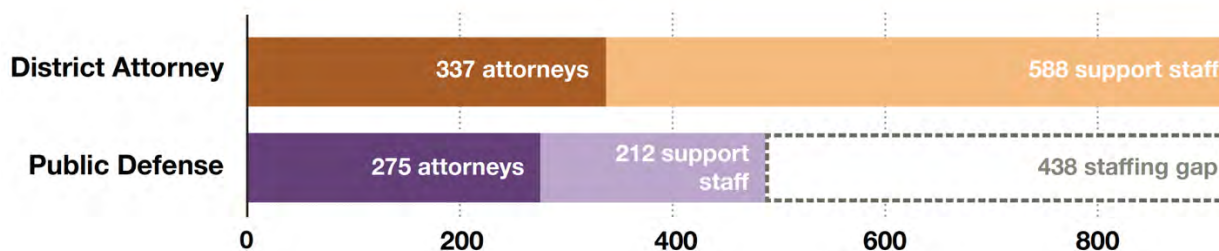


Data from 31 counties that report staffing data to California Department of Justice (2022)



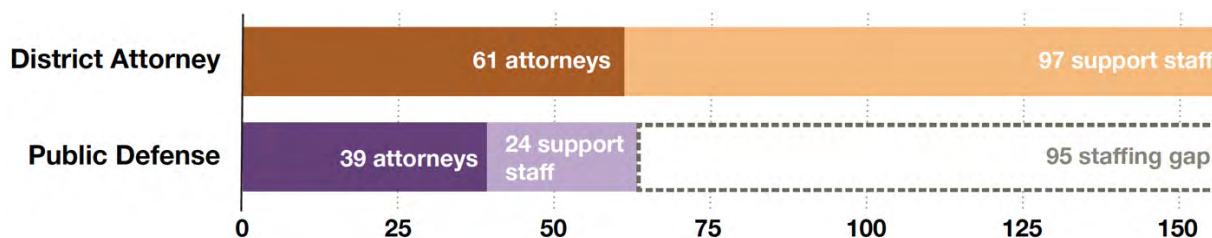
As discussed above, the California DOJ data also show that public defender offices had, on average, 73% of the attorneys of their district attorney office counterparts. Viewed together, the attorney and support staffing disparities compound to create enormous overall staffing disparities between public defender offices and their district attorney counterparts.<sup>248</sup> For example, the San Diego County public defender office had 82% as many attorneys as the district attorney's office, but only 44% as many support staff. The result was an overall staffing disparity of more than 400 positions.<sup>249</sup>

## San Diego Staffing Disparities, 2022



In Monterey, the disparities were even worse.<sup>250</sup> The Monterey district attorney's office had 61 attorneys, compared to 39 attorneys in the public defender office (64% as many lawyers). The Monterey district attorney's office also had approximately 1.6 staff per attorney, while the public defender office had only 0.62 staff per attorney. Overall, the district attorney's office had a staff that was 2.5 times larger than the public defender office.

## Monterey Staffing Disparities, 2022





## Recommendations

**The state should require adequate support staffing for public defense and provide funding to ensure that county-based public defense systems can comply with support staffing standards.**

Across California, public defense attorneys do not have the support staff needed to ensure effective representation. Investigator, paralegal, and social worker resources are often scarce, and access is often limited to more serious cases (e.g., homicide and high felony cases). In lower-level felony and misdemeanor cases, either the attorney must do the work of these paraprofessionals or the client's case will not receive a full investigation, appropriate legal research and motions practice, an assessment for diversion, or an exploration of factors that could mitigate punishment.

Providing appropriate support staffing is critical to addressing California's public defense workload crisis. Moreover, increasing support staffing is cost-effective, as support staff salaries are typically lower than attorney salaries. Appropriate support staffing also reduces attorney burnout and turnover. Most importantly, increased support staffing, particularly specialized paraprofessional staffing, improves the standard of public defense representation. But without state support, California's county-based public defense programs will not be able to increase support staffing to appropriate levels.



*The State should adopt support staffing standards.*

To ensure appropriate support staffing across California public defense systems, California should support staffing standards for public defense.

## Recommended Support Staffing Standards for California Public Defense Systems



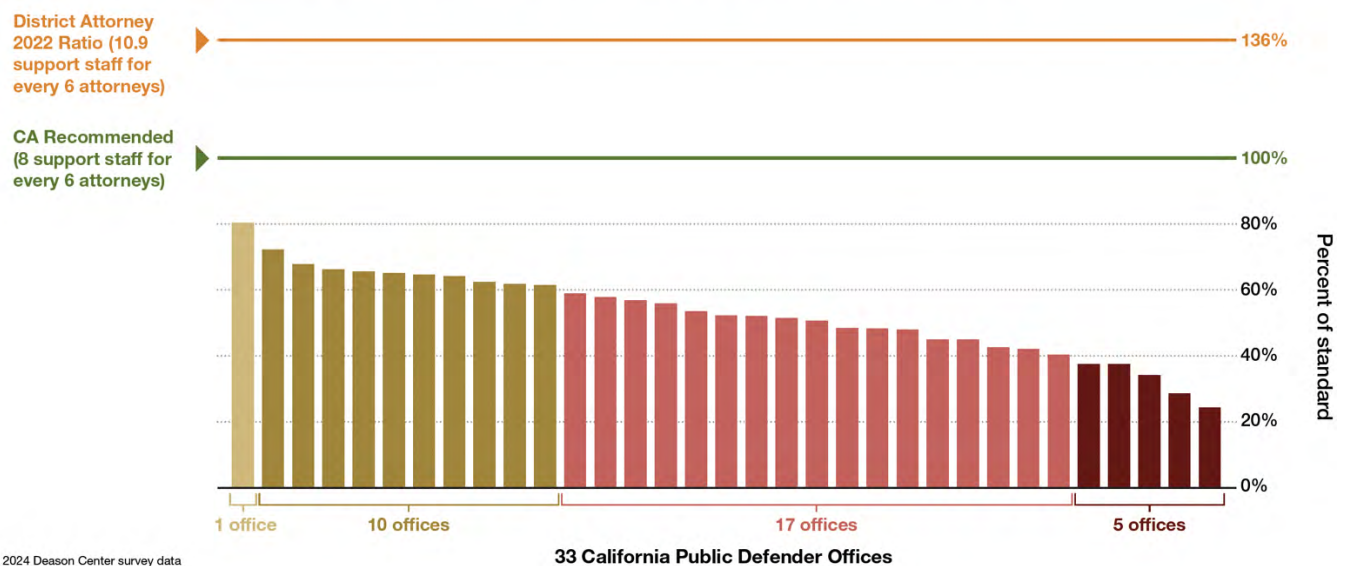
These standards are consistent with – although not precisely equal to – NAPD recommendations.<sup>251</sup> Evidence gathered during this study strongly suggests that the NAPD investigator ratio (1 investigator for every 3 attorneys) would be insufficient in California public defense programs.<sup>252</sup> The volume of video and other digital discovery in California criminal cases requires substantial investigator resources. Further, even in programs where the available investigator resources reached or neared the NAPD recommended ratio, attorneys reported limiting investigator services to more serious cases and restricting investigator tasks.

The recommended staffing ratio of one investigator for every two attorneys (1:2) is also consistent with the investigator to attorney staffing ratio in California district attorneys' offices.<sup>253</sup> Indeed, there are strong arguments that public defense programs need more investigators than their prosecutorial counterparts. Before the case is turned over to a prosecutor, law enforcement personnel generally conduct a full investigation, often identifying and collecting witness statements, photographing crime scenes, locating and reviewing camera footage, etc. If a prosecutor needs additional investigation or follow-up, they can either go to their investigators or request that law enforcement continue to work on the case. By contrast, defense investigators must independently investigate, as well as respond to the law enforcement and prosecutorial investigations. The most recent California staffing data show that district attorneys' offices had, on average, one investigator for every two attorneys.<sup>254</sup> Public defense programs should, at a minimum, have the same.<sup>255</sup>

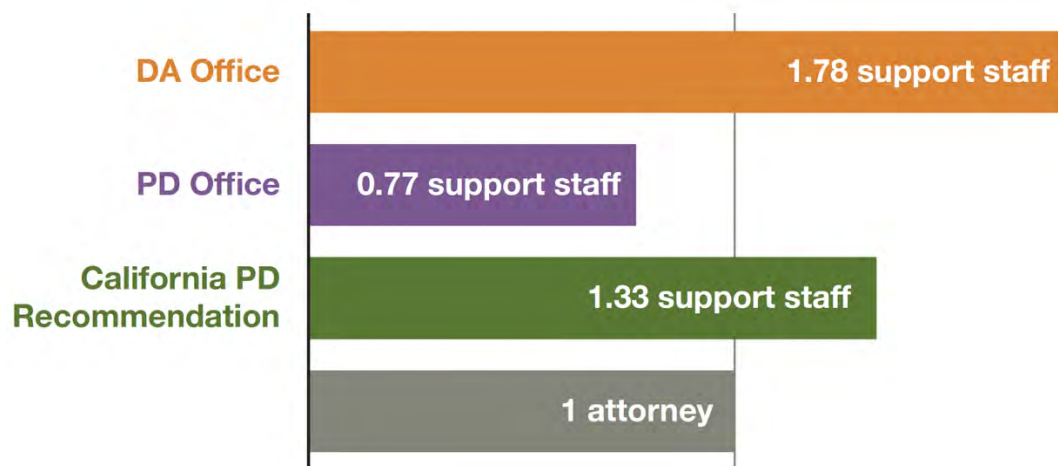
Currently, in California, district attorneys' offices had 1.82 support staff per attorney (10.9 support staff for every six attorneys), while public defender offices had only 0.77 support staff per attorney (4.6 support staff for every six attorneys). The recommended ratio of eight support staff for every six attorneys would dramatically improve public defense staffing, but would still not create staffing parity with prosecutors.

## No California Public Defender Office Has Enough Support Staff

Support Staff to Attorney Ratio, by Public Defender Office



## Recommended Public Defense Support Staffing Would Fall Short of Parity with Prosecution Support Staffing



*The state should provide regular funding to assist county-based public defense systems to meet support staffing ratios.*

Current support staffing for public defense does not meet the proposed support staffing standard. Providing appropriate support staffing will require public defense programs to hire additional staff members. This hiring will not be possible without state support.

As with attorney workload standards, the state should provide counties with a reasonable time frame to meet support staffing standards. The implementation period should be sufficient to allow for the necessary recruitment and hiring. During this implementation phase, the state should require programs to make progress each year towards closing the gap between existing support staffing and standards-compliant support staffing.

## **How Much Funding Would California Have to Provide to Meet Attorney Workload and Support Staffing Standards?**

Understanding the funding needed will require California to collect accurate data on caseloads and staffing. From these data, California can assess attorney needs, and based on total attorneys needed, the support staffing needs. Only then will California be able to assess the total funding necessary to meet attorney workload and support staffing standards. However, the experience of other similar states in providing support to county-based public defense systems is instructive.

In 2018, when Michigan first appropriated funding for distribution to improve county systems, the state provided a total of \$86.6 million [\$8.67 per capita].<sup>256</sup> Similarly, in 2018, when New York first appropriated funding to institute workload standards statewide, the state provided at a total of \$50 million for this purpose [\$2.56 per capita].<sup>257</sup> Were California to begin state funding at a comparable level, the initial appropriation would be between \$100-342 million.<sup>258</sup>

### **California should guarantee that public defense programs have independent access to investigators and social workers.**

Neither prosecutors nor privately retained defense attorneys need judicial approval to obtain routine investigative assistance. Requiring public defense attorneys to obtain judicial approval not only impedes timely access to such services, but also forces these attorneys to disclose defense strategy to a judge. It also introduces a concern that judicial limitations or denials could be litigated as inappropriate interference with the defense.<sup>259</sup> As noted above, several public defense attorneys reported that judges considered costs – and not just defense needs – in denying their requests for investigators and social workers. All public defense providers, including those in contract and assigned counsel systems, should be able to access routine investigative and social work services without court approval.

"Public Defense Providers and their lawyers should be independent of political influence and subject to judicial authority and review only in the same manner and to the same extent as retained counsel and the prosecuting agency and its lawyers."

— Principle 1, ABA 10 Principles

There are several models for ensuring that public defense providers have adequate access to critical support services without seeking judicial approval. If a program has an administrator or lead, the administrator can review and approve those requests. In San Mateo, for example, requests go to the private defender office, which maintains a panel of approved defense investigators and social workers. In Butte County, contract attorneys can use the county's contract investigators without having to file a request. Outside of California, some jurisdictions have rules that permit attorneys to access investigative services without judicial approval. For example, in Washington, DC, a standing judicial order permits attorneys to access a set amount of investigative services without prior authorization:

- 10 hours in a misdemeanor case,
- 20 hours in a low-felony case, and
- 35 hours in a high-felony case.<sup>260</sup>

Lawyers only need judicial permission for investigative services that exceed the prescribed number of hours. California should similarly ensure that all public defense providers have access to investigative and social work services without requiring judicial approval.



# Attorney Vacancies, Recruitment, and the Impact of Rurality

The great majority of California's public defense programs currently do not have a sufficient number of attorneys to meet clients' needs. Strong qualitative and quantitative data suggest that most of this deficiency is the result of having insufficient attorney positions. However, attorney vacancies also increase attorney workloads. And, the ability – or inability – to fill lawyer positions is critical to understanding whether increasing attorney positions would actually address current workload issues.

The overall attorney vacancy rate in public defender offices is low, however some offices have significant and persistent attorney vacancies. These vacancies have a significant impact on remaining attorneys.

Because anecdotal evidence suggested that vacancy problems are worse in rural areas, the Deason Center analyzed attorney availability in California. This analysis strongly suggests an overall shortage of attorneys in California's smaller, rural jurisdictions, particularly those that are not adjacent to an urban area. The Deason Center then analyzed the locations of newly admitted lawyers. In California's rural counties, newly-barred lawyers make up a smaller proportion of total attorneys than in urban counties. This strongly suggests that, absent intervention, attorney shortages are likely to worsen in these areas.

## Attorney Vacancies in California Public Defense Programs

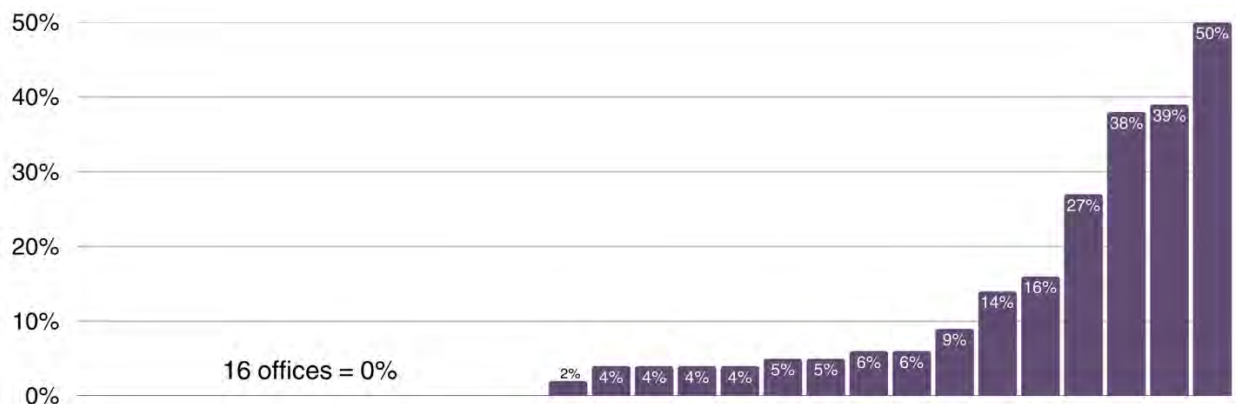
Excessive attorney workloads can be exacerbated by persistent attorney vacancies. When an attorney leaves public defense practice, their workload is typically redistributed across the other attorneys until the vacancy is filled. In California, only some counties have significant attorney vacancy issues, but in those counties, the vacancy issues are often persistent.

Across the 32 public defender offices that provided vacancy data,<sup>261</sup> the overall vacancy rate for adult criminal trial attorneys was 5%. But these vacancies do not affect all offices evenly.

Half of public defender offices reported **no** trial attorney vacancies. Ten offices (31%) had vacancy rates below ten percent. Some had overwhelming vacancies:

- Six offices reported attorney vacancy rates above 10%.
- Four of those offices had vacancy rates above 25%.
- The highest reported attorney vacancy rate was 50%.<sup>262</sup>

### Line Attorney Vacancy Rate by Office



Similarly, attorneys and managers in contract and assigned counsel systems also reported attorney vacancy issues. In several counties, local assigned counsel panels did not have sufficient attorneys; in contract systems, contract positions commonly remained vacant for extended periods.

These vacancies have a significant impact on remaining attorneys. One attorney in a high vacancy county noted that the lack of attorneys required them to cover double the cases in court: “[It’s] too much for one person to try to do all that . . . [I] am in a state of rush for three to four hours daily.” In one county, an attorney noted that they push vacancy issues down to misdemeanors, requiring misdemeanor attorneys to double their caseloads. A misdemeanor attorney confirmed this, noting “One attorney went out on leave and my caseload doubled over night.”

Where vacancies exist, they can be tough to fill. Chief public defenders, program managers, and contract attorneys consistently reported that vacancies sometimes lingered for months. Asked what might account for these prolonged vacancies, they offered several reasons, including, importantly, excessive workloads.

Indeed, attorney vacancies are both driven *by* – and prominent drivers *of* – excessive public defense workloads. Vacancies typically increase the workloads of the attorneys who remain in the system. Increased workloads exacerbate both attorney stress and case backlogs. Workload pressures and increased stress push more public

defense attorneys to leave their positions. These departures further increase the workloads of the attorneys who remain, accelerating a dangerous downward spiral.

## Vacancies Can Increase Attorney Workloads, Creating a Shortage Cycle



### County Policies Can Prolong Vacancies

A number of chief public defenders reported that two specific county policies inhibit them from filling vacancies:

- Counties require that the vacancy rate reach a certain level before the office can fill the position.
- Counties do not permit offices to hire on a short-term or temporary basis when an attorney is out on prolonged leave.

Policies that require public defender offices to keep positions vacant can dramatically increase the workloads of remaining attorneys, particularly in smaller programs with fewer attorneys to whom cases can be distributed. Allowing public defense programs to fill existing vacancies as soon as they occur would help break the attorney shortage cycle.

To fill attorney positions, some defense programs recruit attorneys from other jurisdictions. For example, in Butte County, several public defense contract attorneys came from two or three counties away, traveling over 60 miles each way to make court appearances. This situation is not unique to Butte County. The Deason Center spoke with one attorney who provided conflict services in a county more than 150 miles from where they live. Their drive to court routinely took more than three hours.

Throughout the Center's investigation, chief public defenders, program administrators, and county officials observed that some California counties have significantly more trouble finding lawyers to provide public defense services than others. According to several defense program leaders, these problems are far more acute in more rural counties. Leaders in these areas reported that applicants are scarce

and that qualified candidates frequently turn down offers. “Nobody can get attorneys now,” said one supervising attorney. “It’s the worst I’ve ever seen it.” Another attorney reported that their office had not been fully staffed since 2020.

## Attorney Availability in California

The significant vacancy rates in some counties and the anecdotal evidence of greater recruitment problems in rural areas raised questions: Are there simply too few attorneys in some parts of California? Or are there too few attorneys in these locations who will accept public defense cases? Are the issues really confined to California’s more rural counties or is that a misperception?<sup>263</sup> To more closely examine these issues, the Deason Center used geospatial mapping to understand attorney availability throughout California, as well as analyze how that availability has changed over time. Based on available data, this analysis addresses the availability of attorneys generally; it is not limited to criminal attorneys, or attorneys with a demonstrated interest in serving as public defense providers.<sup>264</sup>

The Center mapped California lawyers from both 2016 and 2024 to assess changes in lawyer population and lawyer density, *i.e.*, the difference in the number of lawyers relative to the general population, at the county level. The Deason Center then analyzed lawyer availability in connection with rurality. The Center concluded that, while the total number of lawyers in California increased, those increases were concentrated in urban counties. In contrast, the number and density of lawyers in many rural California counties decreased over the past eight years.<sup>265</sup> A summary of the Center’s analysis is below. The complete analysis is available at Appendix F.

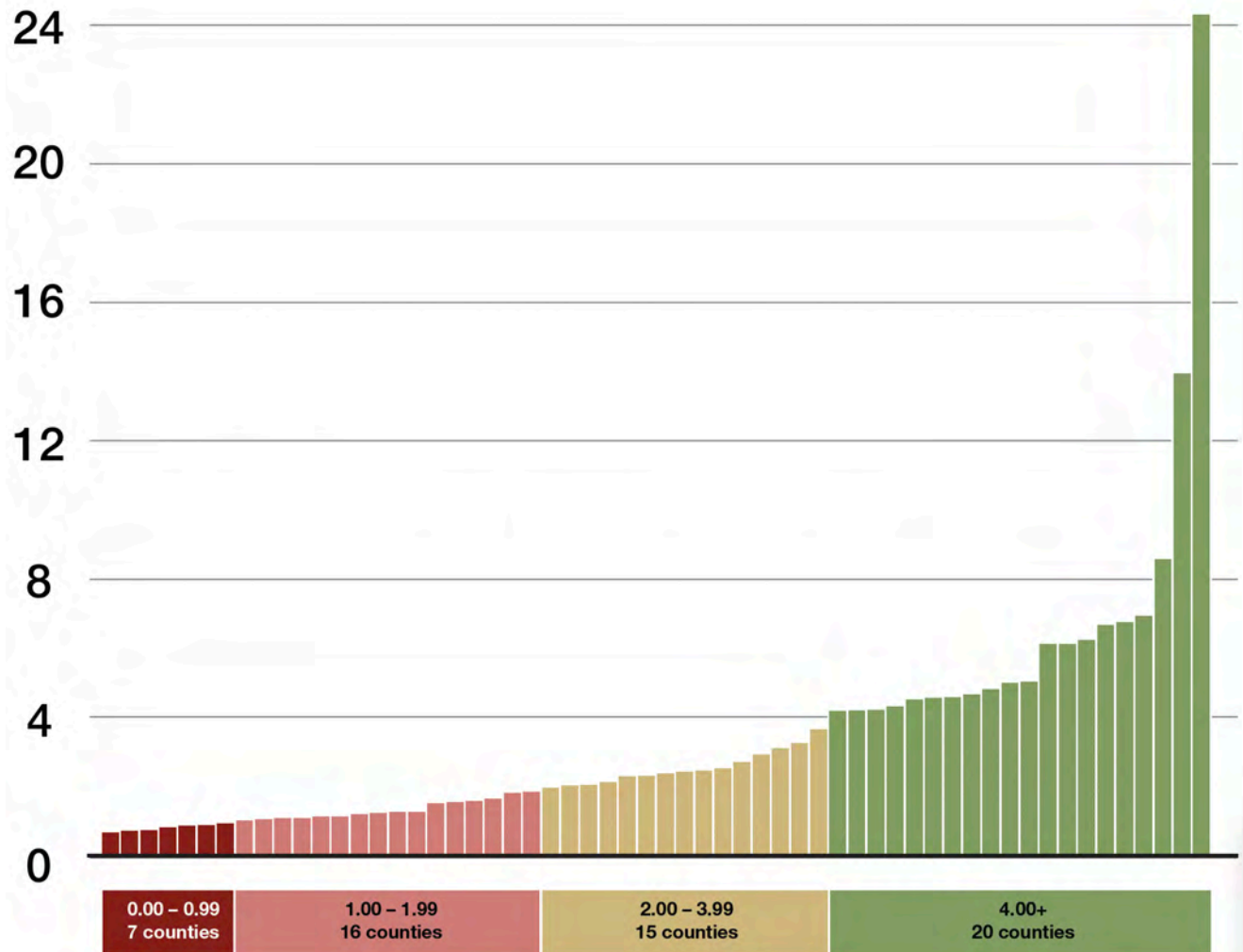
In 2016, lawyer density was already highly concentrated in California. According to the American Bar Association, there are, on average, about four attorneys per 1,000 people across the United States.<sup>266</sup> In 2016, several California counties exceeded this average, while others fell far below it:

- 15 counties had lawyer densities above four per 1,000 people.
- 19 counties had lawyer densities between two and four per 1,000 people.
- 18 counties had lawyer densities between one and two per 1,000 people.
- Six counties had lawyer densities less than one per 1,000 people.

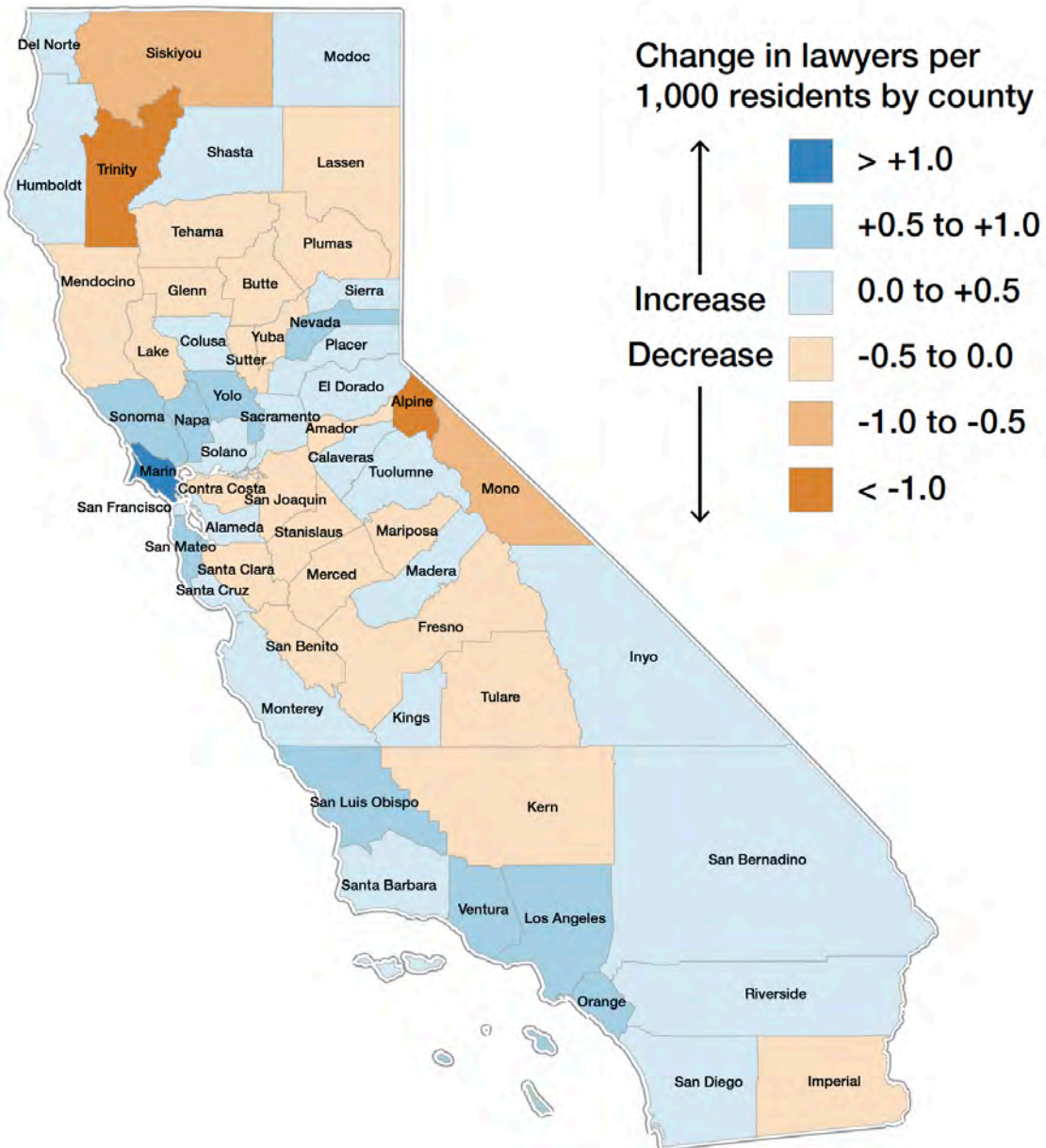
Between 2016 and 2024, this concentration increased. The number of counties with an attorney density above the overall U.S. average increased substantially (33%; 5 additional counties), but the number of counties with the lowest attorney density also increased (16%; 1 additional county).<sup>267</sup>

## Lawyer density, 2024

Lawyers per 1,000 residents, by county



## Change in lawyer density, 2016 to 2024



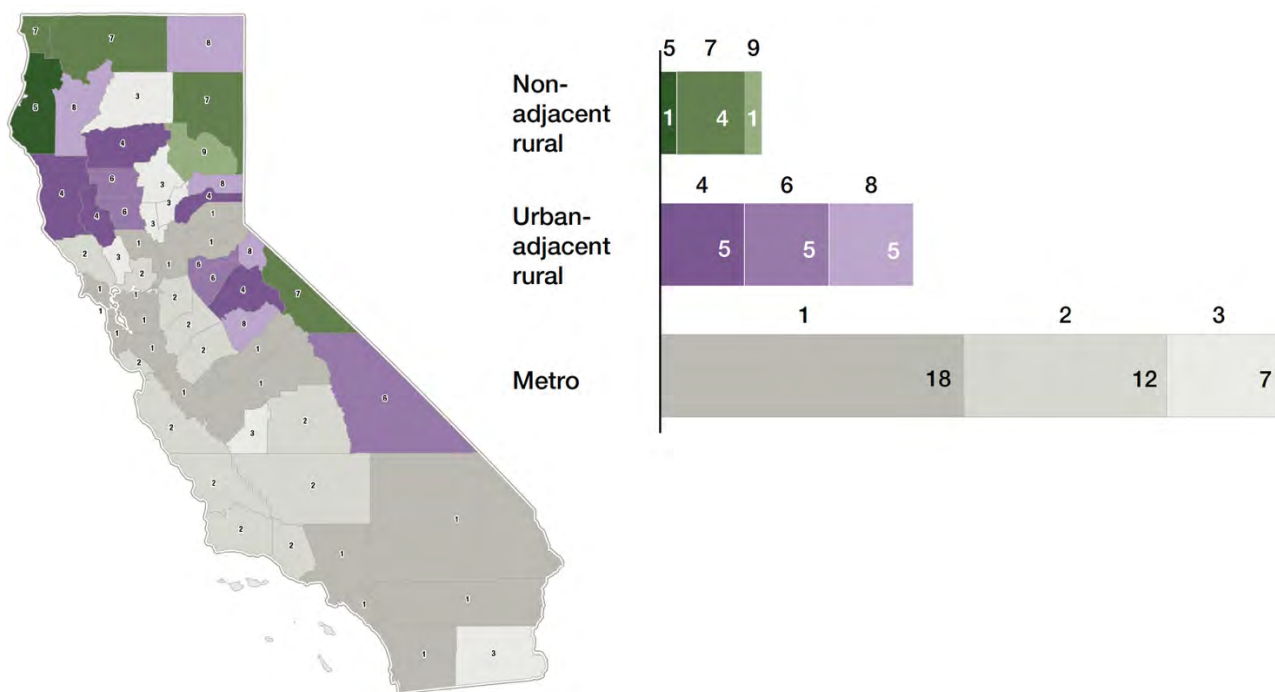
The above map shows the changes in lawyer density between 2016 and 2024 by county. The largest increases were in the Bay Area and around Los Angeles. This analysis strongly suggests correlations between increasing lawyer density and urban counties and decreasing lawyer density and rural counties.



## Lawyer Density Is Decreasing in California's Most Rural Areas

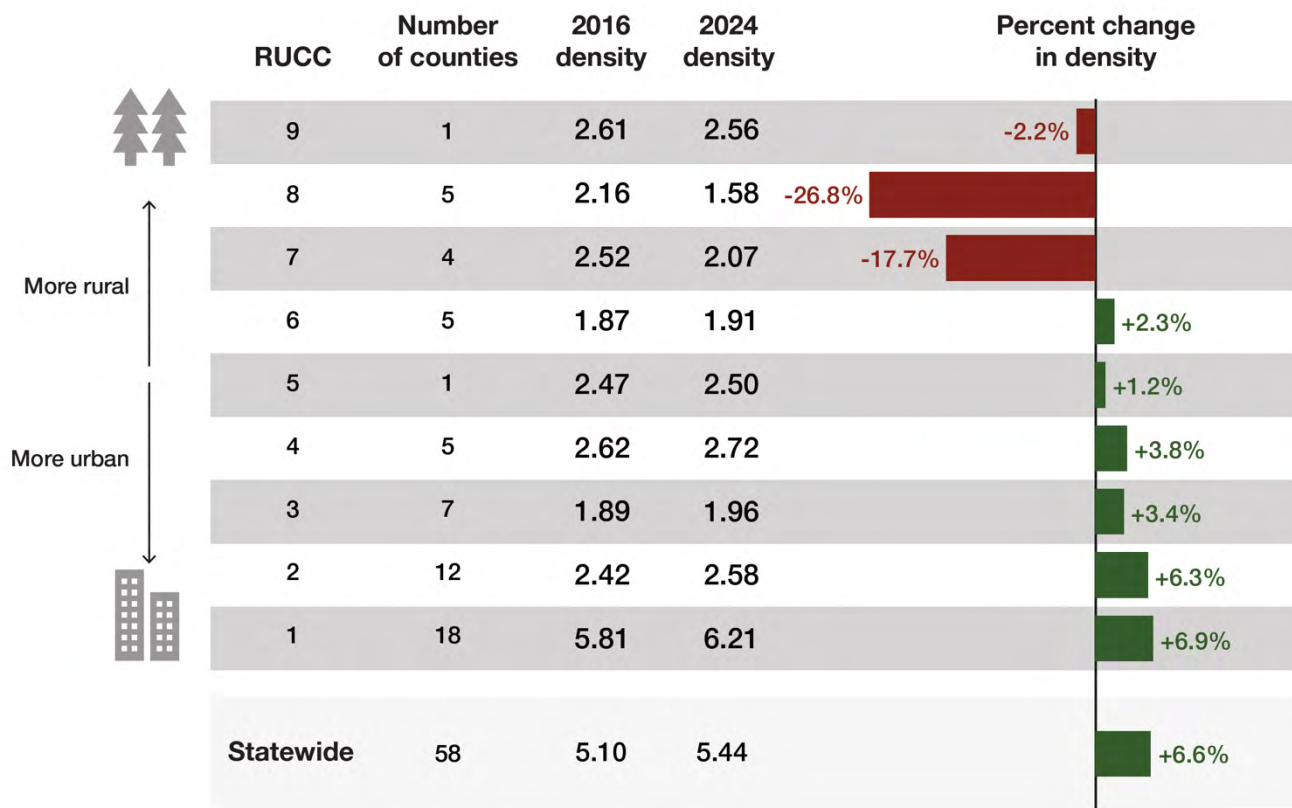
To better explore the impact of rurality on changing lawyer availability, the Deason Center mapped California counties by 2023 Rural-Urban Continuum Codes (RUCC). The RUCC classifications divide all counties into nine categories of relative urbanization or rurality. They first distinguish metropolitan counties (code 1-3) and nonmetropolitan counties (codes 4-9). Importantly, a smaller population county may be considered metropolitan if it is integrated into a larger metropolitan area.<sup>268</sup> The RUCC classifications then further divide these categories based on the population of the largest metro area in the county and whether the county is adjacent to a metropolitan county. The map below shows the 2023 RUCC classifications of California's counties.

### Rural-Urban Continuum Codes (RUCC) 2023



The Deason Center then analyzed the changes in lawyer density in California counties between 2016 to 2024. The results were stark. The most rural California counties lost the most attorney density, while the most urban California counties gained the most attorney density.

## Lawyer Density Changes from 2016 to 2024 by Rural-Urban Continuum Codes (RUCC)



### Small, Rural Counties May Need to Increase Attorney Salaries to Address Lawyer Shortages

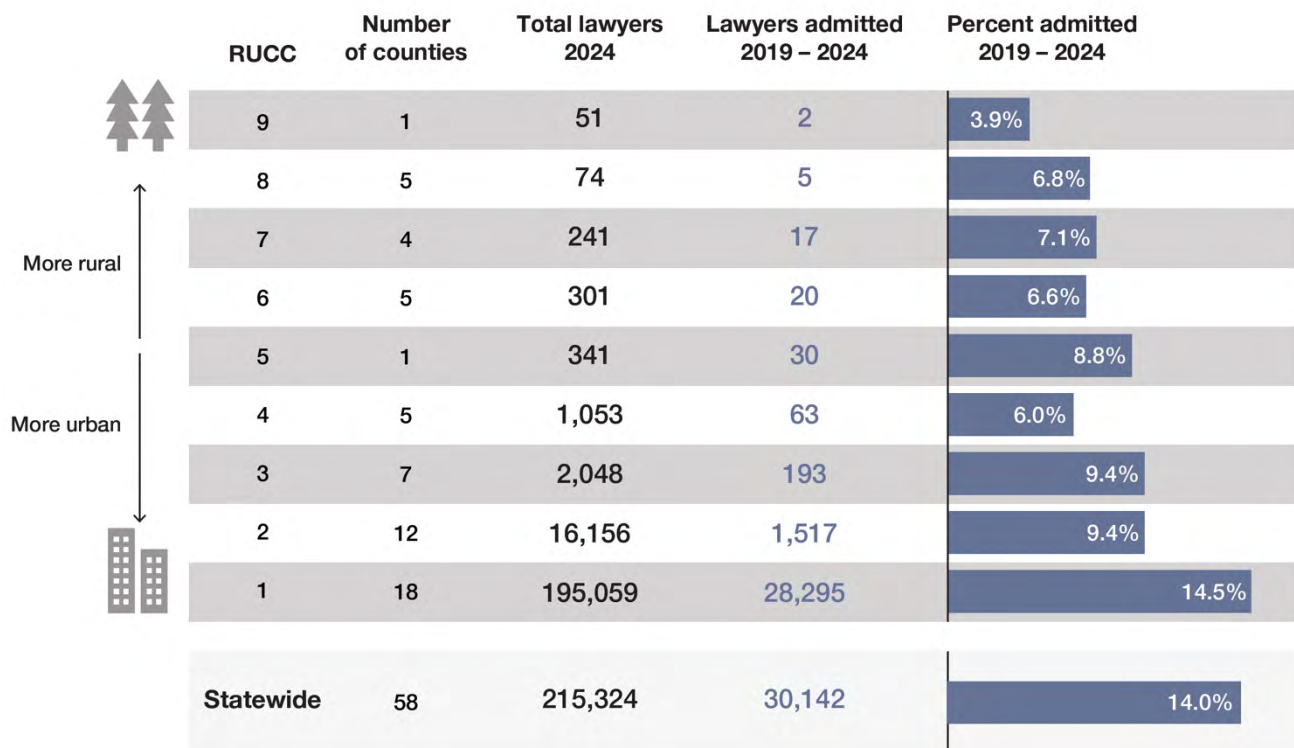
Throughout this study, attorneys in rural and less wealthy counties frequently cited pay as a barrier to filling existing vacancies, noting that public defense programs in wealthier counties often pay far better. Indeed, the pay for new public defense attorneys varied considerably by location. Some counties reported paying \$50,000-\$75,000 more than others.<sup>269</sup> County-employee lawyer salaries in California are often fixed across the county. The Deason Center's lawyer shortage analysis suggests that some counties may have trouble recruiting for all lawyer positions. Such counties may need to review and reconsider attorney salaries as part of a comprehensive plan to recruit more attorneys for critical roles, including public defense positions.

## New Lawyers Are Concentrated in California's Metropolitan Counties

Next, the Deason Center sought to understand whether the decreasing density of more rural areas was likely to continue by looking at the proportion of all attorneys in an area who were barred in the last five years. The Deason Center used bar year data to map newly admitted lawyers. The Center then looked at the percentage of total attorneys in the counties that were newly admitted lawyers and compared these county percentages to the statewide average. Counties with a smaller-than-average percentage of new lawyers are likely to face greater shortage issues in the future. The location of newly admitted lawyers is therefore highly relevant to whether offices in these counties can fill current or future vacancies.

The chart below shows the location of lawyers who passed the California bar between 2019 and 2024 by RUCC classifications.

### Lawyers Admitted 2019 – 2024 by Rural-Urban Continuum Codes (RUCC)



The counties with a higher-than-average percentage of newly-barred lawyers were the most urban counties (RUCC Category 1). None of the non-metropolitan counties (RUCC Categories 4-9) had a proportion of newly admitted attorneys as high as any of the metropolitan counties (RUCC Categories 1-3). The urban concentration of newly admitted lawyers strongly suggests that, absent significant intervention, public defense shortages in rural areas will continue.

## Recommendations

### **The state should fund programs to incentivize new attorneys to move to rural areas and provide public defense services.**

Law school is expensive and educational debt often drives employment choices.<sup>270</sup> Newly-admitted attorneys may feel compelled to choose higher-paying jobs in urban areas to be able to repay their educational debt. Incentive programs that repay student loan debt can encourage new attorneys to practice in California's areas of greatest need. Programs to encourage lawyers to move to rural areas are currently under consideration in several jurisdictions:

- In Kansas, the Rural Justice Initiative recently proposed an educational incentive program for rural lawyers. The program would provide up to \$20,000 per year in loan repayment for up to five years, provided that the lawyer continued to practice in a rural Kansas community.<sup>271</sup>
- Texas legislators have twice considered an incentive program that would provide rural prosecutors and public defense attorneys with up to \$180,000 over four years to repay student loan debt.<sup>272</sup> The Texas program was designed to benefit not only full-time public defenders, but also panel attorneys who accept a substantial number of rural public defense appointments.<sup>273</sup>

Analogous incentive programs have proven successful in helping to recruit medical professionals to rural areas. Since 1972, the National Health Services Corps (NHSC) has provided loan repayment assistance to attract doctors, nurses, and other health professionals to designated shortage areas.<sup>274</sup> The NHSC offers up to \$80,000 in loan repayment assistance to clinicians who provide services for two years in rural areas.<sup>275</sup> In 2024, more than 8,000 clinicians participated in the NHSC loan forgiveness program.<sup>276</sup>

### **California Should Encourage Law Schools to Recruit and Train Future Lawyers to Serve as Rural Public Defense Attorneys.**

To avoid a deepening shortage of public defense attorneys, California should support California law schools in creating pipeline programs to encourage lawyers to practice public defense, particularly in rural areas. Many California law schools have criminal defense clinics, but few recruit and train law students specifically for rural practice.<sup>277</sup> Several law schools in other states have programs designed to increase rural attorneys by recruiting rural students to law school. Washburn Law School in Kansas, for example, specifically recruits students from rural areas and has an externship program that allows them to return to rural areas to get legal experience.<sup>278</sup> California should similarly provide funding to California law schools to create innovative new programs to encourage and train students to pursue rural practice, particularly rural public defense.

State-based programs also have track records of success. For example, in 2006, the Kansas Legislature established a financial incentive program to encourage veterinary students to practice in rural Kansas.<sup>279</sup> Participants can receive up to \$100,000 in loan forgiveness, \$25,000 for each year in which they work in a rural Kansas county.<sup>280</sup> To date, 89 students have been admitted to the program; 94% continued to practice in a qualifying county beyond their obligation term.<sup>281</sup>

In 2023, the ABA passed a resolution, moved by the California Lawyers Association, encouraging all jurisdictions to create and fund rural practice loan forgiveness.<sup>282</sup> California has long had an incentive program to encourage medical professionals and paraprofessionals to practice in designated areas of shortage within the state.<sup>283</sup> California should create a similar incentive program to encourage newly-admitted attorneys to practice public defense in California's more rural areas.

### **California Should Ensure Existing Programs to Address Rural Workforce Shortages Cultivate Public Defense Staff.**

California should review its existing rural workforce programs to ensure that they promote public defense career paths. For example, in 2024, California announced a Master Plan for Career Education.<sup>284</sup> The plan cultivates career pathways for high school and college students by providing experiential learning opportunities and career training.<sup>285</sup> As part of the master plan, rural high schools in California now offer medical science courses to encourage students to consider medical professional and paraprofessional careers.<sup>286</sup> California should develop similar pathways to encourage public defense attorney and paraprofessional careers. These programs should not only encourage rural students to aspire to law school and public defense practice but also help recruit and train future public defense investigators, social workers, and paralegals.

### **State funding for public defense should ensure adequate support for small and rural jurisdictions.**

In California, when funds are allocated exclusively on a per capita basis, the smallest California counties often receive minimal amounts. But public defense programs in California's most rural, least-populous counties face unique challenges to provide adequate public defense services. To address these problems, smaller, rural counties need to receive sufficient funding to allow them to effectuate reform. When establishing regular funding for public defense, California's funding allocation should guarantee a minimum, useful amount of funding to small and medium-sized counties.

The 2020 Indigent Defense Grant Program (IDGP) was a one-time funding program that supplemented local indigent criminal defense funding. The 2020 Budget Act (SB 74) included \$10,000,000 for the IDGP: \$9,800,000 for grants and \$200,000 to evaluate the program. IDGP funds were distributed through a Request for Applications. The funds were allocated to 19 small and medium-sized counties (populations of 600,000 or fewer residents) with a county-administered public defender offices. Larger counties were not eligible for IDGP funding. Grant amounts ranged from \$274,400 to \$1,127,000, allocated based on size and need.

In contrast, the 2021 Public Defense Pilot Program (PDPP) was allotted on a per capita basis.<sup>287</sup> It provided \$50 million per year for each of the three years to fund public defense services related to resentencing programs. The PDPP's per capita allocation enabled larger counties to receive state public defense funding, but left small counties eligible only for extremely low amounts:

- Alpine County - \$1,527.64
- Mono County - \$17,513.19
- Inyo County - \$23,144.56

In total, 20 of California's 58 counties were eligible for less than \$100,000 each, nine of those counties were eligible for less than \$50,000 each.<sup>288</sup>

Because PDPP funding was on a per capita basis, the utility of the funding available to small counties was severely limited. In several counties, the amount was insufficient to hire a new staff member – even a part-time staff member. For extremely small counties, the funding available was likely insufficient to cover the costs of applying for the grant, much less the costs of compliance and reporting. Indeed, several small counties did not apply.

To ensure that state public defense funding allows small counties to make significant improvements while also guaranteeing meaningful funding for larger counties, the state should employ a hybrid approach for regular, annual public defense funding. California should guarantee a minimum, useful amount of funding to small and medium-sized counties and then allocate the remaining funding to all counties on a per capita basis to ensure that large counties receive significant state assistance.

For example, were the state to provide \$150 million to support county-based public defense programs, the first \$25 million could be distributed by population bracket to guarantee a minimum threshold amount to small counties:

- \$150,000 per year to counties with populations of less than 30,000,<sup>289</sup>
- \$300,000 per year to counties with populations between 30,000 and 99,999,<sup>290</sup>
- \$450,000 for counties with populations between 100,000 and 249,999,<sup>291</sup>
- \$600,000 for counties with populations of 250,000 or greater.<sup>292</sup>

The remaining \$125 million could then be distributed to all counties on a per capita basis like the PDPP.<sup>293</sup>



## **California Should Incentivize Rural Counties Without Public Defender Offices to Consider Regional Public Defender Offices.**

Smaller, more rural counties face particular problems recruiting new lawyers. One reason is that these counties are less likely to have public defender offices, which provide training, mentorship and support for new attorneys. But small counties face unique challenges in creating governmental public defender offices. To address similar issues, other states have promoted regionalization.

- The Texas Indigent Defense Commission has funded the development of several rural regional defender offices. As of 2024, there were “12 regional [public defender offices] in Texas serving 57 rural Texas counties and 3 mid-sized counties.”<sup>294</sup>
- In Michigan, the Manistee-Benzie Public defender office was created in 2019 to serve two small counties, which together have a population of approximately 42,000.
- In Kansas, the Board of Indigents’ Defense Services operates a number of rural regional offices. For example, the North Central Regional office serves six rural counties.

These rural regional offices are often successful at recruiting young lawyers to come to rural areas to practice public defense. One public defender in a Texas rural office noted that the office provides mentorship and skills training.<sup>295</sup> Another cited the salary and benefits of a full-time position as essential when considering repaying student loans.<sup>296</sup> A recent report on rural public defense in Texas noted that, after the formation of a number of rural regional offices, interest in public defender offices had increased. In particular, “judges in rural areas were interested in a [public defender office] because they felt that was the only possible solution to increasing the number of attorneys available in their county.”<sup>297</sup>

California law specifically permits counties to establish regional public defender offices.<sup>298</sup> The state should consider providing funding to incentivize counties to work together to create public defender offices to assist in addressing rural lawyer shortages.

# Public Defense Data in California

At present, the State of California collects very little data on public defense and the data collected are incomplete. As a result, the state does not have basic information on the how public defense is administered, current staffing levels, or caseloads.

Were California to require the submission of public defense information, many counties would be unable to provide complete data. Some public defender offices and most contract and assigned counsel systems do not have effective data collection systems. Even programs with data systems often cannot produce caseload data, either because the data are incomplete or because the system cannot produce the required reports.

## California Data Collected on Public Defense

The state of California does not require counties to regularly submit comprehensive public defense data. Two important, regularly-collected, data sets include some public defense data, but they are incomplete and flawed for purposes of assessing public defense systems.

The California Department of Justice regularly collects data on county-level criminal justice staffing, including the number of public defense attorneys, investigators, and clerical workers in each county.<sup>299</sup> However, in 2022, 27 of California's 58 counties (47%) failed to provide any public defense staffing data.<sup>300</sup> The non-reporting counties almost all provide public defense through contract or assigned counsel systems. Further, even the reported staffing data are likely incomplete. Because counties are asked to report only county positions,

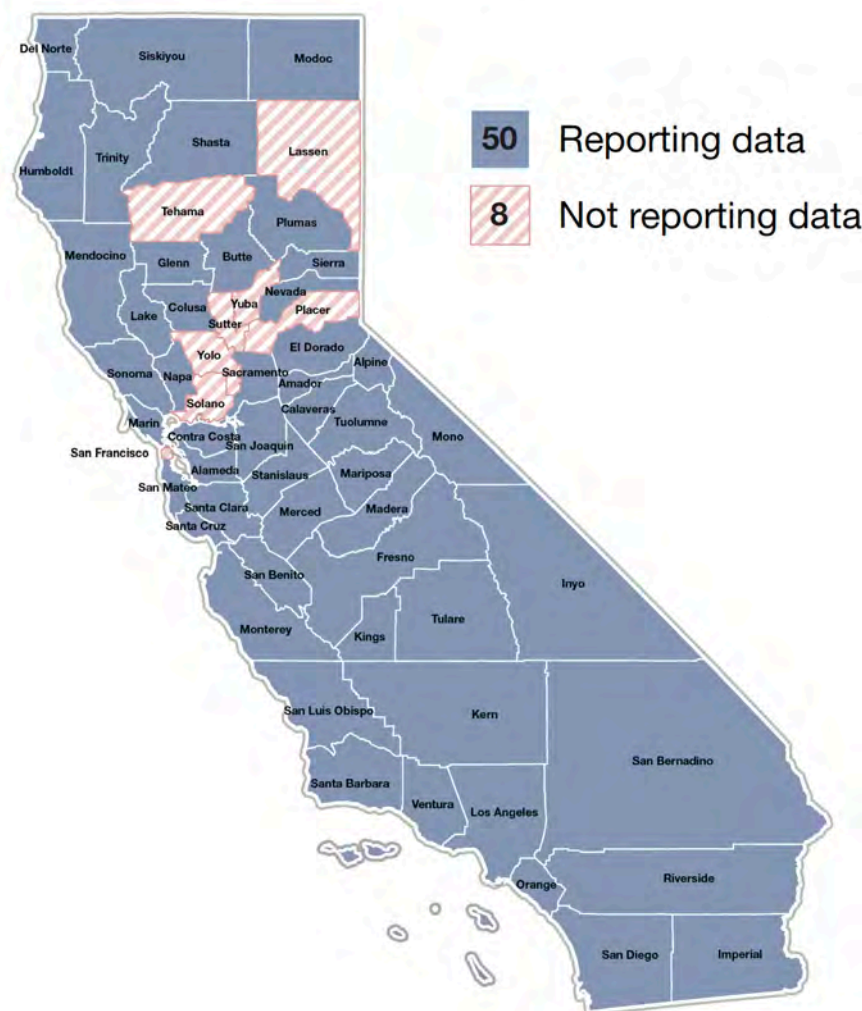
## California DOJ Public Defense Staffing Data (2022)



reported staffing does not include attorneys or support staff working on a contract or by assignment.

The California Controller collects data on county budgets.<sup>301</sup> The California Controller's data on public defense is similarly incomplete. In FY 2022-2023, six counties failed to report any public defense expenditures.<sup>302</sup> An additional two counties failed to report prosecution expenditures, limiting the ability to compare expenditures.<sup>303</sup> Further, the reported expenditure data are likely incomplete. For example, public defense expenditures paid for through the court, such as appointed investigators and experts, may be reported as court expenditures, not public defense expenditures. Similarly, city prosecutor offices are likely not reflected in the reported prosecutor expenditures.

## California Controller Expenditure Data (FY 2022-23)





## Many California Public Defense Systems Lack Effective Data Collection Systems

The vast majority of California's public defender offices (91%) use computerized case management systems (CMS) to collect and store key case data.<sup>304</sup> Most are excellent at storing information on an individual case and allowing attorneys to look up that information. However, their usefulness at reporting caseload and system data varies.<sup>305</sup>

Chief public defenders in offices with CMS reported that the data captured differs. Most CMS capture case opening date, attorney assigned, and charges at case initiation.<sup>306</sup> But several report that their CMS is not as effective at capturing changes to this key data, *e.g.*, added, reduced, or amended charges or attorney withdrawals and substitutions.<sup>307</sup> Even when data are collected, the office is often unable to extract those data as desired. Only 62% of chief public defenders reported that their office could produce custom reports or data extracts.

Several chief public defenders similarly reported dissatisfaction with their current data systems. Over 25% of chief public defenders characterized their current data systems as "Poor" or "Very Poor".<sup>308</sup> Similarly, many attorneys reported that their CMS contain inaccurate or incomplete data. Indeed, during site visits the Deason Center team observed that even in offices with CMS, attorneys often relied primarily upon paper files.



Contract and assigned counsel public defense systems rarely provide lawyers with CMS. Some of the attorneys in contract law firms told the Deason Center team that they used a CMS but reported that it was used exclusively to look up individual case materials. They had not used the CMS to produce any form of data report.

Depending upon payment method, assigned counsel systems may have some ability to track some caseload data. For example, if the attorney is paid hourly or by case, the program will likely have an invoicing system with some case data, including attorney assigned. However, several administrators said that they had never tried to collect data in this way.

## Readiness to Implement Workload Standards

Understanding attorney workloads requires accurate data. At present, most of California's public defense systems lack the necessary data to apply workload standards.

### The Data Needed to Implement Workload Standards

Workload standards, like the National Public Defense Workload Study standards, are used to estimate how many public defense attorneys a jurisdiction needs to address its projected caseload. To apply workload standards to determine its attorney staffing needs, a public defense program must be able to count incoming cases by case type, which is determined by highest charge.<sup>309</sup> At present, most California public defender offices cannot do this either due to lack of staffing or lack of CMS capabilities.<sup>310</sup>

### Progress Toward Implementing NPDWS Standards in California

Before a jurisdiction can use the NPDWS workload standards, the jurisdiction must first sort all possible criminal charges into the 11 case types used by the NPDWS, which range from Probation/Parole Violations up to Felony-High-LWOP.<sup>311</sup> Each case type is defined both by a description and by an expected sentencing range. Every criminal charge in the jurisdiction is assigned a NPDWS case type. For example, a robbery is often classified as a Felony-Low, while an armed robbery is often classified as a Felony-Mid. Cases are then sorted based on the most severe criminal charge the client faces in a case.

California's sentencing enhancements complicate this process of assigning cases to a case type. To assist jurisdictions in making these determinations, OSPD published a practical guide for applying the NPDWS in California.<sup>312</sup> One public defender office has used this guide to map all California crimes and enhancements to the NPDWS case types and made this mapping available for other offices to use.<sup>313</sup>

Managed assigned counsel programs commonly assign cases to attorneys and are therefore able to produce case counts by assignment date.<sup>314</sup> Similarly, as noted above, any assigned counsel programs that pay lawyers on an hourly or per-case basis should have some records of case assignments, but may not be able to aggregate this information. Comparatively, contract systems – particularly flat-fee contract systems – are far less likely to be able to report caseload data.<sup>315</sup> In each of these types of systems, a threshold challenge is assigning the responsibility for collecting and reporting these data.

Once a program or jurisdiction understands the attorney staffing needs, those needs must be compared to current attorney capacity to determine whether the program needs more attorneys. Current attorney capacity is commonly calculated by full-time equivalents (FTE). This process is relatively simple for a public defender office – they simply count their attorneys, counting part-time attorneys as a fractional FTE.<sup>316</sup> The number of current FTE attorneys is then subtracted from the needed FTE attorneys to determine if any additional attorneys are needed.

Calculating FTE attorneys in an assigned counsel or contract program is more complicated. These programs frequently allow attorneys to take on private legal work or contract with more than one county. Indeed, the Deason Center interviewed several attorneys with contracts in two or more counties. Several other contract attorneys reported accepting conflict work in other counties, as well as private cases. To calculate FTE attorneys, such programs must ask program attorneys to self-report the percentage of their time they devote to public defense work in the county or require attorneys to report hours worked on public defense cases.

Several counties also allow contract counsel to subcontract with other attorneys. Unless attorneys are required to report any subcontracts to the county or program, it will be impossible to accurately count of FTEs and complete a workload analysis.

## Recommendations

### **The state should require counties to report public defense data.**

Collecting basic information on California’s county-based public defense systems is critical to addressing the state’s public defense deficiencies and efficiently allocating state resources. At present, California does not have reliable data on how public defense services are provided, who is providing those services, and the number and types of cases in which they provide services. While some public defense staffing and expenditure data are collected by the state, those data sets are incomplete and fail to collect the data needed for meaningful analysis. Until more comprehensive data are regularly collected, no researcher or policymaker can fully assess the staffing or funding needs of California’s public defense systems.



“[S]tates should, in a manner consistent with protecting client confidentiality, collect reliable data on public defense, regularly review such data, and implement necessary improvements.”

— Principle 4, ABA 10 Principles

As a foundational matter, the state of California should regularly collect basic information on public defense services and providers in each county:

- Type of primary and conflict public defense system(s) used
- Method and timing of case assignment
- Minimum attorney qualifications by case type
- Budget and expenditures on public defense<sup>317</sup>
- Funded and filled public defense positions by type<sup>318</sup>
- The names and license numbers of all people serving in positions that require licensure<sup>319</sup>
- The FTE percentage for each attorney<sup>320</sup>

As soon as counties have the data capacity, data collection should expand to include caseload data. Caseload data should include:

- Case counts of cases assigned to the program (office, contract provider, or panel) by case type<sup>321</sup>
- Case counts of cases assigned to each attorney by case type

As data capacity increases, the state may want to further expand its data collection to include data on services provided to clients and case outcomes. These data often include meetings and communications with clients; motions filed; use of investigators, paralegals, and social workers; consultations with experts; reductions or amendments to charges; and dispositional data, including sentencing information.

### **The Importance of Clearly Defining the Data to Be Collected**

To be able to aggregate or compare data, the data collection must use consistent definitions. At present, no standard definitions exist for collecting public defense data in California.<sup>322</sup> As a result, any application of standards would be inconsistent.<sup>323</sup> As California expands data reporting requirements, the state should clearly define the data to be collected to ensure consistency. Such definitions should be announced well before data collection begins to allow jurisdictions to refine their data collection systems as needed.

California is an outlier in not collecting and publishing comprehensive, aggregated data on its county-based public defense systems. In New York, Michigan, and Texas, counties are required to regularly report public defense data.<sup>324</sup>

- In New York, public defense providers must file performance measure progress reports with Office of Indigent Legal Services biannually.<sup>325</sup> These reports collect budgetary data, attorney and non-attorney staffing data, as well as the total number of cases assigned during the six-month period.<sup>326</sup> The reports also collect data on counsel at first appearance, as well as the use of investigators and experts.<sup>327</sup>
- In Michigan, each county is required to submit annual compliance and financial reports.<sup>328</sup> The compliance reports collect information on the manner of providing public defense services in the county, the attorneys accepting adult criminal case assignments, the percentage of time they spend on public defense work in the county, and their level of experience. They also collect data on standards compliance, including how each county is verifying the prompt appointment of counsel, the timing of initial client interviews, and representation at initial appearance.<sup>329</sup>
- In Texas, each county must submit a public defense plan bi-annually to the Texas Indigent Defense Commission.<sup>330</sup> In addition, each county must submit budget information and caseload reports showing the number of cases by attorney and case type.<sup>331</sup> TIDC publishes both the county public defense plans and the submitted staffing and caseload data in a sortable and searchable public data portal.<sup>332</sup> For example, the portal displays the total cases – across all counties – accepted by an attorney in a year and the amount that attorney was paid for their work on those cases.

Like these other states, California should require every county to report public defense data at least every two years. As the state adopts standards, such as attorney workload or support staffing standards, data collection is critical to ensuring that the state can evaluate compliance with adopted standards and efficiently deploy its resources.

### **California Public Defense Data Should Be Publicly Available**

Public defense is a public service provided with taxpayer dollars. While respecting client confidentiality, “[a]ggregated data should be shared with other relevant entities and made publicly available in accordance with best practices.”<sup>333</sup>

Transparency is often accomplished both by maintaining a data portal, as in Texas,<sup>334</sup> and by compiling and publishing annual impact reports, as in Michigan.<sup>335</sup> Several California entities publish analogous data through data portals. For example, county budget and expenditure data are published in a searchable portal on the California State Controller website. Similarly, the California Department of Justice data portal includes the public defense staffing data that is reported.

## **The state should provide funding to improve data capacity.**

Were the state to implement public defense data reporting, several counties would be unable to comply. While most California public defender offices had case management systems, over half of chief public defenders reported that they cannot produce simple data summaries, such as a tabulation showing the number of assigned cases by year of case opening and highest charge.<sup>336</sup> Without such data, these public defense programs cannot provide basic caseload data by case type. Contract programs often lack even basic data, such as cases by attorney assigned. And many California public defense programs still rely primarily on paper files.

To collect reliable public defense data, California must provide support for improving public defense data systems. In New York, the Office of Indigent Legal Services asked each county to designate a Data Officer to work with ILS and provided funding to support the data officers, as well as improved data collection capacity.<sup>337</sup> Texas similarly has a grant program that allows counties to apply for one-time funds for equipment and technology projects, among other purposes.<sup>338</sup> California should provide dedicated funding to allow public defense programs to improve their data collection systems. Providing this funding will lead to better data, allow more fully informed decisions, and lead to more efficient use of state resources.

# Conclusion



California is a powerful state: the fourth largest economy in the world and the most populous state in America. California's justice system should set the example for the rest of the country. But California's public defense systems are floundering. Public defense providers are drowning, and those they represent are suffering.

Most California public defense attorneys are representing people in far more cases than they can effectively, efficiently, or ethically handle. Because of their excessive workloads, many California public defense attorneys cannot dedicate the time needed to consistently communicate with their clients, review prosecutorial evidence, or investigate their cases. Further, because they lack appropriate support staffing, many report spending considerable time on important tasks that could be performed – and would more appropriately be performed – by paraprofessionals. As a result, they cannot always complete key lawyer tasks, such as filing appropriate motions, pursuing alternative sentences, or cultivating mitigation arguments.

Imagine if someone you loved – a child, a parent, or a sibling - were facing possible jail time and their lawyer never had time to investigate their case and only met with them in the courtroom before hearings. This is the experience of many public defense clients in California. Understandably, these clients often do not feel like they have real choices or understand the consequences of the decisions they make. In this way, excessive caseloads undermine the fairness of California's legal system and harm vulnerable communities.

Excessive caseloads are also taking a toll on the attorneys. Their stress and frustration at not having the time to fully represent each client leads to burnout and turnover, particularly among experienced advocates.

Limiting public defense workloads and ensuring appropriate support staffing are fundamental steps toward providing effective representation to every client. But California's counties cannot do this alone. State funding is critical to making these essential improvements to public defense in California.

Establishing core standards on attorney workloads and support staffing for public defense is not only vital to the operation of California's justice system, but also a constitutional imperative. Only by establishing these standards – and funding counties to meet them – can California ensure that every person facing potential incarceration can receive a competent defense. California must join its peer states and ensure appropriate public defense staffing, fund county systems, and collect critical data on public defense to guarantee the Sixth Amendment's right to effective assistance counsel for all people in California.

## ENDNOTES

<sup>1</sup> U.S. Const., Amend. IV; Cal. Const., Art. I, Sect. 15 (“The defendant in a criminal cause has the right . . . to have the assistance of counsel for the defendant’s defense[.]”).

<sup>2</sup> 372 U.S. 335 (1973).

<sup>3</sup> *Gideon v. Wainwright*, 372 U.S. 335 (1963) (attorneys are “necessities, not luxuries”). California courts have similarly held that the “ultimate purpose” of the right to counsel “is to protect the defendant’s fundamental right to a trial that is both fair in its conduct and reliable in its results.” *In re Edward S.*, 173 Cal. App. 4<sup>th</sup> 387, 406 (Cal. App. 2009). Since 1872, California’s right to counsel has been codified in the Penal Code. Cal. Penal Code § 987 (“[I]f the defendant appears for arraignment without counsel, the defendant shall be informed by the court that it is their right to have counsel before being arraigned, and shall be asked if they desire the assistance of counsel. If the defendant desires and is unable to employ counsel the court shall assign counsel to defend them.”).

<sup>4</sup> H. Harris, *California’s Leading Role in Providing Criminal Defense for the Poor*, Public Policy Institute of California (Mar 16, 2023) (noting that 17 California counties had public defender offices before 1963); I. Eagly, *et. al.*, *Restructuring Public Defense after Padilla*, 74 Stan. L. Rev. 1, 11-13 (2022).

<sup>5</sup> Cal. Penal Code § 987.2(a); Cal. Gov. Code §27700 (“The board of supervisors of any county may establish the office of public defender for the county. Any county may join with one or more counties to establish and maintain the office of public defender to serve such counties.”).

<sup>6</sup> This changed recently with the formation of the Indigent Defense Improvement Division (IDID) of the Office of the State Public Defender (OSPD). OSPD is statutorily charged with “provid[ing] assistance and training to public defender offices . . . [and appointed] counsel . . . and [engaging] in related efforts for the purpose of improving the quality of indigent defense.” Cal. Gov. Code §15420(b) (2024). Through IDID, OSPD “work[s] collaboratively with the public defense community and stakeholders to enhance support, training, and capacity for public defense systems in California.” IDID trains public defense attorneys and staff, evaluates county public defender systems, and produces evaluative and informational reports. The Office of State Public Defender, *Indigent Defense Improvement Division*, last visited April 5, 2025.

<sup>7</sup> G. Patek, *Assessing the Provision of Criminal Indigent Defense*, Legislative Analyst’s Office (Sept 2022).

<sup>8</sup> A summary of recently published county-level materials on public defense services is included as Appendix A.

<sup>9</sup> One public defender office recently created a pretrial release unit to provide robust advocacy between booking and arraignment. A. Yarmosky, *The Impact of Early Representation: An Analysis of the San Francisco Public Defender’s Pre-trial Release Unit*, University of California, Berkeley (2018) (finding that during its first five months of operation, the unit reduced pretrial detention, saving San Francisco the costs of over 4,500 jail bed days or roughly \$800,000). Many other offices make extraordinary efforts to reach out and provide services to the community, see, e.g., *San Bernardino Mobile Defense Unit*, and several offices endeavor to help eligible people apply for record expungement, see, e.g., *Contra Costa Clean Slate Program*.



<sup>10</sup> Complaint, UFW Foundation v. County of Kern, CU24-03274 (Sup. Ct. Solano County) (alleging that fewer than 5 percent of misdemeanor defendants were represented by counsel at arraignment and that, between 2015 and 2023, approximately 50,000 people pled guilty to a misdemeanor without counsel); Complaint, Sorensen v. San Mateo County Bar Association, 24-CIV-01575 (Sup Ct. San Mateo County) (alleging that the structure for providing public defense services in San Mateo is illegal).

<sup>11</sup> Office of State Public Defender, A Report on Indigent Defense in Kings County (Apr 2024), presented to the Kings County Board of Supervisors, April 16, 2024, Agenda Packet, at 175-233 (finding high rates of client dissatisfaction and low rates of key markers of high-quality defense, such as investigation, motion practice, and expert consultation); The Sixth Amendment Center, The Right to Counsel in Lake County, California (Feb 2023) (describing the flat fee contract system used in Lake County, which provides for almost no oversight of the quality of public defense services); Office of State Public Defender, A Report on the Status of Public Defense in Del Norte County (Sept 2022) (finding that accused individuals in Del Norte commonly wait a week or more before having contact with their public defense attorney and that the county does not provide adequate supervision or training to attorneys); The Sixth Amendment Center, The Right to Counsel in Santa Cruz, California (Sept 2020) (finding that the county's "primary contract law firm has caseloads far above the national standards, and the three contract firms combined do not have enough attorneys to handle the total appointed caseload effectively."). After receiving the Sixth Amendment Center report, Santa Cruz County established a public defender office.

<sup>12</sup> For example, in 2023, two public defenders in Tuolumne County became judges, leaving only one public defender in the county's already understaffed public defender office. While the county struggled to fill the open attorney positions, the one remaining defender was responsible for handling the majority of the 2,085 cases filed annually. L. Arroyo, Some public defender offices in rural California are in dire need of lawyers, Daily Journal (Jan 2024); R. Boruchowitz & R. Chang, San Francisco public defender made the right call to limit defender caseloads, Daily Journal (June 4, 2025); Striking prosecutors and public defenders walk picketline, Cal Lawyer (Sept 5, 2024); Los Angeles lags behind national standards on public defense, ACLU of Southern California (Sept 21, 2023);

<sup>13</sup> Cal. AB 625 (2021) codified as Cal. Govt. Code § 15403 (to be automatically repealed on Jan 1, 2029).

<sup>14</sup> N. Pace, et. al., National Public Defense Workload Study, RAND (2023).

<sup>15</sup> The Deason Center at the SMU Dedman School of Law, in Dallas, Texas, is a nonpartisan center for criminal justice research and advocacy. Launched in 2017, the Deason Center conducts, supports, and disseminates research with practical implications for criminal justice reform. It also educates about criminal justice issues and advocates for best practices. The Deason Center focuses on the Sixth Amendment right to counsel, the operation of rural criminal courts, and the use of prosecutorial charging discretion. Deason Center faculty and staff are nationally recognized experts on public defense workloads.

<sup>16</sup> For a more detailed description of methodology, see Methods, Appendix B.

<sup>17</sup> In this report, public defense attorney refers to any attorney providing publicly funded representation to an individual facing potential incarceration in a criminal case in adult criminal court. A public defense program is any type of program that assigns or

provides public defense attorneys. A public defender office is an office in which attorneys providing public defense services are county employees.

<sup>18</sup> Nat'l Assoc. for Public Defense, *NAPD Policy Statement on Public Defense Staffing* (May 2020).

<sup>19</sup> U.S. Const., Amend. IV; Cal. Const., Art. I, Sect. 15 (“The defendant in a criminal cause has the right ... to have the assistance of counsel for the defendant’s defense[.]”).

<sup>20</sup> 372 U.S. 335 (1973).

<sup>21</sup> *Gideon v. Wainwright*, 372 U.S. 335 (1963) (attorneys are “necessities, not luxuries”).

<sup>22</sup> *Id.* California courts have similarly held that the “ultimate purpose” of the right to counsel “is to protect the defendant’s fundamental right to a trial that is both fair in its conduct and reliable in its results.” *In re Edward S.*, 173 Cal. App. 4<sup>th</sup> 387, 406 (Cal. App. 2009). Since 1872, California’s right to counsel has been codified in the Penal Code. Cal. Penal Code § 987 (“[I]f the defendant appears for arraignment without counsel, the defendant shall be informed by the court that it is their right to have counsel before being arraigned, and shall be asked if they desire the assistance of counsel. If the defendant desires and is unable to employ counsel the court shall assign counsel to defend them.”).

<sup>23</sup> H. Harris, *California’s Leading Role in Providing Criminal Defense for the Poor*, Public Policy Institute of California (Mar 16, 2023) (noting that 17 California counties had public defender offices before 1963); I. Eagly, et. al., *Restructuring Public Defense after Padilla*, 74 Stan. L. Rev. 1, 11-13 (2022).

<sup>24</sup> *Id.* at 12 (citing Cal. Penal Code § 987 (1872) (“If the defendant appears for arraignment without counsel, he must be informed by the Court that it is his right to have counsel before being arraigned, and must be asked if he desires the aid of counsel. If he desires and is unable to employ counsel, the Court must assign counsel to defend him.”)).

<sup>25</sup> *Id.* at 12 (citing *Rowe v. Yuba County*, 17 Cal. 61, 63 (1860) (“Counsel are not considered at liberty to reject, under circumstances of this character, the cause of the defenseless, because no provision for their compensation is made by law.”)).

<sup>26</sup> *Id.* (citing M. Goldman, *The Public Defender: A Necessary Factor in the Administration of Justice* 16 (1917); Walton J. Wood, *The Public Defender: Unexpected Results from the Establishment of the Office*, 1 S W. L. Rev. 30, 31 (1916) (describing “attorneys of low standing who made a practice of preying upon the unfortunates within the prison walls”)).

<sup>27</sup> B.A. Babcock, *Inventing the Public Defender*, 43 Am. Crim. L. Rev. 1267, 1270-71 (2006).

<sup>28</sup> *Id.* at 1271 (citing Clara Folz, *Public Defenders*, Address to the Congress on Jurisprudence and Law Reform during the Chicago World’s Fair (1893), in 48 Alb. L. J. 248, 249 (1983)).

<sup>29</sup> *Id.*

<sup>30</sup> H. Harris, *California’s Leading Role in Providing Criminal Defense for the Poor*, Public Policy Institute of California (Mar 16, 2023).

<sup>31</sup> *Id.*

<sup>32</sup> Cal. Penal Code § 987.2(a); Cal. Govt Code §27700 (“The board of supervisors of any county may establish the office of public defender for the county. Any county may join with one or more counties to establish and maintain the office of public defender to serve such counties.”).

<sup>33</sup> Cal. Govt Code § 27700 (2024) (permitting but not requiring counties to establish a public defender office); Cal. Govt Code § 27702 (2024) (public defenders may be appointed or elected); Cal. Penal Code § 987.2 (allowing assigned counsel and contract public defense programs).

<sup>34</sup> The San Mateo program provides attorneys with access to vetted investigators and social workers, as well as an in-house immigration attorney who can provide consultations. San Mateo Private Defender Program, *Annual Report (FY 2023-2024)*.

<sup>35</sup> In San Luis Obispo for example, the county contracts with a law firm. The law firm calls itself SLO Defenders and thus might appear to be a public defender office of county employees. See SLO Defenders, last visited Apr 5, 2025. Similarly, the law firm Fitzgerald, Alvarez, and Ciummo holds contracts to provide public defense services in several counties, including Madera County. In Madera County, the law firm’s office calls itself Madera County Public Defender, and the secondary office calls itself the Madera Alternate Public Defender.

<sup>36</sup> System information is current as of August 15, 2025. As of this time, Mono County utilized an unmanaged assigned counsel/contract program. However, the Mono County Board of Supervisors recently voted to establish a public defender office. Press Release, Mono County establishes office of public defender to strengthen indigent defense services (Aug 14, 2025).

<sup>37</sup> These counties are Alameda, Contra Costa, El Dorado, Fresno, Humboldt, Imperial, Kern, Lake, Los Angeles, Marin, Mendocino, Merced, Monterey, Napa, Nevada, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Tulare, Tuolumne, Ventura, and Yolo.

<sup>38</sup> An unmanaged assigned counsel program typically does not have any professional management or infrastructure to oversee and support the attorneys who accept assignments. It may simply be a list from which judges appoint attorneys. In California, because it is often difficult to distinguish between contract systems in which the contract is with individual attorneys and unmanaged assigned counsel systems, this report groups these types of programs together. For example, in Imperial County, the County Counsel office administers the conflict defense program. The program maintains a list of attorneys who accept appointments, but these attorneys have contracts with the county. Imperial County Counsel Indigent Defense Program, last visited Apr 28, 2025.

<sup>39</sup> Some counties contract with a law firm that serves as the county’s primary public defense provider, e.g., Madera County. Other counties contract with individual lawyers. Butte County, for example, has public defense contracts with approximately 15 individual lawyers. Each lawyer is assigned a primary docket, e.g., one felony attorney might represent people whose last names start with A-M before a particular judge. However, the Butte contract lawyers also work together to evenly distribute the most serious cases and to reassign cases in which the assigned attorney has a conflict. Other counties have contracts with several attorneys who operate more like an assigned counsel program. In several counties, a county official, usually a court clerk, is informed an attorney is needed and emails the attorneys on the list with brief details

about the case. The first attorney to respond to the email indicating they will accept the case is appointed.

In California, contract attorneys are sometimes permitted – or even expected – to subcontract their public defense work to other lawyers. In some counties, the county tasks its contracted public defense providers with selecting and compensating public defense subcontractors. Elsewhere, counties contract with lawyers to personally provide indigent defense, but those attorneys may nevertheless use subcontractors. For example, contract lawyers in Butte can subcontract with other attorneys to cover some, or all, of their indigent defense cases.

<sup>40</sup> An alternate defender division is a division within the public defender office that accepts cases where the primary division of the public defender office has a conflict. Alternate defender divisions seek to provide the ethical separation required between lawyers for conflict-of-interest purposes without separating the highest levels of administration. The structure can raise ethical issues, as it gives rise to situations generating conflicting incentives among public defenders or potential breaches of confidentiality. See Formal Ethics Opinion 19-1, National Association for Public Defense (2019). However, in 2022, a California ethics opinion concluded that alternate defender divisions provide sufficient ethical separation, provided the office maintains appropriate separation between divisions, including maintaining the confidentiality of client information and limiting the supervision of the Chief Public Defender over the alternate division and its attorneys. See State Bar of California, Formal Ethics Opinion 2002-158.

<sup>41</sup> The San Diego County Public Defender Office has both an internal alternate public defender office and an internal multiple conflict office. The County also has an office of assigned counsel. See San Diego Office of the Public Defender, last visited Apr 5, 2025.

<sup>42</sup> In Contra Costa, when both the primary public defender office and alternate division have a conflict, the case is assigned through an independent managed assigned counsel program. Contra Costa Conflict Program, last visited July 17, 2025. In Humboldt County, when the primary and conflict divisions of the public defender office have a conflict, the county uses an informal assigned counsel program. A county administrator sends an email about the case to a list of attorneys who accept appointments. An attorney willing to accept the case responds to the email.

<sup>43</sup> See, e.g., Alameda County Criminal Court Appointed Attorneys Program, last visited July 18, 2025; San Francisco Indigent Defense Administration – Conflicts Counsel, last visited July 18, 2025.

<sup>44</sup> Sacramento County Conflict Criminal Defenders, last visited July 18, 2025.

<sup>45</sup> Complaint, Phillips v. State of California, No. 15CEG02201 (Fresno County Sup. Ct. Jan 10, 2020).

<sup>46</sup> State Settlement Agreement, Phillips v. State of California, No. 15CEG02201 (Fresno County Sup. Ct. Jan 10, 2020).

<sup>47</sup> The Indigent Defense Grant Program was a short-term funding program that supplemented local funding for indigent criminal defense in small counties. The 2020 Budget Act (Cal. SB 74) included \$10,000,000 for the IDGP—\$9,800,000 for grants and \$200,000 to evaluate the program. This equates to an expenditure of \$0.25 per California resident. [Per capita funding calculated using a 2020 population of California of 39.37 million]. IDGP funds could only be distributed to small and medium-sized counties (populations of 600,000 or fewer residents) with a county-administered public defender office. Grant amounts were allocated based on size and need.

<sup>48</sup> G. Patek, *Assessing the Provision of Criminal Indigent Defense*, Legislative Analyst's Office (Sept 2022).

<sup>49</sup> *Assessing the Provision of Criminal Indigent Defense*, at 8.

<sup>50</sup> For example, in FY 2024, the State of Minnesota provided \$154 million for public defense services [\$26.55 per person]. Minnesota Board of Public Defense, last visited Apr 6, 2025. Per capita funding calculated using a 2024 population of Minnesota – 5.793 million people. Some counties, including Hennepin County (Minneapolis) also contribute funds for public defense services. Similarly, in New Mexico, the state funds a Commission that oversees public defense services statewide. In FY 2024, the public defense budget in New Mexico was \$71.1 million [\$33.38 per person].

<sup>51</sup> Very soon it will only be two states – California and Arizona. On August 15, 2025, the Governor of Illinois signed a bill establishing both a state office of public defender and a public defense commission. The state public defender is charged with drafting public defense standards, including workload standards, for the approval and adoption of the public defense commission. See IL HB 3633 (2025).

<sup>52</sup> See also M. Beeman & C. Buetow, *Gideon at 60: A Snapshot of State Public Defense Systems and Paths to System Reform*, at 9 National Institute of Justice (Nov 2023).

<sup>53</sup> Illinois FAIR Act, HB 3633 at 15 (2025). The FAIR Act passed the Illinois Legislature on May 31, 2025. The Governor signed the act into law on August 15, 2025. The FAIR Act includes a two-year planning phase. The Commission will begin work in 2026. Funding is expected to be allocated in 2026.

<sup>54</sup> The Indigent Defense Improvement Division of the Office of the State Public Defender was first funded in the 2021-2022 Fiscal Year. The IDID hired its first employee in May 2021; it began operations in 2022.

<sup>55</sup> A summary of recent county-level materials on public defense services is included as Appendix A. An analysis of current county-level funding for public defense services is included as Appendix D.

<sup>56</sup> *Complaint, Phillips v. State of California*, No. 15CEG02201 (Fresno County Sup. Ct. Jan 10, 2020).

<sup>57</sup> *Complaint, UFW Foundation v. County of Kern*, CU24-03274 (Sup. Ct. Solano County) (alleging that fewer than 5 percent of misdemeanor defendants were represented by counsel at arraignment and that, between 2015 and 2023, approximately 50,000 people pled guilty to a misdemeanor without counsel); *Complaint, Sorensen v. San Mateo County Bar Association*, 24-CIV-01575 (Sup Ct. San Mateo County) (alleging that the structure of providing public defense services in San Mateo is illegal).

<sup>58</sup> Office of State Public Defender, *A Report on Indigent Defense in Kings County* (Apr 2024), presented to the Kings County Board of Supervisors, April 16, 2024, Agenda Packet, at 175-233 (finding high rates of client dissatisfaction and low rates of key markers of high-quality defense, such as investigation, motion practice, and expert consultation); The Sixth Amendment Center, *The Right to Counsel in Lake County, California* (Feb 2023) (describing the flat fee contract system used in Lake County, which provides for almost no oversight of the quality of public defense services); Office of State Public Defender, *A Report on the Status of Public Defense in Del Norte County* (Sept 2022) (finding that accused individuals in Del Norte commonly wait a week or more before having contact with their public defense attorney and that the county does not provide adequate supervision or training to attorneys); The Sixth Amendment



Center, *The Right to Counsel in Santa Cruz, California* (Sept 2020) (finding that the county’s “primary contract law firm has caseloads far above the national standards, and the three contract firms combined do not have enough attorneys to handle the total appointed caseload effectively.”). After receiving the Sixth Amendment Center report, Santa Cruz County established a public defender office. See Harvey M. Rose Associates, LLP, *Evaluation of the County of San Mateo’s Private Defender Program* (Jan 2022) (finding that the private defender program “has limited management resources, processes, and controls in place to ensure attorney performance and workloads are consistent with reasonable standards and result in high quality representation for clients.”).

<sup>59</sup> R. Boruchowitz & R. Chang, *San Francisco public defender made the right call to limit defender caseloads*, *Daily Journal* (June 4, 2025); *Striking prosecutors and public defenders walk picketline*, *Cal Lawyer* (Sept 5, 2024); L. Arroyo, *Some public defender offices in rural California are in dire need of lawyers*, *Daily Journal* (Jan 2024); *Los Angeles lags behind national standards on public defense*, *ACLU of Southern California* (Sept 21, 2023).

<sup>60</sup> For example, in 2023, two public defenders in Tuolumne County became judges, leaving only one public defender in the county’s already understaffed public defender office. While the county struggled to fill the open attorney positions, the one remaining defender was responsible for handling the majority of the 2,085 cases filed annually. L. Arroyo, *Some public defender offices in rural California are in dire need of lawyers*, *Daily Journal* (Jan 2024).

<sup>61</sup> One public defender office recently created a pretrial release unit to provide robust advocacy between booking and arraignment. A. Yarmosky, *The Impact of Early Representation: An Analysis of the San Francisco Public Defender’s Pre-trial Release Unit*, University of California, Berkeley (2018) (finding that during its first five months of operation, the unit reduced pretrial detention, saving San Francisco the costs of over 4,500 jail bed days or roughly \$800,000). Many other offices make extraordinary efforts to reach out and provide services to the community, see, e.g., *San Bernardino Mobile Defense Unit*, last visited July 15, 2025, and several offices endeavor to help eligible people apply for record expungement, see, e.g., *Contra Costa Clean Slate Program*, last visited July 15, 2025.

<sup>62</sup> 559 U.S. 356 (2010). California public defense attorneys were required to provide immigration advice long before *Padilla*. In 1987, a California Court of Appeals held that a public defender was ineffective for failing to research the immigration consequences of a client’s guilty plea and vacated the client’s guilty plea. *People v. Soriano*, 194 Cal. App. 3d 1471, 1479-82 (Cal. Ct. App. 1987) (“Because he was not adequately advised of the immigration consequences of his plea defendant has been prejudiced by the institution of deportation proceedings against him. We conclude that defendant was deprived of effective assistance of counsel in entering his guilty plea and should be allowed to withdraw that plea.”).

<sup>63</sup> I. Eagly, et. al., *Restructuring Public Defense After Padilla*, 74 *Stanford L. Rev.* 1, 31 (Jan 2022).

<sup>64</sup> *Restructuring Public Defense After Padilla*, at 34.

<sup>65</sup> Cal. AB 625 (2021) codified as Cal. Govt. Code § 15403 (to be automatically repealed on Jan 1, 2029).

<sup>66</sup> For a more detailed description of methodology, see Methods, Appendix B.



<sup>67</sup> A summary of recent county-level materials on public defense services is included as Appendix A.

<sup>68</sup> A full list of Advisory Board members is included the description of methodology, see Methods, Appendix B.

<sup>69</sup> This included chief public defenders of the two separate conflict offices in Los Angeles and El Dorado Counties. For offices with conflict divisions, the chief public defender was asked to respond on behalf of all divisions.

<sup>70</sup> *United States v. Cronin*, 466 U.S. 648, 655-657 (1984) (“The right to the effective assistance of counsel is thus the right of the accused to require the prosecution’s case to survive the crucible of meaningful adversarial testing. When a true adversarial criminal trial has been conducted – even if defense counsel may have made demonstrable errors – the kind of testing envisioned by the Sixth Amendment has occurred. But if the process loses its character as a confrontation between adversaries, the constitutional guarantee is violated.”).

<sup>71</sup> *Strickland v. Washington*, 466 U.S. 668 (1984).

<sup>72</sup> The ABA Criminal Justice Standards include the Defense Function Standards (4<sup>th</sup> ed. 2017), which are intended to provide guidance for the professional conduct and performance of defense counsel.

<sup>73</sup> ABA Ten Principles of a Public Defense Delivery System (2023).

<sup>74</sup> Attorney General Eric Holder called the Ten Principles the “essential guidepost for ensuring that our indigent defense efforts are as effective – and as efficient – as possible.” Eric Holder, Speech to the ABA’s National Summit on Indigent Defense in New Orleans, Louisiana (Feb 4, 2012) (announcing a federal grant program aimed at helping jurisdictions meet the Ten Principles).

<sup>75</sup> Introduction, ABA Ten Principles of a Public Defense Delivery System (2023).

<sup>76</sup> ABA Ten Principles of a Public Defense Delivery System (2023).

<sup>77</sup> New York State Office of Indigent Defense Services, About ILS, last visited Apr 9, 2025

<sup>78</sup> Michigan Indigent Defense Commission, 2013 Impact Report, last visited June 8, 2025.

<sup>79</sup> This report uses the term “public defense attorney” to describe any lawyer who provides appointed counsel representation to an indigent adult criminal defendant. Where relevant, the report identifies or distinguishes county-employed public defenders, contract defenders, and assigned counsel/panel attorneys.

<sup>80</sup> *Gideon v. Wainwright*, 372 U.S. 335 (1963) (attorneys are “necessities, not luxuries”).

<sup>81</sup> *Strickland v. Washington*, 466 U.S. 668, 687-688 (1984).

<sup>82</sup> *Padilla v. Kentucky*, 559 U.S. 356, 366-67 (2010) (“We have long recognized that ‘prevailing norms’ of practice as reflected in American Bar Association Standards...are guides to determining what is reasonable ... although they are only guides, and not inexorable command[.] ... [T]hese standards may be valuable measures of the prevailing professional norms of effective representation.”).

<sup>83</sup> There are no “exceptions” for lawyers providing public defense services – every arrested person is entitled to a lawyer who complies these obligations. ABA Standing Committee on Ethics and Professional Responsibility, Formal Opinion 06-441 (“The

obligations of competence, diligence, and communication ... apply equally to every lawyer.”).

<sup>84</sup> See ABA Standing Committee on Ethics and Professional Responsibility, Formal Opinion 06-441.

<sup>85</sup> Cal. Rules of Prof. Conduct, Rule 1.1 (Competence); Rule 1.3 (Diligence). The California Rules of Professional Conduct are derived from the ABA Model Rules of Professional Conduct (the ABA Model Rules). See *also* ABA Model Rule 1.1. (“A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”); ABA Model Rule 1.3 (“A lawyer shall act with reasonable diligence and promptness in representing a client.”). The ABA Model Rules have been adopted, in some form, in all 50 states. California also regulates its lawyers through Business and Professional Code. Cal. Bus. & Prof. Code § 6000, et. seq. (2024).

<sup>86</sup> Cal. Rule of Prof. Conduct 1.1(a).

<sup>87</sup> ABA Model Rule 1.1 (emphasis added), and Comment 5.

<sup>88</sup> Cal. Rule of Prof. Conduct 1.1(b).

<sup>89</sup> *Id.*

<sup>90</sup> ABA Model Rule 1.3, Comment 2.

<sup>91</sup> The ABA Standards for Criminal Justice are the pre-eminent substantive practice standards on criminal law and the operations of the criminal justice system. These Standards “are the result of the considered judgment of prosecutors, defense lawyers, judges and academics who have been deeply involved in the process.” M. Marcus, *The Making of the ABA Criminal Justice Standards: Forty Years of Excellence*, 23 Crim. Just. 10 (2009). The ABA Standards for Criminal Justice related to the Defense Function, currently in their fourth edition, (ABA Defense Function Standards) most directly and comprehensively address criminal defense practice.

<sup>92</sup> Cal. Rule of Prof. Conduct 1.4 (requiring a lawyer to consult with the client about the client’s objectives and how those objectives will be accomplished, explain the matter so that the client can make informed decisions and keep the client informed of the significant developments in the case); ABA Defense Function Standard 4-3.3 (directing an attorney to have an initial meeting with the client and begin the process of establishing a relationship of trust and confidence with each client). “Counsel should interview the client as many times as necessary for effective representation, which in all but the most simple and routine cases will mean more than once. Defense counsel should make every reasonable effort to meet in person with the client.” *Id.* at Standard 4-3.3(b).

<sup>93</sup> ABA Defense Function Standard 4-3.2. Pretrial release is often the first issue defense counsel must address. In every case where a client is detained, defense counsel must promptly assess the possibility of release, discuss possible release with the client, investigate facts related to the release determination, and litigate/negotiate for release if desired by the client. If the client is detained, counsel “should regularly reevaluate the client’s eligibility for release.” *Id.*

<sup>94</sup> ABA Defense Function Standards 4-3.1, 4-3.3, 4-3.9, 4-5.1, 4-5.4. For example, Standard 4-3.9(a) provides, “Defense counsel should keep the client reasonably and currently informed about developments . . . including developments in pretrial investigation, discovery, disposition negotiations and preparing a defense.” Additionally,

“[b]efore significant decision-points, and at other times if requested, defense counsel should advise the client with candor concerning all aspects of the case, including an assessment of possible strategies and likely as well as possible outcomes.” Standard 4-5.1(b). See also Cal. Rule of Prof. Conduct 1.4 (“A lawyer shall: . . . (3) keep the client reasonably informed about significant developments relating to the representation, including promptly complying with reasonable requests for information[.]”).

<sup>95</sup> ABA Defense Function Standard 4-3.7(b) (“Defense counsel should promptly seek to obtain and review all information relevant to the criminal matter, including but not limited to requesting materials from the prosecution.”).

<sup>96</sup> ABA Defense Function Standard 4-4.1. “Defense counsel has a duty to investigate in all cases, and to determine whether there is a sufficient factual basis for criminal charges.” *Id.* Investigations should commence promptly and “explore appropriate avenues that reasonably might lead to information relevant to the merits of the matter, consequences of the criminal proceedings, and potential dispositions and penalties.” *Id.* It should be noted that the duty to investigate exists regardless of the strength of the prosecution’s case, a client’s confession, or a client’s express desire to plead. *Id.*

<sup>97</sup> ABA Defense Function Standard 4-4.6.

<sup>98</sup> ABA Defense Function Standard 4-4.4.

<sup>99</sup> ABA Defense Function Standards 4-3.2, 4-7.11, 4-8.1.

<sup>100</sup> ABA Defense Function Standard 4-4.6.

<sup>101</sup> ABA Defense Function Standards 4-6.1, 4-6.2, 4-6.3.

<sup>102</sup> Cal. Rule of Prof. Conduct 1.4.1; ABA Defense Function Standards 4-5.1(c). In addressing pleas with clients, defense counsel must be candid – “not intentionally understat[ing] or overstat[ing] the risks, hazards, or prospects of the case or exert undue influence on the client’s decisions regarding a plea.” ABA Defense Function Standard 4-5.1(f).

<sup>103</sup> ABA Defense Function Standard 4-5.4; 4-5.5.

<sup>104</sup> See ABA Defense Function Standards 4-4.1, 4-6.1(b). “Defense counsel should not recommend to a defendant acceptance of a disposition without appropriate investigation. Before accepting or advising a disposition, defense counsel should request that the prosecution disclose any information that tends to negate guilt, mitigates the offense or is likely to reduce punishment.” ABA Defense Function Standard 4-6.2(d).

<sup>105</sup> See ABA Defense Function Standards 4-7.3, 4-7.5, 4-7.6, 4-7.7, 4-7.8. Further, If the client is found guilty, defense counsel should consider the strategic value of post-trial motions, and where appropriate prepare and present such motions. ABA Defense Function Standard 4-8.1.

<sup>106</sup> ABA Defense Function Standard 4-8.3.

<sup>107</sup> See, e.g., Cal. Rules of Court 4.420 (noting that appropriate sentence is dependent upon aggravating and mitigating factors); Cal. Rules of Court 4.423 (listing circumstances that can be offered mitigation).

<sup>108</sup> *Id.* at 103-107.

<sup>109</sup> See, e.g., Cal. Rules of Court 4.420 (noting that appropriate sentence is dependent upon aggravating and mitigating factors); Cal. Rules of Court 4.423 (listing circumstances that can be offered mitigation).

<sup>110</sup> Cal. Penal Code, § 1001.36(b)(2) (2023) (“If the defendant has been diagnosed with a mental disorder, the court shall find that the defendant’s mental disorder was a significant factor in the commission of the offense unless there is clear and convincing evidence that it was not a motivating factor, causal factor, or contributing factor to the defendant’s involvement in the alleged offense.”).

<sup>111</sup> *Padilla v. Kentucky*, 559 U.S. 356 (2010).

<sup>112</sup> In many public defender offices and managed panel systems, trial attorneys can consult with a dedicated immigration specialist, who may be a full-time employee or a contractor. Immigration attorneys typically assess the client’s situation and provide tailored guidance to the trial attorney, who then advises the client. Immigration attorneys in some offices may also undertake post-conviction work to help mitigate immigration consequences of a conviction, e.g., filing a motion to vacate a conviction. Trial attorneys without access to an immigration specialist should conduct independent research to assess a client’s potential consequences. The Immigrant Legal Resource Center has produced publications to help attorneys provide accurate guidance. See Immigrant Legal Resource Center, *Immigration Relief Toolkit for Criminal Defenders* (Jan 2024).

<sup>113</sup> Recent reforms allow: people sentenced to the functional equivalent of life without parole for a crime committed as a juvenile to seek resentencing, provided the person has served at least 15 years (Cal. Penal Code §1170(d)); anyone convicted of an offense committed before the age of 26 to have evidence of the role youthfulness played in the commission of the crime collected and preserved so that this evidence can be considered at future parole hearings, *People v. Franklin*, 370 P.3d 1053, 1060 (Cal. 2016); those who were sentenced under recently-repealed sentencing enhancements to seek sentence modifications, Cal. SB 483 (2022); people convicted on the previous definition of felony murder to seek resentencing, Cal. SB 1437 (2021), Cal. SB 775 (2021).

<sup>114</sup> Cal. AB 600 (2023).

<sup>115</sup> Cal. Penal Code § 745(a). The Racial Justice Act initially applied to judgments rendered beginning in 2021, Cal. AB 2542 (2020), but in 2022 it was amended to apply to cases decided before 2021. Cal. AB 256 (2022).

<sup>116</sup> Cal. Rule of Prof. Conduct 1.7(b).

<sup>117</sup> Cal. Rule of Prof. Conduct 1.7(b); ABA Model Rule 1.7(a)(2).

<sup>118</sup> ABA Model Rule 1.3, Comment 2.

<sup>119</sup> Principle 3, ABA Ten Principles of a Public Defense Delivery System (2023).

<sup>120</sup> Cal. Penal Code § 978.2(3) (acknowledging the need for public defenders to refuse cases that create conflicts of interest and the need to appoint private counsel).

<sup>121</sup> ABA Formal Opinion 06-441, at 4-5; ABA Eight Guidelines of Public Defense Related to Excessive Workloads (2009) at Guideline 5; Cal. Rule of Prof. Conduct 1.16(a)(2) (“[A] lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if: ... (2) the lawyers knows or reasonably

should know that the representation will result in a violation of these rules or of the State Bar Act[.]”); ABA Model Rule 1.16(a)(1).

<sup>122</sup> ABA Formal Opinion 06-441, at 4-5.

<sup>123</sup> ABA Eight Guidelines of Public Defense Related to Excessive Workloads (2009) at Guidelines 5 & 6. Similarly, solo assigned counsel must decline new appointments, and if necessary, withdraw from current cases if caseloads become excessive. *Id.*; ABA Formal Opinion 06-441, at 4-5.

<sup>124</sup> As early as 1970, in *Ligda v. Superior Court*, the California Court of Appeal noted that “[w]hen a public defender reels under a staggering workload, . . . [they] should proceed to place the situation before the judge, who upon a satisfactory showing can relieve him, and order the employment of private counsel.” *Ligda v. Superior Court*, 5 Cal. App. 3d 811, 828 (Cal. Ct. App. 1970); see also *In re Edward S.*, 173 Cal. App. 4th 387 (Cal. App. 2009) (holding that a public defense attorney who failed to address his excessive workload provided ineffective assistance of counsel). Crucially, relieving a public defense provider of an excessive workload does not relieve the state of its obligation to promptly provide indigent accused people with qualified appointed counsel. When excessive workloads preclude a public defense provider from representing an indigent defendant, the jurisdiction must find a different lawyer to represent them. In California, counties then have an obligation to pay for private counsel if needed. *Id.* If a jurisdiction fails to timely provide an accused person with appointed counsel the Due Process Clause may require that the accused be released from custody. *Betschart v. State of Oregon*, No 23-2270 (9th Cir. May 31, 2024); affirming *Betschart v. Garrett*, 700 F. Supp. 3d 965 (D. Or. 2023) (“If counsel is not secured within seven days of initial appearance for any class member currently in physical custody, or if counsel is not appointed within seven days of the withdrawal of previously appointed counsel, the sheriff of that county is ordered to release the class member.”).

<sup>125</sup> National Legal Aid and Defender Association, *Introduction*, National Advisory Commission on Criminal Justice Standards and Goals, last visited Mar 22, 2025.

<sup>126</sup> National Advisory Commission on Criminal Justice Standards and Goals, *The Defense*, at Standard 13.12 (1973) (150 felonies per year, or 400 misdemeanors per year, or 200 mental health cases per year, or 200 juvenile cases per year, or 25 appeals cases per year). See also N. Pace, et. al., *National Public Defense Workload Study*, at 14-34, RAND (2023) (noting that the standards were developed by a defender committee of the National Legal Aid and Defender Association, but that similar estimates had been previously made by other reputable defender and governmental committees).

<sup>127</sup> *National Public Defense Workload Study*, at 18-22.

<sup>128</sup> *National Public Defense Workload Study*, at 20-21. Handling 150 felonies per year, a full-time attorney working 8 hours per day, 52 weeks per year [2,080 hours annually] would spend, on average, only 13.9 hours on each felony case. This calculation assumes that the lawyer spends all of their time on case work, i.e., it does not allow time for administrative work, meetings, or continuing legal education. It also does not allow time for vacation or sick days.

<sup>129</sup> *National Public Defense Workload Study*, at 20-21. The NAC Standards had been developed informally – public defender lore holds that several chief public defenders met at a bar and drew up workload estimates up on the back of a cocktail napkin.

<sup>130</sup> *National Public Defense Workload Study*, at 20-21.



<sup>131</sup> *National Public Defense Workload Study*, at 22-30.

<sup>132</sup> Weighted caseload studies are not only used for public defense. They are also used to estimate judicial staffing needs and prosecutorial staffing needs. Indeed, more than 30 states use judicial weighted caseload studies. See M. Kleiman, et. al., *Case Weighting as a Common Yardstick: A Comparative Review of Current Uses and Future Directions*, 7 Oñati Socio-Legal Series 4, at 646 (2017). The Judicial Branch of California relies on weighted caseload assessments to determine the number of judges needed. California Courts, *Court Workload Analysis*, last visited July 15, 2025.

<sup>133</sup> *National Public Defense Workload Study*, at 22-30

<sup>134</sup> *National Public Defense Workload Study*, at 27-30.

<sup>135</sup> *National Public Defense Workload Study*, at 38-47 (showing the annual caseload numbers for jurisdiction-specific studies between 2005 and 2022).

<sup>136</sup> *National Public Defense Workload Study*, at 38-47.

<sup>137</sup> *National Public Defense Workload Study*, at 43.

<sup>138</sup> *National Public Defense Workload Study*, at 44.

<sup>139</sup> *National Public Defense Workload Study*, at 35-83 (describing detailed methodology and results). The researchers for the NPDWS had all previously worked on jurisdiction-specific public defense workload studies for either RAND corporation, the National Center for State Courts, or the American Bar Association. For purposes of disclosure, two of the authors of the National Public Defense Workload Study, Malia N. Brink and Cynthia G. Lee, participated in this study and drafted this report.

<sup>140</sup> They were Jennifer P. Andrews, Director of Training, Indigent Defense Improvement Division, Office of the State Public Defender; Karl Fenske, Deputy Public Defender IV, Los Angeles County Public Defender's Office; La Mer Kyle-Griffiths, Assistant Public Defender, Santa Barbara County Office of the Public Defender; Elizabeth Lashley-Haynes, Deputy Public Defender IV, Los Angeles County Public Defender's Office; and Heather Rogers, Public Defender, Santa Cruz County Office of the Public Defender. California had greater representation on the panel than any other jurisdiction. *National Public Defense Workload Study*, at 66-67.

<sup>141</sup> The case weights also allow for monitoring case assignments across case types. If you assume that an attorney can accept 2,080 hours, the hours for each case type are subtracted as assigned. Often, case assignments are monitored on a monthly basis with an aim to assign roughly 170 hours of case work each month.

<sup>142</sup> *National Public Defense Workload Study*, at xii. The National Public Defense Workload Study did not address juvenile court cases, appeals cases, or representation in dependency cases.

<sup>143</sup> This annual workload calculation is based on a full-time attorney who has 2,080 hours per year to devote to casework. The 2,080-hour casework year assumes that the attorney can spend eight hours per day, five days per week, 52 weeks per year on casework. It does not subtract time for vacation, sick leave, training, or non-case-specific work, such as general meetings. Many jurisdictions use a casework year lower than 2,080. For example, the Oregon Public Defense Commission adopted a casework year of 1,578 hours, which is identical to the case work year used by the Oregon Attorney General's Office.



<sup>144</sup> Under the NPDWS, a “case” refers to all charges against a client that arise from a single incident or single course of conduct and are prosecuted together. Many public defender clients have multiple cases, each arising from a separate incident, and each requiring a separate investigation and its own set of court hearings.

<sup>145</sup> All interviewees were promised anonymity, so this report does not include identifying information. However, the examples in this section come from several different counties and from lawyers in public defender offices, assigned counsel programs, and contract programs.

<sup>146</sup> Although most attorneys had access to some form of case management system (CMS), many reported that they could only use their CMS to search for an open case and review or enter data on that case. It was often unclear whether this limitation was in the CMS, or a limitation in the attorney’s ability to use the CMS.

<sup>147</sup> Open caseload is not, by itself, a reliable metric for assessing or monitoring the workload of a criminal defense attorney because it can mask case “churning,” or the quick closure of cases without completing necessary tasks. Consider an attorney who regularly convinces clients to accept early plea offers without having reviewed discovery or conducted any independent investigation or assessment of their cases. This attorney might take a grossly excessive number of new cases annually, but their open caseload number would appear reasonable because they are opening and closing cases so quickly. Additionally, the calculation of open caseload requires using multiple data points that have been averaged (both annual caseload, which uses average hours expected per case, and average time to disposition). As a result, researchers typically recommend utilizing open caseload standards only as a “flag” which raises a concern about overload and, for example, prompts a supervisor to inquire with the attorney about their current caseload.

Open caseload statistics can also be manipulated because it depends upon attorneys or other program staff efficiently and consistently marking cases closed. During this study, several attorneys reported that their open caseload numbers were inaccurate because they were “behind” on data entry and had not marked cases closed. As a result, their open caseload number was inflated.

The calculation of an attorney’s open cases also depends on the attorney’s or program’s definition of when a case is “closed”. For example, some California public defense programs consider a case “closed” if the client has been accepted into a diversion program, although the client’s attorney must monitor the client’s progress and attend diversion status hearings. Other programs consider a diversion case “open” until all court proceedings have concluded.

<sup>148</sup> Because open caseload numbers can be manipulated, annual, new assigned cases is the caseload metric commonly used in workload standards.

<sup>149</sup> The use of time to disposition in setting an open caseload standard is both necessary and concerning. Numerous factors can impact time to disposition. During COVID, for example, the courts could not function normally and time to disposition was artificially extended in a manner that would, if used to calculate an open caseload standard, increase allowable open cases. See, e.g., D. Stemen, *et. al.*, *Time to Disposition in Felony Cases*, Prosecutorial Performance Indicators (Jan 2024) (finding that time to disposition in felony cases increased in all 21 jurisdictions but that length of increase varied; in San Francisco, for example, average felony time to disposition increased from 210 days in 2019 to 371 days in 2021). For this reason, other factors – including the absolute number of clients with whom attorneys can reasonably be

expected to communicate – should be considered in setting an open caseload standard.

<sup>150</sup> A study of 2016 cases found an average disposition time across felonies of 256 days or roughly 0.7 years. B. Ostrom, *et. al.*, *Timely Justice in Criminal Cases*, National Center for State Courts (2020). Using this average time to disposition creates open caseload range from 15-44 for case types ranging from High-Felony-Other to DUI High.

<sup>151</sup> As discussed above, a case is typically defined as all charges against a client that arise from a single incident or course of conduct and are being prosecuted together. Clients frequently have multiple cases pending from separate incidents. Each case involves a separate investigation, its own set of court hearings, etc.

<sup>152</sup> A study of 2016 cases found an average disposition time across misdemeanors of 193 days or roughly 0.53 years. B. Ostrom, *et. al.*, *Timely Justice in Criminal Cases*, National Center for State Courts (2020). Using this average time to disposition creates open caseload range from 49-79 across the Misdemeanor-High, Misdemeanor-Low and DUI-Low case types.

<sup>153</sup> As discussed above, this inequity could reflect different practices in documenting case closures.

<sup>154</sup> All survey data are also reported in the Survey Report at Appendix C.

<sup>155</sup> See Survey Report at Appendix C, Figure 1 (reporting that 25.7% do not have trial attorney vacancies and for 51.4% disagree that filling their vacancies would solve their trial attorney sufficiency issues); see also *Attorney Vacancies, Recruitment, and the Impact of Rurality*, *infra* (reporting more recently verified staffing data and noting that the overall public defense attorney vacancy rate in California is low but that vacancies have significant impact on some offices).

<sup>156</sup> Thirty-five chief public defenders responded to a survey question on whether their office had applied the NPDWS standards. Seventeen reported having applied the standards. Another 16 offices had not applied the standards. Two chief public defenders reported not knowing whether their offices had applied the standards. See Survey Report, Appendix C.

<sup>157</sup> Many could not separate cases into the full NPDWS case types. When this occurs, offices generally either sample cases to determine an approximate distribution or complete calculations using the lowest common case type, resulting in a conservative estimate of need.

<sup>158</sup> See Cal. Penal Code §§ 13010-13012; 13020-13023. The data are maintained in the California Open Justice Portal as the Law Enforcement and Criminal Justice Personnel data set. The staffing data are collected through a point in time survey. The data collected reflect actual staffing, not funded positions. See California Department of Justice, Law Enforcement and Criminal Justice Personnel, last visited July 23, 2025. The data likely only reflect those attorneys employed by the counties, *i.e.* the prosecutors in county District Attorney offices. However, many California jurisdictions also have municipal prosecutors. In Los Angeles, for example, the Long Beach City Prosecutor's office prosecutes misdemeanor cases that are defended by the Los Angeles Public Defender Office. These attorneys are likely excluded from these data. At the same time, this data set likely excludes the public defense attorney capacity provided by contract or assigned counsel attorneys who accept conflict cases in reporting jurisdictions, as they are not county employees.

<sup>159</sup> See Staffing Analysis, Appendix D. It is noteworthy that this comparison data are only available for those counties with public defender offices, *i.e.*, where public defense attorneys are county employees. The 2022 data does not include any public defense staffing data for 27 counties (47% of the counties). Appendix E of this report analyzes county-reported prosecution and public defense expenditure data and similarly finds that counties spend significantly more on prosecution than public defense.

<sup>160</sup> They were Merced County (59%), Napa County (52%), Riverside County (55%), San Bernardino County (51%), and San Joaquin County (57%).

<sup>161</sup> It is commonly reported that public defense attorneys represent 80% of criminal defendants. This statistic comes from a 2000 Bureau of Justice Statistics Report. The specific finding was that at the end of their case, approximately . . . 82% of felony defendants in large state courts were represented by public defenders or assigned counsel. Caroline Wolf Harlow, *Special Report: Defense Counsel in Criminal Cases*, Bureau of Justice Statistics, at 1 (Nov 2000). Similar data collected between 1992 and 2004 ranged from 79%-87%. In California, chief public defenders reported that public defense attorneys represent clients in between 80-89% of criminal cases.

<sup>162</sup> The higher the charge, the more likely that someone will require a public defense lawyer, simply because retaining counsel for more serious charges costs more. The necessary amount to retain a private lawyer in a felony case can exceed \$10,000. See, *e.g.*, Perlman & Cohen, *Los Angeles Criminal Lawyers* (quoting a felony retainer amount of “\$8500-\$15,000 or \$25,000 if going to trial”).

<sup>163</sup> Principle 2, *ABA Ten Principles* (2023); Appendix E of this report analyzes county-reported prosecution and public defense expenditure data and similarly finds that counties spend significantly more on prosecution than public defense.

<sup>164</sup> See *The Obligation to Manage Attorney Workloads*, *supra*. See *also* ABA Formal Opinion 06-441, at 4-5; ABA Eight Guidelines of Public Defense Related to Excessive Workloads (2009), at Guideline 5 & 6.

<sup>165</sup> *Ligda v. Superior Court*, 5 Cal. App. 3d 811, 828 (Cal. Ct. App. 1970); *see also In re Edward S.*, 173 Cal. App. 4th 387 (Cal. App. 2009) (holding that a public defense attorney who failed to address his excessive workload provided ineffective assistance of counsel).

<sup>166</sup> Asked “Can your office refuse or suspend appointments due to case overload?” Six chief public defender responded “I don’t know,” and nine responded “no.” See Survey Report, Appendix C.

<sup>167</sup> One such office was San Francisco, which publicly discussed its caseload refusal. In early 2025, the San Francisco public defender office was receiving approximately 50 more felony arraignments each month than it had in 2024. As a result, in May 2025, the San Francisco public defender office had to stop accepting new cases one day per week. J. Fitzgerald Rodriguez, *SF public defender stops taking cases, citing Lurie’s anti-fentanyl surge*, *The San Francisco Standard* (May 9, 2025).

<sup>168</sup> Several chief public defenders raised concerns about quality of conflict public defense attorneys in their jurisdictions, particularly where conflict and overflow cases are handled by contract or unmanaged panel attorneys. They raised concerns that these attorneys lack appropriate training, supervision, and access to support staffing.

<sup>169</sup> Attorneys are also required to provide the client with copies of relevant documents and other information relevant to their case. Cal. Rule Prof. Conduct 1.4

<sup>170</sup> Public defense attorneys explained that it takes time and repeated communications to develop rapport and trust with a client. Even after that trust is established, a client may still not understand whether or how specific information is important to their case.

<sup>171</sup> Failing to review available video evidence can result in attorney discipline. In a recent case, the Arizona Supreme Court upheld the suspension of a prosecutor who asked for charges before the grand jury without first reviewing available video evidence. The video evidence showed that the charges were not warranted. In her defense, the prosecutor asserted that her “heavy caseload justifiably prevented her from diligently and competently handling” the cases. The court rejected this assertion noting that if her caseload prevented her from meeting her ethical obligations, she should have asked for the cases to be reassigned. *In re: Sponsel*, SB-24-007-AP (AZ April 11, 2025) (holding that the prosecutor “failed to act with reasonable diligence and promptness in reviewing information available to her—both before and after she filed the class 2 felony charges.”).

<sup>172</sup> Cal. Penal Code § 1538.5.

<sup>173</sup> Cal. Penal Code § 17(b).

<sup>174</sup> Cal. Penal Code § 1001.95.

<sup>175</sup> This is a legitimate fear. In Missouri, disciplinary charges were brought against a public defender for failing to communicate with clients and missing court deadlines. The attorney sought to defend his behavior on the basis of excessive workloads, claiming that “‘public defenders [were] trapped’ [and that] rejecting an assignment would result in being fired.” Ethics counsel forcefully asserted that these conditions do not mitigate the ethical obligations to clients. T. Payne, *Note: Plight of the Public Defender: Excessive Caseloads as a Non-Mitigating Factor in Sanctions for Ethical Violations*, 83 Miss. L. Rev. 4, at 1090-1112 (Fall 2018). The Missouri Supreme Court rejected this defense and ruled in favor of suspension. *In re: Karl William Hinkebein*, No. SC96089 (Mo. Sup. Ct. Sept 12, 2017) (suspending the public defender’s license indefinitely but staying that suspension and placing him on probation for one year).

<sup>176</sup> This is also a legitimate cause for concern. Chief public defenders who have sought workload reduction have been fired. See, e.g., *Flora v. Luzerne County*, No. 14-1854 (3<sup>rd</sup> Cir. 2015) (Chief public defender sued after being fired for seeking to address excessive public defense workload through court proceeding). These firings often led to lawsuits and settlements. *Id.* (holding that lawsuit against county can proceed); *Al Flora weighs in on litigation resulting in his \$250,000 settlement*, Times Leader (Aug 29, 2018).

<sup>177</sup> C. Ogletree, Jr., *An Essay on the New Public Defender for the 21st Century*, Laws & Contemporary Problems, at 82 (Winter 1995) (“P]roviding competent counsel is the best means of ensuring the proper operation of the constitutional safeguards designed to protect the innocent and the less culpable from unfair punishment.”).

<sup>178</sup> NLADA, ACCD, and BPDA Joint Statement on the New National Public Defense Workload Study (Sept 12, 2023), last visited July 28, 2025; *NAPD Policy Statement on Public Defense Staffing* (Feb 23, 2024), last visited July 28, 2025.

<sup>179</sup> *In re Standards for Indigent Defense Implementation of CrR 3.1, CrRLJ 3.1, and JuCR 9.2*, No. 25700-A-1644 (Wash. June 9, 2025). Prior to the court’s adoption, the NPDWS standards were also adopted by the Washington State Bar Association. Washington State Bar Association, *Standards of Indigent Defense Services*, at Standard 3 (revised March 8, 2024). Numerous other jurisdictions have used the standards to assess attorney staffing needs. See, e.g., P. Heaton, *Gideon’s Promise Versus Gideon’s*

*Reality: Resource Shortfalls in Pennsylvania Public Defense*, Quattrone Center for the Fair Administration of Justice (May 2024) (concluding that 60 of 66 counties in Pennsylvania have insufficient attorney staffing levels); Kansas State Board of Indigents' Defense Services, *Kansas Public Defense Workloads Report* (Dec 2023); Maryland Office of Public Defender, *2024 Annual Report*, at 10-13 (2025) (showing that all Maryland districts are understaffed but that these deficiencies are not evenly distributed).

<sup>180</sup> OSPD has already issued guidance on how to apply the standards in California. Following this guidance, the Santa Barbara public defender office has mapped California charges to the NPDWS case types and shared this work with other public defender offices.

<sup>181</sup> A. Mahler, *The Impact of Working Conditions on Productivity: Evidence from the U.S. Public Defense System*, SSRN (June 5, 2024).

<sup>182</sup> A. Caspi, *Overworking Public Defenders*, SSRN (Mar 27, 2023).

<sup>183</sup> Standard 6, Michigan Indigent Defense Commission Standards (2023), last visited Aug 13, 2025; New York Office of Indigent Legal Services, *Statewide Plan for Implementing Quality Improvement and Caseload Relief: Six Year Report* (Oct 30, 2024). Caseload Standards for Criminal Defense Representation, New York Office of Indigent Legal Services, last visited July 28, 2025. Note: these workload standards were developed before the publication of the NPDWS.

<sup>184</sup> In 2013, two counties in Washington State were found to have deprived indigent people facing misdemeanor charges of the right to counsel. *Wilbur v. City of Mount Vernon*, No. C11-100RSL, U.S.D.C W.D. Wash. (Dec 4, 2013). A similar class action is now pending in Kern County, California. Complaint, *UFW Foundation v. County of Kern* (May 8, 2023). In 2014, the state of New York settled a class action suit over failure to provide constitutionally adequate public defense services. The settlement required New York to develop and enforce public defense workload standards for five counties. Stipulation and Order of Settlement, *Hurrell-Harring v. State of New York*, No. 8866-07 (Oct 21, 2014).

<sup>185</sup> Stipulated Consent Judgment, *Davis v. State*, No. 17C002271B (Aug 11, 2020).

<sup>186</sup> Nevada Department of Indigent Defense Services, Information on *Davis v. State* (the State was required to “eliminate economic disincentives to indigent defense providers providing effective representation[,] . . . establish minimum standards for indigent defense and provide training and resources to indigent defense attorneys[,] . . . and require uniform data collection and reporting on indigent defense services.”), last visited June 12, 2025.

<sup>187</sup> See, e.g., Fifteenth Report of the Monitor (Feb 19, 2025), last visited July 30, 2025.

<sup>188</sup> In Michigan, the Michigan Indigent Defense Commission statute details the process for creating a public defense standards, which includes approval by the Department of Licensing and Regulatory Affairs, a public hearing, and a comment period, during which indigent defense systems can object to the proposed standard. Mich. Cons. Laws § 780.985(3) (2025). Texas similarly adopted workload standards for contract public defense providers through administrative rule. 1 Tex. Admin. Code § 174.21 (2018). It is noteworthy that the Office of the State Public Defender has rulemaking authority. Section 15404 of the California Government Code states: “The State Public Defender may issue any regulations and take any actions as may be necessary for proper implementation of this part.” Cal. Govt Code § 15404 (2024).



<sup>189</sup> NY Executive Law § 832 (2024).

<sup>190</sup> In 2009, the New York Legislature passed a law authorizing the Chief Administrative Judge to establish caseload standards for public defense providers in New York City. See S. Mui, New York City Public Defenders' Caseload to be Capped, ABA Journal (Apr 6, 2009). The result was New York Rule 127.7 ("The number of matters assigned in a calendar year to an attorney appointed to represent indigent clients in criminal matters pursuant to Article 18-B of the County Law in New York City shall not exceed 150 felony cases; or 400 misdemeanor cases; or a proportionate combination of felony and misdemeanor cases (at a ratio of 1:2.66).").

<sup>191</sup> See, e.g., NY SB 1238 (2023).

<sup>192</sup> *In re Standards for Indigent Defense Implementation of CrR 3.1, CrRLJ 3.1, and JuCR 9.2*, No. 25700-A-1644 (Wash. June 9, 2025).

<sup>193</sup> NY Executive Law § 832 – 4(b)(ii) (2024).

<sup>194</sup> *In re Standards for Indigent Defense Implementation of CrR 3.1, CrRLJ 3.1, and JuCR 9.2*, No. 25700-A-1644 (Wash. June 9, 2025).

<sup>195</sup> December 2017, *Timeline of ILS History and Mandated Representation in New York*, last visited July 30, 2025.

<sup>196</sup> NY Executive Law § 832 – 4(b)(ii) (2024).

<sup>197</sup> April 2018, *Timeline of ILS History and Mandated Representation in New York*, last visited July 30, 2025. Per capita appropriation calculated based on 2018 New York population of 19.54 million. Implementation was primarily caseload standards but also included counsel at initial appearance. Prior to 2018, the state already had begun implementation of these standards in the five counties that were the subjects of the *Hurrell-Harring* litigation. In 2018, the state allocated \$50 million to begin the statewide expansion of that implementation. Separate funding of \$23.7 million was also allocated in 2018 to continue implementation in the five litigation counties. *Id.* at October 2014.

<sup>198</sup> April 2019-present, *Timeline of ILS History and Mandated Representation in New York*, last visited July 30, 2025. Per capita appropriation calculated based on 2023 New York population of 19.74 million.

<sup>199</sup> Per capita appropriation calculated using a 2018 Michigan population of 9.987 million.

<sup>200</sup> To address parity issues, California could also consider requiring county increases in public defense funding to match any increases district attorney funding.

<sup>201</sup> See, e.g., *Flora v. Luzerne County*, No. 14-1854 (3<sup>rd</sup> Cir. 2015) (Chief public defender sued after being fired for seeking to address excessive public defense workload through court proceeding). These firings often led to lawsuits and settlements. *Id.* (holding that lawsuit against county can proceed); *Al Flora weighs in on litigation resulting in his \$250,000 settlement*, Times Leader (Aug 29, 2018). In August 2024, the Executive Director of the Nevada Department of Indigent Defense Services was summarily fired by the Governor's office after raising concerns about non-compliance with the state's workload standards. *Statement by the Board on Indigent Defense Services concerning the former Executive Director Marcie Ryba* (Oct 17, 2024).

<sup>202</sup> Tex. Code Crim. Proc. 26.044(j) (2024).

<sup>203</sup> Tex. Code Crim. Proc. 26.044(j-2) (2024).



<sup>204</sup> Cal. SB 485 (2025) (“A public defender ... may be removed from office by the board of supervisors by a three-fifths vote for neglect of duty, malfeasance or misconduct in office, or other good cause.”).

<sup>205</sup> Principle 1, ABA Ten Principles of a Public Defense Delivery System (2023) (“Neither the chief defender nor staff should be removed absent a showing of good cause.”).

<sup>206</sup> This is often viewed as establishing a conflict between the interests of the attorney and the interest of the client. See Principle 2, ABA Ten Principles (2023).

<sup>207</sup> States that have banned flat fee contracts including Idaho, Michigan, and Colorado. See, e.g., Standard 8, Michigan Indigent Defense Commission Standards (2022) (requiring that economic disincentives that “impair defense counsel’s ability to provide effective representation shall be avoided.”); Colo. HB 1437 (2024). Courts have also found flat fee contracts problematic. In 1984, the Arizona Supreme Court found that the county’s use of a low-bid flat fee contract “the least desirable” and found that it “can result in inadequate representation by counsel.” *Arizona v. Smith*, 681 P.2d. 1374 (1984).

<sup>208</sup> Office of State Public Defender, California Standards for Contract and Panel Defense Systems, at Standard 9 (Feb 2025).

<sup>209</sup> Cal. AB 690 (2025) (“A county or court shall not enter into flat fee or per case compensation contracts for the administration or provision of indigent defense services.”).

<sup>210</sup> In California, job titles for various support staff functions frequently overlap. For example, when offices have mitigation specialists, they commonly call them social workers. In one California office, the people who performed functions typically associated with the mitigation specialists were called paralegals. For consistency, this report defines support staff roles by function rather than by the job title they hold in their offices or programs.

<sup>211</sup> ABA Criminal Justice Standards, Providing Defense Services, at Standard 5-1.4 (1992).

<sup>212</sup> *Id.*

<sup>213</sup> Principle 9, ABA Ten Principles of a Public Defense Delivery System (2023).

<sup>214</sup> Nat’l Assoc. for Public Defense, *NAPD Policy Statement on Public Defense Staffing* (May 2020).

<sup>215</sup> As discussed in greater detail below, most California public defender offices had the recommended number of administrative assistants.

<sup>216</sup> ABA Criminal Justice Standards, Defense Function Standards, at Standard 4-4.1(a) (4<sup>th</sup> ed. 2017) (“Defense counsel has a duty to investigate in all cases, and to determine whether there is a sufficient factual basis for criminal charge.”).

<sup>217</sup> L. A. Benner, *The Presumption of Guilt: Systemic Factors that Contribute to Ineffective Assistance of Counsel in California*, 45 Cal. W. L. Rev. 263, 277 (2008-2009).

<sup>218</sup> California rules generally prohibit a lawyer from serving as a witness in their own case. A lawyer can serve as a witness with the informed consent of the client. However, a court can also override the client’s consent. Cal. Rule Prof. Conduct 3.7; see S. Garner, *Ethics spotlight: When a lawyer takes the witness stand*, California Lawyers Association (July 2023).

<sup>219</sup> Interview and focus group participants frequently described the volume of police video as “overwhelming.” One attorney estimated that a simple DUI case involves eight hours of footage; another estimated that a low-level felony case often includes five to ten hours of recordings. A homicide may involve twenty or thirty officers, producing hundreds of hours of footage.

<sup>220</sup> The amount of content in a gigabyte varies based on the file type – text, photo, or video. For example, one gigabyte could contain 100,000 pages of text or over 10,000 photos. Depending on recording quality, an hour of video is often between 2-20 GB. In other words, the above attorney could easily have received more than 20 hours of video in the homicide case and more than 50 hours of video in the non-homicide case.

<sup>221</sup> Attorneys also described time-consuming challenges in downloading and opening digital discovery files, often resulting from problems with software compatibility and file access.

<sup>222</sup> Reviewing this material is often time sensitive. Digital evidence is both easily available and can be determinative. Lawyers “have an obligation to watch it immediately and get transcriptions immediately.... [S]o a new in-custody felony case usually will mean that I need to drop every other case, and I can only work on this case.” Another attorney agreed, “you get a lot more stuff that theoretically should be reviewed before prelim[inary hearing]. You get assigned a case that’s due for prelim[ary hearing] next week and you have six hours of stuff to review. In the past that low-level felony would have had 20 pages of police reports.”

<sup>223</sup> The Deason Center collected 2024 staffing data from public defender offices with greater differentiation of support staff than the California DOJ data. The Deason Center collected information on investigators, social workers, mitigation experts, paralegals, administrative assistants/clerks, and other support staff. The DOJ data collects only investigators, clerical, and other. For data reported to the DOJ, it is not clear whether social workers are reported as investigators or other, and whether this reporting is consistent across offices. The Deason Center used its more differentiated 2024 data to determine current ratios of support staff to attorneys for purposes of comparison to the NAPD standards. The 2022 DOJ data was used to compare public defense office staffing with district attorney staffing for designated positions (attorneys and investigators) as well as overall support staffing.

<sup>224</sup> Attorneys in this office can request an investigator but frequently choose to perform the investigation themselves. As noted above, this can create evidentiary issues that negatively impact the defense because the attorney may be the sole repository of important factual observations or impeachment evidence.

<sup>225</sup> Interestingly, chief public defenders did not have the same perception of deficiency. A majority of respondents to the Deason Center’s chief public defender survey (68%) reported that their attorneys’ access to investigators was sufficient to address clients’ needs, a substantial minority (33%) either “moderately” or “strongly” disagreed. See Survey Report, Appendix C.

<sup>226</sup> In some offices, attorneys can seek permission from the office or the court to hire an outside investigator, if necessary. In at least half of the offices, however, attorneys have no access to outside investigators. If their office’s investigators are overloaded, they either must delay investigations or conduct the investigations themselves.

<sup>227</sup> Office of State Public Defender, *A Report on Indigent Defense in Kings County* (Apr 2024), presented to the Kings County Board of Supervisors, April 16, 2024, Agenda Packet, at 27-28.

<sup>228</sup> A. Rubin, *California is failing to provide a vital safeguard against wrongful conviction*, CalMatters (June 5, 2025).

<sup>229</sup> Judicial control over defense access to critical resources like investigators raises serious independence issues. See Principle 1, ABA Ten Principles (“Public Defense Providers and their lawyers should be . . . subject to judicial authority and review only in the same manner and to the same extent as retained counsel and the prosecuting agency and its lawyers.”). These issues are heightened when judges seek to inquire into details regarding need and use.

<sup>230</sup> *Los Angeles County Private Investigator Panel Policies and Protocols, Adult Criminal* (Oct 1, 2022).

<sup>231</sup> *San Bernardino County Appointed Services and Expenditure Rules, Funding Application and Payment Procedures*, (Oct 18, 2013).

<sup>232</sup> District attorney investigators also have much greater access to investigative resources than do defense investigators. Defense investigators frequently mentioned that they lack access to the Cal-Photo database of DMV images, which is enormously helpful in identifying witnesses and to which law enforcement and district attorney investigators have access. “They’re privy to a lot more information,” one investigator explained, “that we have to go out and work . . . harder to get. They have the [Cal-Photo] system that will help locate witnesses right away; they can also work with local utility companies to . . . find out right away who lives at an address. [For us] it does take more digging[.]” Without access to these databases and sources, defense investigators require more time and effort to uncover the same information that is readily available to district attorney investigators.

<sup>233</sup> A recent investigative report by CalMatters on the 2023 statewide data shows that this disparity has continued. A. Rubin, *California is failing to provide a vital safeguard against wrongful conviction*, CalMatters (June 5, 2025).

<sup>234</sup> Paralegals may also perform some social work or mitigation functions, especially requesting health and educational records and, sometimes, drafting mitigation reports. Some offices also employ holistic defense advocates and housing specialists, who provide client assistance functions.

<sup>235</sup> Cal. AB 124 (2021).

<sup>236</sup> *Id.*

<sup>237</sup> Nat’l Assoc. for Public Defense, *NAPD Policy Statement on Public Defense Staffing* (May 2020).

<sup>238</sup> In some California public defender offices, paralegals also perform investigative or mitigation functions such as requesting medical and educational records, summarizing records, and writing mitigation reports.

<sup>239</sup> Cal. Bus. and Prof. Code, § 6450(c) (2004). Becoming a paralegal requires either completion of a specialized paralegal program, a college degree and one year of law-related experience under the supervision of an attorney, or a high school degree and three years of law-related experience under the supervision of an attorney. *Id.*

<sup>240</sup> Nat'l Assoc. for Public Defense, *NAPD Policy Statement on Public Defense Staffing* (May 2020).

<sup>241</sup> This office provides one paralegal for every two attorneys, but the ratio of full-time administrative positions to full-time attorney positions is one to 36.

<sup>242</sup> In one contract system, the county paid for one paralegal to assist in coordinating requests to the county for experts, etc. The paralegal also handled complaint calls about contract attorneys.

<sup>243</sup> Administrative staff go by a variety of job titles, including legal assistants, office professionals, law clerks, and clerical assistants.

<sup>244</sup> Nat'l Assoc. for Public Defense, *NAPD Policy Statement on Public Defense Staffing* (May 2020).

<sup>245</sup> Several programs report that, due to inadequate paralegal, social worker and investigative support, administrative assistants are often asked to do more complex legal work. Yet, without appropriate qualifications, administrative assistants are often challenged by this work. Further, some of these chiefs also expressed a need for administrative assistants with more education and training, which may reflect a need, not for more administrative assistants, but for more paralegal or investigative support. One program noted: "Our support staff needs to be paid more so we can get people with four-year college degrees. We have one staff member who is a recent university graduate, and it makes such a difference. I can give him meaningful work, and he can do a good job. We need to be able to recruit people . . . more educated people." But a person with a four-year degree, after having one year of legal experience, is appropriately characterized as a paralegal, not an administrative assistant. California Business and Professions Code, § 6450(c) (2004) (A person with a college degree and one year of law-related experience under supervision of an attorney can be a paralegal).

<sup>246</sup> The 2022 CA DOJ data, with ratio calculations, is available at Appendix D.

<sup>247</sup> *Id.*

<sup>248</sup> On average, public defender offices have 73% of the attorneys of their county's DA office. As noted previously, this excludes any city prosecutors that also prosecute cases defended by the public defender office.

<sup>249</sup> San Diego is a good example county. The San Diego public defender office has several conflict divisions. As a result, the public defense attorney and support staffing reported is likely almost comprehensive. At the same time, the City of San Diego attorneys office prosecutes misdemeanor cases, and their attorney and support staffing would not be reflected in the county-reported prosecution data. If anything, the staffing data shown underestimates the disparities.

<sup>250</sup> The Monterey public defender office also has a conflict division, meaning that attorney and staff numbers are relatively comprehensive.

<sup>251</sup> Nat'l Assoc. for Public Defense, *NAPD Policy Statement on Public Defense Staffing* (May 2020); Survey Results, Appendix C.

<sup>252</sup> The importance of social worker assistance in preparing reports for determining eligibility for diversion, as well as pursuing resentencing options, is unique to California. As a result, the NAPD recommended ratio of one social worker for every three attorneys may be inadequate to meet clients' needs. However, because no public defender office currently meets this ratio and because the role of social workers in public defense has

no parallel in prosecution, the deficiency of the NAPD recommendation could not be established with sufficient certainty to warrant a change at this time.

<sup>253</sup> See Cal. DOJ Data Analysis, Appendix D. Five DA offices reported having one investigator for every attorney.

<sup>254</sup> *Id.*

<sup>255</sup> If met, the recommended support staffing standards would result in public defense programs having 1.33 support staff per attorney. This would still leave public defender programs far short of the support staffing that California district attorneys' offices had in 2022 (an average of 1.82 support staff per attorney). The district attorneys' offices actual support staffing strongly suggests that the recommended California support staff ratios are reasonable, if not low.

<sup>256</sup> Calculated using a 2018 Michigan population of 9.987 million.

<sup>257</sup> April 2018, *Timeline of ILS History and Mandated Representation in New York*, last visited July 30, 2025. Per capita appropriation calculated based on 2023 New York population of 19.54 million. The state of New York increased its funding for statewide expansion of implementation by \$50 million per year to \$250 million in 2023.

<sup>258</sup> Per capita appropriation calculated using a 2024 California population of 39.42 million. In 2025, the Governor's budget in New York included \$451 million in public defense funding to be distributed to counties [\$23.12 per capita]. New York State Division of the Budget, FY 2025 Executive Budget, Office of Indigent Legal Services, *Aid to Localities*, last visited July 28, 2025. Per capita appropriation calculated using a 2025 New York population of 19.87 million.

<sup>259</sup> This concern is heightened when these services are funded through the judicial budget, creating a potential conflict of interest.

<sup>260</sup> Superior Court of the District of Columbia, *Administrative Order No. 09-06* (2017).

<sup>261</sup> Vacancy analysis excludes four programs that did not verify vacancy data.

<sup>262</sup> For some offices, the situation has been even more dire. In January 2024, two-thirds of the attorney positions in Imperial County public defender office were vacant (12 of 18 positions), and in Tuolumne County one attorney was handling the work of four. L. Arroyo, *Some public defender offices in California re in dire need of lawyers*, Cal Lawyer (Jan 26, 2024).

<sup>263</sup> Identifying the problem correctly is critical to understanding potential solutions. For example, if the issue is an overall lack of attorneys in rural areas, then solutions must focus on encouraging lawyers to relocate. However, if the problem is that attorneys in rural areas are disinclined to practice public defense, then solutions should instead focus on making public defense positions more appealing.

<sup>264</sup> Looking at overall attorney availability provides the broadest possible assessment of availability of legal practitioners in these areas who could serve as public defense providers.

<sup>265</sup> The State Bar of California recently published a report on attorney deserts which undertook a similar analysis using slightly different data sets. Despite these differences, the two reports' conclusions are mostly aligned. See *Attorney Deserts*, State Bar of California (2025) ("Just 3 percent of California's active attorneys live in rural areas, compared to 12 percent of California's residents.").



<sup>266</sup> Lawyer Demographics, *Profile of the Legal Profession*, American Bar Association (2023) (“Nationwide, there are nearly 4 lawyers (actually 3.9) for every 1,000 residents.”).

<sup>267</sup> Of the six counties with an attorney density under one per 1,000 (the lowest range) in 2016, five (Kings, Merced, Madera, Glenn, and Tulare Counties) still had an attorney density that fell in this range in 2024. In three of those five counties, attorney density decreased between 2016 and 2024. In the sixth county, Modoc County, attorney density increased to just over one attorney per 1,000 by 2024. Two counties (Lassen and Imperial) saw their attorney density drop below one per 1,000 in this period. Each saw substantial reductions in the number of registered attorneys located in the county.

<sup>268</sup> For example, despite their relatively small populations, El Dorado, Placer and Yolo Counties are classified as RUCC 1 because they are integrated with the Sacramento Metropolitan Area, which had a total population over 2.5 million.

<sup>269</sup> Survey Report, Appendix C (reporting first year salaries ranging from below \$55,000 to above \$125,000).

<sup>270</sup> In 1985 law school tuition cost, on average, \$5,934 per year (in 2023 dollars). LawHub, Law School Tuition in the United States, 1985–2023. A student starting law school in 2023 paid \$30,554 per year in tuition alone. M. Hanson, Average Law School Debt (Oct 1, 2024) (“\$119,292 is the average amount students borrow just to attend law school”).

<sup>271</sup> Recommendation 2, Kansas Rural Justice Initiative, Committee Final Report to the Kansas Supreme Court (Dec 2024).

<sup>272</sup> Tex. HB 4487 (2023); Tex. SB 1906 (2023).

<sup>273</sup> *Id.*

<sup>274</sup> National Health Services Corps Timeline, last visited July 31, 2025.

<sup>275</sup> NHSC Loan Repayment Program, last visited July 31, 2025.

<sup>276</sup> Bureau of Health Workforce Field Strength and Student and Trainees Dashboards, last visited July 31, 2025.

<sup>277</sup> See, e.g., UCLA School of Law, Criminal Defense Clinic, last visited August 12, 2025; Chapman University, Criminal Defense Clinic, last visited August 12, 2025 (a partnership between the law school and the Orange County Public Defender’s Office). Several California law schools do not currently have criminal defense clinics. California could also provide support to expand criminal defense clinics. Oregon recently allocated more than \$2 million to fund criminal defense clinics at all three Oregon law schools. Oregon HB 5204 (2024); News Release: Oregon Law set to receive nearly \$1 million in funding for criminal defense clinics (clinic’s purpose is “to help address Oregon’s acute public defender crisis”).

<sup>278</sup> Washburn University School of Law, Rural Law, last visited June 12, 2025.

<sup>279</sup> Veterinary Training Program for Rural Kansas, last visited July 31, 2025.

<sup>280</sup> *Id.*

<sup>281</sup> *Id.*

<sup>282</sup> ABA Resolution 400, Annual Meeting (2023) (The CLA proposed program provided for loan forgiveness after seven years of service in a rural area and permitted attorneys to begin service within seven years of graduation from law school); M. Posner, ABA



approves CLA sponsored resolution on rural loan forgiveness, California Lawyers Association (Oct 2023).

<sup>283</sup> California State Loan Repayment Program, California Department of Health Care Access and Information, last visited Aug13, 2025.

<sup>284</sup> Office of the Governor, California Master Plan for Career Education, last visited July 30, 2025.

<sup>285</sup> *Id.* at 6-7.

<sup>286</sup> California Health Care Foundation, Rural health care programs empower high school students for local careers (Apr 23, 2025).

<sup>287</sup> In contrast to the IDGP, the Public Defense Pilot Program established in the Budget Act of 2021 (SB 129) provided that funds were distributed by population. Despite its heavier overall price tag (\$50,000,000/year), the per capita distribution meant that 20 of California's 58 counties were eligible to receive less than \$100,000 during the first year. See Public Defense Pilot Program, Application Instructions Packet, BSCC California (2021). Full details on the county allotments for Year 1, Year 2, and Year 3 of the PDPP are available at <https://www.bscc.ca.gov/public-defense-pilot-program/>, last visited Feb 15, 2025.

<sup>288</sup> *Id.*

<sup>289</sup> Twelve counties currently fit into this category: Alpine County, Sierra County, Modoc County, Mono County, Trinity County, Mariposa County, Inyo County, Plumas County, Colusa County, Del Norte County, Glenn County, and Lassen County. The total cost of the guaranteed minimum funding for counties in this population bracket would be approximately \$1,800,000 per year.

<sup>290</sup> Ten counties currently fit into this category: Amador County, Siskiyou County, Calaveras County, Tuolumne County, Tehama County, Lake County, San Benito County, Yuba County, Mendocino County, and Sutter County. The total cost of the guaranteed minimum funding for counties in this population bracket would be approximately \$3,000,000 per year

<sup>291</sup> Ten counties currently fit into this category: Nevada County, Napa County, Humboldt County, Kings County, Madera County, Imperial County, Shasta County, El Dorado County, Butte County, and Yolo County. The cost of the guaranteed minimum funding for counties in this population bracket would be approximately \$4,500,000 per year.

<sup>292</sup> The remaining 26 counties fall into this category. The total cost of the guaranteed minimum funding for counties in this population bracket would be approximately \$15,600,000 per year.

<sup>293</sup> Any increase or decrease in the annual amount of this funding should be taken from the amounts to be distributed per capita.

<sup>294</sup> Texas A&M Public Policy Research Institute, Justice Beyond the Cities: The State of Rural Public Defense in Texas, at 12 (June 2024).

<sup>295</sup> Texas Indigent Defense Commission, Public Defender Primer, at 11.

<sup>296</sup> *Id.*

<sup>297</sup> Texas A&M Public Policy Research Institute, Justice Beyond the Cities: The State of Rural Public Defense in Texas, at 30 (June 2024).

<sup>298</sup> Cal. Govt Code § 27700 (“Any county may join with one or more counties to establish and maintain the office of public defender to serve such counties.”). OSPD has published an informational report on regional offices. Office of the State Public Defender, *Regional Public Defender Offices* (Mar 2025).

<sup>299</sup> See Cal. Penal Code §§ 13010-13012; 13020-13023. The data are maintained in the California Open Justice Portal as the Law Enforcement and Criminal Justice Personnel data set.

<sup>300</sup> See Cal. DOJ Data Analysis, Appendix D.

<sup>301</sup> California Controller’s County Budget Data Portal, last visited July 27, 2025.

<sup>302</sup> These counties were Tehama County, Sutter County, Solano County, San Francisco County, Placer County, and Lassen County. See Cal. Controller Expenditure Data Analysis, Appendix E.

<sup>303</sup> These counties were Yolo County and Yuba County. See Cal. Controller Expenditure Data Analysis, Appendix E.

<sup>304</sup> See Survey Report, Appendix C. The remaining offices report using excel spreadsheets and paper files.

<sup>305</sup> See Survey Report, Appendix C.

<sup>306</sup> Specifically, most chief public defenders reported that their CMS captures the following data well: date of case opening (84.4%), date of appointment (71%), and charges at case initiation (78.1%).

<sup>307</sup> A significant number of chief public defenders reported that their CMS does not capture the following data well: added, reduced or amended charges (46.9%), charge/case enhancements (43.8%), and attorney withdrawals and substitutions (37.5%). See Survey Report, Appendix C.

<sup>308</sup> See Survey Report, Appendix C.

<sup>309</sup> Classifying a case according to the highest charge filed reflects the attorney’s obligation to investigate and litigate the most serious charge, which arises at the inception of that charge—regardless of its disposition.

<sup>310</sup> Only 34% of offices that have a CMS reported that they can generate reports of incoming cases by year and highest criminal charge. Some offices might be able to create the necessary data extracts, but would need additional capacity. Nearly two-thirds of offices with a case management system (63%) reported that they had the ability to produce custom data extracts, reports or queries, and an additional 16% reported that custom reporting is possible using their CMS but that they do not currently have the staff capacity to do so. One office reported that they must rely on the vendor to produce custom reports. None of the offices without a CMS can produce such a report. See Survey Report, Appendix C.

<sup>311</sup> For NPDWS Case Type definitions, see *National Public Defense Workload Study*, at Table 3.3, p. 58-59.

<sup>312</sup> Office of the State Public Defender, *Understanding the National Public Defense Workload Study: A Practical Guide to Mapping Common California Offenses* (Dec 2023).

<sup>313</sup> The Santa Barbara public defender office shared its work with the Deason Center and has also shared this work with public defender offices throughout California.

<sup>314</sup> The San Mateo Private Defender Program now collects case data not only by assignment date, but also by case type, and attorney assigned. See San Mateo County Bar Association, *Private Defender Program Annual Report FY 2023-2024*, at Appendix 4 (listing attorneys by randomly assigned number and listing percentages of time spent on program cases by case types); Appendix 5 (listing cases assigned).

<sup>315</sup> Some attorneys in individual attorney contract systems used a case management system, but the case management system was selected and paid for by the attorney.

<sup>316</sup> Full-time attorneys count as a 1 FTE. Part-time attorneys are assigned a fractional number based on the percentage of time worked, e.g., a half-time attorney is a 0.5 FTE.

<sup>317</sup> This should include information not only on county funding, but any state or local funding, grants, or donations.

<sup>318</sup> In establishing data reporting protocols, each position type must be defined to ensure consistent reporting. Position definitions should, for example, clarify how people who have graduated from law school but not yet taken the bar should be counted.

<sup>319</sup> Listing all professionals by name and license number allows county and state authorities to regularly verify eligibility to practice.

<sup>320</sup> Collecting percentage FTE for each attorney ensures that counties understand the time devoted to providing public defense services in their county. At present, counties do not generally know what percentage of time contract lawyers spend on work in other counties or private work. Gathering this information from all counties allows aggregation to understand the total public defense services provided by a single attorney. For example, it would document how many providers hold contracts in multiple counties. For contract professionals, percentage of time allocations are commonly completed through annual attestations. The San Mateo Private Defender Program recently began collecting and publishing the percentage of time each attorney spends providing public defense services in the county. See San Mateo Private Defender Program, *FY 2023-2024 Annual Report*, at Appendix IV, last visited July 31, 2025.

<sup>321</sup> To apply workload standards, cases must be counted in a uniform way. California should adopt a single case definition that ensures consistency and minimizes both undercounting and overcounting. The NPDWS recommends using a person-based definition of a case in which a case is defined as a group of charges arising from a single incident or related series of incidents against a single person. Most California counties currently define a case as all charges filed against a client that are contained in a single charging document, regardless of how many different incidents are alleged. While this risks both undercounting and overcounting and depends slightly on the practices of prosecutors, California may wish to adopt this most commonly utilized definition. Without implementing a standard definition of a case, the caseload data obtained will not be comparable across counties and the applications of workload standards will be inconsistent.

<sup>322</sup> Consider, for example, how to define and count a “case.” The NPDWS defines a case as a group of charges arising from a single incident or related series of incidents against a single person. National Public Defense Workload Study, at x. This definition is consistent with the manner in which most courts count criminal cases. See State Court Guide to Statistical Reporting. National Center for State Courts, State Court Guide to Statistical Reporting (2023), at 14-15. However, fewer than one-tenth (9%) of California’s public defender offices reported defining and counting cases in this manner. The vast majority (74%) defined a “case” as all charges filed against a client that are

contained in a single charging document, regardless of how many different incidents are alleged. Another 14% of offices defined a case as all charges filed against a client, regardless of whether those charges arise from multiple incidents or are being separately prosecuted. One office reported counting each charge as a separate case, regardless of whether multiple charges arose from the same incident.

<sup>323</sup> As a result of the different definitions of “case” currently used in California, any analysis of caseload would not be comparable. For example, several jurisdictions report having applied the NPDWS workload standards to assess attorney position needs. The different definitions of case likely impacted these applications. Counting each charge separately overcounts cases and, as a result, could lead to an overestimate of attorney positions needed. On the other hand, counting all charges against a single client as a case, even if the client is charged with crimes in several unrelated incidents, undercounts cases and could lead to an underestimate of attorney positions needed.

<sup>324</sup> Indiana also requires counties to submit a comprehensive plan for indigent defense services. Indiana Commission on Court Appointed Attorneys, *Standards for Indigent Defense Services in Non-Capital Cases*, at Standard B (June 2023).

<sup>325</sup> New York State Office of Indigent Legal Services, *Progress Reports*, last visited June 11, 2025. The Progress Reports focus on those staff and expenditures paid for by the state. The Progress Reports are just one way that ILS collects data from counties.

<sup>326</sup> New York State Office of Indigent Legal Services, *Performance Measures Progress Report* (Oct 2024).

<sup>327</sup> *Id.*

<sup>328</sup> Michigan provides grants to each county to assist them in complying with mandatory standards. Counties then submit substantive and financial compliance reports. Michigan Indigent Defense Commission, *Grants*, last visited June 11, 2025. MIDC then also produces reviews of these reports. See, e.g., J. Wells, *Michigan Indigent Defense Commission Financial Report Review* (Sept 2023).

<sup>329</sup> *Id.*

<sup>330</sup> *Texas Indigent Defense Plans*, last visited July 31, 2025.

<sup>331</sup> *Indigent Defense Data for Texas*, last visited July 31, 2025.

<sup>332</sup> TIDC, *Explore Data*, last visited July 31, 2025.

<sup>333</sup> Principle 4, ABA Ten Principles of a Public Defense Delivery System (2023).

<sup>334</sup> Texas Indigent Defense Commission, *Data*, last visited June 12, 2025.

<sup>335</sup> Michigan Indigent Defense Commission, *Impact Reports*, last visited June 13, 2025.

<sup>336</sup> Fifty three percent of chief public defenders reported that they cannot produce reports on new cases assigned to the office by year and by highest charge; 41% could not produce reports on new cases assigned to the office by year and attorney assigned.

<sup>337</sup> See, e.g., New York Office of Indigent Legal Services, *Statewide Plan for Implementing Quality Improvements: Year Two Report*, at 29-30 (Aug 11, 2020) (noting that 32 of 53 contracts with counties included funding for case management systems while 39 of 53 contracts included funding for a county data officer).

<sup>338</sup> See *Indigent Defense Improvement Grant Program FY2026/FY 2027*, last visited July 31, 2025.

# Public Defense By County



This appendix summarizes recent information available on California's public defense systems, drawing on news coverage, public reports, and lawsuits related to public defense.

## Statewide

- Report on disparities in county-based public defense systems: Money, location shape California's criminal defense system to an unconstitutional level (Cal Matters, Mar 31, 2025)
- Report on failure to provide public defense investigators: California is failing to provide a vital safeguard against wrongful convictions (Cal Matters, Jun 5, 2025)
- Report on need for public defense funding to address new drug offenses: Public defenders seek \$120M as Proposition 36 strains resources (Cal Lawyer, May 9, 2025)
- SB 485 would add protections against termination for chief public defenders
  - Legislation aims to safeguard public defenders' independence in California (Davis Vanguard, Sept 14, 2025)
- AB 690 proposes to end use of flat fee contracts in public defense
  - Proposed law aims to overhaul how 24 counties pay attorneys for criminal defense work (Cal Lawyer, Mar 25, 2025)
  - California criticized for inadequate funding of indigent defense in justice system (Davis Vanguard, May 8, 2025)
  - Nick Schultz: California's public defense crisis demands passage of AB 690 (OC Register, May 29, 2025)
  - California bill seeks to end flat-fee contracts for indigent defense (Davis Vanguard, June 26, 2025)
  - Op-ed: Fair representation: A California bill aims to improve public defense funding (July 12, 2025)
- OSPD Report on Funding Disparity between prosecution and public defense: Unequal Scales: California's Investment Disparity Between Prosecution and Public Defense (May 2025)
  - \$1 Billion disparity in prosecution funding v. public defense (Davis Vanguard, May 21, 2025)



## Alameda County

- In February 2024, Governor Newsom proposed sending state attorneys and resources to speed up prosecution in Alameda County. The plan was finalized in August 2024, and prosecutors from the California National Guard's Counterdrug Task Force were dispatched to prosecute crimes originating in Alameda County. The public defender's office expressed concerns that this exacerbated the existing disparities in prosecutor and public defense resources.
  - Alameda County public defender blasts governor for sending more prosecutors (KRON 4, Feb 8, 2024)
  - Governor Newsom quickly finalizes agreement to speed up prosecutions in Alameda County (Office of Governor, Aug 2, 2024)
  - Alameda public defender pushes back on governor's use of state prosecutors – warns it will continue cycle of mass incarceration (Vanguard News, Aug 3, 2024)

## Del Norte County

- In 2022, at the request of Del Norte County, the Office of the State Public Defender's Indigent Defense Improvement Division prepared a report on public defense in Del Norte County. The report found that Del Norte County had the highest jail admission rate in California at the time. The report also found that the defense system was severely underfunded, causing heavy caseloads for attorneys. OSPD recommended that the county shift from its four independently contracted attorneys to an institutional public defender office. The Board of Supervisors approved funding for a county employee defense leader to start a Managed Assigned Counsel system but could not find an attorney to take the position for the proposed salary.
  - A Report on the Status of Public Defense in Del Norte County (Office of the State Public Defender, Sep 2022)
  - Despite acknowledging need, Del Norte supes balk at cost of overhauling public defense system (Wild Rivers Outpost, March 16, 2023)
  - Del Norte supes agree to restructure public defense system, saying they hope to lighten caseloads (Wild Rivers Outpost, May 11, 2023)

## El Dorado County

- A Vera Institute report on El Dorado County showed that 68% of all arrests in the county were for misdemeanors and that the county used 38% of its general fund spending on the criminal legal system.
  - California: The state of incarceration El Dorado County (Vera Institute, 2021)

## Fresno County

- In 2013, more than 80% of the county's deputy public defenders signed a letter highlighting their excessive caseloads and lack of training.
  - Legal notice to public defender (Sep 20, 2013)



- In 2016, the American Civil Liberties Union filed a lawsuit asserting that the public defenders were overworked and provided inadequate counsel to the county's residents.
  - *Phillips v. State of California* (ACLU, April 12, 2016)

## **Humboldt County**

- A civil grand jury report found that the public defender office was underfunded and operated under unsafe conditions.
  - *Scales of justice out of balance? Humboldt County public defender's office* (Civil Grand Jury, July 30, 2025)

## **Imperial County**

- The Imperial County public defender office faced a severe public defender shortage, at one point having only six practicing attorneys (full staffing would have been 17 attorneys).
  - *County addresses public defender shortage* (The Desert Review, Jan 23, 2024)

## **Kern County**

- In 2023, the American Civil Liberties Union filed a lawsuit against Kern County, alleging systemic failure to provide right to counsel to people accused of misdemeanor offenses.
  - *UFW v. County of Kern* (ACLU of Northern California, May 9, 2023)
  - *Strike four, now what? ACLU sues Kern County, California for systemically denying counsel* (Sixth Amendment Center, May 16, 2023)

## **Kings County**

- In 2024, at the request of Kings County, the Office of the State Public Defender prepared a report on public defense in Kings County. The report found that Kings County had an unstructured, underfunded contract system with low rates of investigation and expert engagement, and high rates of client dissatisfaction. OSPD presented the report to the Board of Supervisors on April 16, 2024, and recommended that the county shift from its twenty-six independently contracted attorneys to create an institutional public defender's office. The Board declined.
  - *OSPD slide presentation to Board of Supervisors* (Board of Supervisors Agenda Packet, April 16, 2024, pp. 235-250)
  - *A Report on Indigent Defense in Kings County* (Office of State Public Defender, Apr 2024), in Board of Supervisors Agenda Packet, April 16, 2024, pp. 175-233)

## Lake County

- In 2022, a complaint was lodged against Lake County Indigent Defense, LLP (LID), and the Civil Grand Jury began investigating the county's public defense with the help of the Sixth Amendment Center (6AC). The subsequent 6AC Report asserted that Lake County's public defense system created a "constructive denial of the right to counsel." The Board of Supervisors voted to establish an institutional public defender office. In June 2024, LID was replaced by a public defender office.
  - [The Right to Counsel in Lake County, California: Evaluation of Trial-Level Indigent Representation Services](#) (Sixth Amendment Center, Feb 2023)
  - [Lake County Grand Jury Final Report 2023-2024](#) (June 30, 2024)

## Lassen County

- In 2023, Lassen County's public defense system had insufficient funding. One defender said funding was so limited that she went weeks without even having an office chair.
  - [Broken defense across the West](#) (Independent Record, Feb 5, 2023)
  - [The states of indigent defense: part one](#) (The Watch, Oct 20, 2023)
- In 2024, Lassen County transitioned its public defense services from a public defender office to a contract defense firm due to budget constraints. The County issued a request for public defense services.
  - [Lassen County request for proposal - public defender services](#) (Lassen County, Oct 2024)

## Los Angeles County

- In 2022, Los Angeles public defenders wrote an open letter to the chief public defender asking for workload relief
  - ['Our office is in crisis': LA public defenders pen plea to reduce workload](#) (La-ist Mar 8, 2022)
- In 2023, the conflict assigned counsel program previously administered by the Los Angeles County Bar Association, was relocated to the public defender office. The move raised concerns regarding funding and quality of public defense services.
  - [L.A. County shifts lawyer program for the poor from Bar Assn. to already busy public defender](#) (L.A. Times, Jan 9, 2023)
- In 2023, following the publication of the National Public Defense Workload Study, the ACLU found that the Los Angeles County public defender office was not in compliance with the new national standards.
  - [Los Angeles lags behind national standards on public defense](#) (ACLU, Sep 21, 2023)

## Mariposa County

- In February 2024, Mariposa County invited the Office of the State Public Defender to prepare a report on the public defense system in Mariposa County.

- Mariposa County Board of Supervisors meeting agendas & minutes (Feb 6, 2024 Meeting, pp. 367-371)

## **Mendocino County**

- Mendocino County’s Juvenile Justice Consolidated Plan was approved by the Juvenile Justice Coordinating Council in March of 2024. In this plan, the county’s public defender office asked for a social worker position to provide reentry assistance to youth.
  - Mendocino County FY 2024/2025 Juvenile Justice Consolidated Plan (BSCC, Mar 22, 2024)

## **Monterey County**

- A 2015 workload assessment of the Monterey County public defender office found that the office was extremely underfunded and understaffed compared to benchmark counties. According to the report, the public defender office had nine fewer attorneys, half the 5-year budget growth, and far heavier caseloads than benchmark counties.
  - County of Monterey legislation details - with board report (Nov 2015)
- Monterey County hosted a “Clean Slate Day” in June of 2024.
  - County of Monterey to host a public defender Clean Slate Day (KSBW, Jun 26, 2024)
- In December of 2024, a graduate student published research on how to alleviate caseloads for public defenders in low-income communities. Monterey County’s public defender office was used to test different methods. The research found that dividing the workload with paralegals would help alleviate excessive attorney workloads.
  - Addressing the issue of public defender excessive caseload in low-income communities (Cal State Univ, Monterey Bay, Dec 12, 2024)

## **Mono County**

- In 2025, Mono County’s Board of Supervisors voted to transition to a public defender office.
  - Press Release, Mono County establishes office of public defender to strengthen indigent defense services (Aug 14, 2025)

## **Napa County**

- In 2021, the Napa County Civil Grand Jury issued a report on the public defender office finding that its representation of misdemeanor defendants may fall below constitutional standards. According to the report, most people accused of misdemeanors in the county did not receive an attorney until their arraignment, if at all, and the public defender office lacked sufficient funding to have an attorney present at all arraignments. Language barriers and mental challenges in the county also impeded arrested people from understanding their

rights. The report recommended providing the Napa County public defender office with additional resources to ensure that all those accused of misdemeanors receive adequate access to legal representation.

- Napa County Civil Grand Jury, Office of the Public Defender, Equal Justice for All? (May 31, 2022)

## **Orange County**

- In 2023, the Orange County public defender office received a \$4 million state grant to develop a program to represent people who were convicted of homicide at a young age in resentencing and parole hearings. The district attorney's office spoke against the funding, arguing that the funding would impede prosecutorial efforts. This led to a debate on whether prosecutors should have a say in public defense funding.
  - Do prosecutors have a voice in public defense funding? (Criminal Justice Journal, 2023)
  - Orange County district attorney objects to public defender grant funds (Voice of OC, Mar 2023)

## **Riverside County**

- In Riverside County, defense attorneys were paid a flat rate for death penalty cases, which has led many experienced attorneys to refuse to take death penalty cases.
  - He faces execution. His lawyers may have earned less than \$4 per hour. (The Marshall Project, Apr 2024)
- A 2021 ACLU Report on Riverside County's death penalty system revealed racial inequities in the application of the death penalty. Black defendants were 14 times more likely, and Latino defendants were 11 times more likely, to face the death penalty than white defendants. This study was included in the 2024 lawsuit *Office of the State of Public Defender v. Bonta*.
  - Racial disparities in Riverside County's death penalty system (ACLU, Sep 2021)
  - Office of the State Public Defender v. Bonta (Apr 2024)
  - Inside the new legal push to end Calif.'s death penalty (Law360, May 2024)

## **Sacramento County**

- In August 2024, attorneys in both the Sacramento public defender office and district attorney's offices went on strike demanding a 5.5% increase in wages annually. The attorneys noted that surrounding counties paid significantly more for the same job.
  - Sacramento County update: SCAA strike (Sacramento County, Sep 2024)
  - Prosecutors and public defenders strike for higher pay in this California county (ABA Journal, Sep 2024)

## San Benito County

- In 2024, the Office of the State Public Defender issued a report on public defense in San Benito County. The report found that the county's public defense system "is almost entirely devoid of structure and oversight and is profoundly underfunded in comparison to the prosecution function," and noted "there are signs that effective representation is not being provided" by the attorneys working within the system. The attorneys "are not typically litigating cases to trial," lack "consistent communication with clients," and carry caseloads that exceed national standards.
  - Indigent Defense in San Benito County (Office of the State Public Defender, 2024)
  - Strike 5: The state of California calls a strike on San Benito County (Sixth Amendment Center, Mar 2024)
- Two supervisors from the Public Defender Oversight Committee stepped down from their positions after a San Benito County Board of Supervisors meeting during which proposed nominees were rejected. One of the nominees had been previously incarcerated, which the Oversight Committee considered a benefit because of his first-hand experience in the system.
  - Supervisors clash over public defender oversight committee (Benito Link, Apr 9, 2025)

## San Bernardino County

- In 2023, a public defender in San Bernardino County pushed the district attorney to offer a plea deal for his client because he was "a white man," in violation of the Racial Justice Act. The San Bernardino trial court then ordered the public defender office to appoint a new defender to the case. The defendant filed a complaint against the county for this replacement, which was denied.
  - Public Defender disqualified from case for race-related statement in plea bargain negotiations (Reason, Oct 2024)
- In April of 2025, San Bernardino County's public defender office created the Mobile Defense Program, which provides legal services from a RV. The program assists clients with record-clearing, requests to clear bench warrants, modifying misdemeanor summary probation, re-enrollment in court-required classes, and resolution of outstanding fines.
  - San Bernardino County brings legal services to court users in remote areas (Newsroom, Apr 23, 2025)
  - Public Defender's mobile defense program heads to Joshua Tree on May 14 (SB County, May 8, 2025)

## San Diego County

- In 2024, the San Diego public defender office alleged that the district attorney's office exhibited racial bias against black defendants by failing to offer them plea deals comparable to those offered to white defendants.
  - Public defender's office accuses San Diego County DA's Office of racial bias in plea deals (NBC San Diego, Jan 2024)

## San Francisco County

- In 2017, San Francisco established the Pre-Trial Release Unit (PRU) to ensure defendants earlier access to representation. Data collected since the program's inception shows that individuals who receive arrest-responsive intervention are twice as likely to be released at arraignment when compared with similarly situated, non-treated arrestees. It also found that PRU intervention saved approximately 11,253 jail bed days per year.
  - The Impact of Early Representation: An Analysis of the San Francisco Public Defender's Pre-trial Release Unit (UC Berkely Goldman School of Public Policy 2018)
- In September 2021, the San Francisco public defender and others filed suit against the San Francisco Superior Court over its routine failure to uphold defendants' right to a speedy trial, leading to over 1,100 cases that were pending past statutory time limits.
  - State Supreme Court to weigh in on long trial delays (San Francisco Public Press, Aug 2023)
- In May of 2025, the San Francisco public defender office began declining some new appointments to address excessive workloads and ensure quality representation for clients.
  - Overloaded SF public defender limits amount of new cases taken due to lack of funding (ABC 7 News, May 10, 2025)
  - Public defender refuses cases due to budget fight (Grow SF, May 9, 2025).
  - SF public defender stops taking cases, citing Lurie's anti-fentanyl surge (SF Standard, May 9, 2025)
  - Op-ed: San Francisco public defender made the right call to limit defender caseloads (Daily Journal, June 4, 2025)

## San Joaquin County

- In 2016, the San Joaquin Grand Jury issued a report on the public defender office's efforts to recover fees from indigent defendants for their legal services. The Grand Jury found that communication and oversight among the public defender office and county agencies were lacking and recommended the possible appointment of a financial officer to recover fees owed to the county.
  - San Joaquin County Public Defender Fees 2015-2016 Case No. 1506 (San Joaquin Grand Jury, 2016)

## San Luis Obispo County

- In 2019, a former inmate of the SLO County Jail sued the firm that has the public defender contract for failing to request basic discovery, seek a reduced bail or release, investigate his case, or meaningfully communicate with him before urging him to accept a plea deal. The suit was brought so "indigent defendants will be more effectively represented" and has revealed inadequacies in the private firm representing indigent clients, which is severely underfunded compared to the District Attorney.



- 'Nobody paid attention to him': Former SLO County Jail inmate sues public defender's office (The Tribune, Jul 2019)
- San Luis Obispo County started a clean slate clinic to help clear criminal records which will include criminal record expungement, felony reduction, and arrest record sealing. This clinic is meant to help people find employment and housing without a criminal record inhibiting them.
  - SLOCL and the SLO justice partners hosts Clean Slate Clinic (Monterey Law, Mar 21, 2025)

## San Mateo County

- San Mateo County's private defender program was the subject of Civil Grand Jury Reports in 2015 and 2020 and independent reports from 2016 and 2022. All address lack of data, oversight and services as well as progress toward addressing these deficiencies.
  - San Mateo County Private Defender Program (Civil Grand Jury Report, 2015)
  - San Mateo County Private Defender Program Evaluation (2016)
  - Balancing the Scales of Justice Between the Prosecution and Defense in San Mateo County (Civil Grand Jury Report, 2020)
  - Evaluation of the County of San Mateo's Private Defender Program (Harvey Rose Associates, 2022)
- In March of 2024, the San Mateo County Bar Association was sued by one of its members for failing to provide adequate oversight for its public defense services. San Mateo is the only California county with over 500,000 residents to lack a public defense office, and it contracts with the private public defender program to provide public defense services. The lawsuit alleges that because the San Mateo County Bar Association is a trade organization, it is barred from serving as a public defender.
  - Rodney Sorenson v. San Mateo County Bar Association (Superior Court of California, Mar 12, 2024)
  - Lawsuit claims San Mateo's unusual public defender's system is "defective and unlawful" (San Francisco Chronicle, Mar 2024)

## Santa Barbara County

- In 2016, Santa Barbara County was one of three counties assessed for a report on systemic public defender rationing or triage. The study found that the public defender office rotated experienced defenders through serious felony offenses but had no process to ensure misdemeanor clients received experienced counsel.
  - Systematizing Public Defender Rationing (Denver Law Review, 2016)
- In 2023, a Santa Barbara County study on the impact of social worker support in public defense was included in a macro study of holistic defense practices. The study found that individuals receiving social worker support in Santa Barbara County were far more likely to have charges dismissed, and the reduction in incarceration rates would save the county \$250,000 per \$110,000 spent. Overall, the study found that there was some evidence that holistic defense produces positive outcomes.

- Research on the Effectiveness of Holistic Defense Models & Social Workers in Public Defender Offices (UNC Criminal Justice Innovation Lab, 2023)
- In 2024, Santa Barbara's chief public defender addressed the Board of Supervisors concerning the lack funding for the office, pointing out that there was a \$10.6-million funding gap between the district attorney's office and the public defender office .
  - District Attorney, Sheriff ask for more funding during 'status quo' budget workshops (NoozHawk, Apr 10, 2024)

## **Santa Clara County**

- In 2017, Santa Clara County Grand Jury investigated its criminal justice system to determine why it is the slowest county in California to resolve felony charges. It found that, in part, this is due to a lack of public defenders and independent defenders.
  - Justice Delayed: Why Does it Take So Long to Resolve Felonies in Santa Clara County (Civil Grand Jury Report, 2016-2017)
- Santa Clara Superior Courts were sued by the ACLU and Stanford Law School for requiring people who wanted to address outstanding warrants to surrender to jail if they could not afford bail on the warrant charge. In 2023, the Courts announced that they would allow people seeking to address outstanding warrants to make an appointment for an arraignment with or without the ability to pay.
  - In response to lawsuit, Santa Clara Superior Court takes step to change policy discriminating against poor defendants (ACLU of Northern California, Nov 13, 2023)
- In May 2024, Santa Clara County district attorney and public defender raised concerns over proposed budget cuts, warning such cuts could compromise the justice system's integrity and public safety.
  - Santa Clara County DA, Public Defender forewarn trouble from proposed budget cuts (The Mercury, May 2024)
- Santa Clara County's public defender office faced trouble continuing their Pre-Arraignment Representation Review team, which helped low-income people with mental health and drug issues obtain pretrial release. This program was successful at reducing the time people spent in jail before their trial.
  - Santa Clara County model public defender program on thin ice (San Jose Spotlight, Jan 27, 2025)

## **Santa Cruz County**

- In September of 2020, the Sixth Amendment Center prepared a report on Santa Cruz County revealing that financial conflicts and inadequate oversight impeded defendants' access to consistent, effective counsel. Without centralized oversight and proper funding, public defense in Santa Cruz County often lacked the continuity and resources necessary for fair representation.
  - The Right to Counsel in Santa Cruz County (Sixth Amendment Center, 2020)
- In July 2022, Santa Cruz County opened its new public defender office.

- County's new Public Defender office begins operations (The Pajaronian, Jul 2022)
- Santa Cruz public defender moves to solidify 'holistic defense' model (Santa Cruz Sentinel, May 28, 2024)

## Shasta County

- In June 2024, the public defender office presented to Shasta County Board of Supervisors as part of its annual budget review. During the presentation, chief public defender William Bateman told the board that his office was underfunded, overwhelmed by the current caseload, and struggled to recruit and retain staff attorneys.
  - Third day of Shasta County budget hearings centered on public safety (Shasta Scout, June 2024)
- In August 2024, the Shasta County Board of Supervisors voted to approve new contracts with two independent defense firms to alleviate the public defender office caseload without expanding its budget. Following this decision, chief public defender William Bateman resigned in September 2024; he was replaced by Ashley Jones in October 2024.
  - Shasta County Board of Supervisors Meeting Agenda (Shasta County, Aug 2024)
  - Top Shasta County administrator resigns. Supervisors OK new member for elections panel (Redding Record, Sep 2024)
  - Ashley Jones appointed as public defender for Shasta County (Shasta County, Oct 2024)
- In February of 2025, Shasta County officials met to discuss concerns of a \$5 million budget deficit. The discussion included staffing for the public defender office which already was struggling to provide adequate representation to their clients.
  - Public safety leaders in Shasta County unite to address budget and staffing challenges (ABC 7, Feb 27, 2025)

## Solano County

- In May 2024, a Solano County judge was cited for the third time for inappropriate and prosecution-biased behavior in the courtroom, including interrupting defense cross-examination and making offensive comments to the defendant.
  - Solano County judge admonished again for barbed courtroom comments (The Recorder, May 2024)
- Solano County's public defender's office received a grant for the third year of a pilot program. The funding came from the Board of State and Community Corrections. The resources were used to help hire limited-term attorneys and fund youth offender advocacy and post-conviction relief opportunities.
  - Public defenders seek third-year grant for youth advocacy (Daily Republic, Dec 4, 2024)

## Stanislaus County

- In 2023, the Office of the State Public Defender issued a report that found Stanislaus to be severely underfunded. In response to the report, the county committed to funding additional public defense positions.
  - Stanislaus public defense is among most understaffed, overworked in central valley, report says (The Modesto Bee, May 2024)

## Sutter County

- A 2022 Stanford investigation found that Sutter County had the lowest public defense spending per capita of all California counties, at just \$13 per person, compared to the state average of \$31.
  - Restructuring public defense after Padilla (Stanford Law Review, Jan 2022)

## Tehama County

- In 2022, Tehama County received \$79,509.67 in Public Defense Pilot Program funds, providing support for resentencing efforts. The public defender office said it would not be able to litigate these cases without the grant.
  - Tehama County Board of Supervisors approves grant for inmate case reassessments (Red Bluff Daily News, Mar 2022)

## Tuolumne County

- In 2023, two public defenders were appointed to judicial positions, causing an exodus of remaining attorneys and leaving only one public defender remaining in the office (which generally has 4-5 attorneys). The county has struggled to fill the three open positions, and one defender was temporarily responsible for handling the majority of the 2,085 cases filed annually.
  - Some public defender offices in rural California are in dire need of lawyers (Daily Journal, Jan 2024)



## APPENDIX B

# Methods Summary

To better understand public defense workloads in California, in 2021, the legislature passed AB 625 (Arambula), authorizing “the State Public Defender, in consultation with the California Public Defender Association and other subject matter experts, [to] undertake a study to assess appropriate workloads for public defenders and indigent defense attorneys and [to] submit a report with their findings and recommendations to the Legislature.”<sup>1</sup> The Legislature funded the study in the FY 2022-23 budget.

The Office of the State Public Defender (OSPD) engaged a facilitator to survey stakeholders including the California Public Defender Association (CPDA) to ensure that the Request for Proposals (RFP) reflected the concerns and expertise of the public defense community. At that time, the National Public Defense Workload Study (NPDWS) was scheduled for publication. The NPDWS established national public defense workload standards in the form of numeric case weights (hours per case) for adult criminal cases. To avoid unnecessary duplication with the NPDWS and to provide the most value to the state, the RFP requested that the California workload study look beyond setting hours per case metrics. Instead, it directed that the study should, to the fullest extent possible, document existing conditions, assess those conditions against ethical rules and practice standards, and recommend how public defense providers should be staffed to meet modern workload demands.

In 2023, OSPD selected the Deason Criminal Justice Reform Center at the SMU Dedman School of Law to conduct this study. The Deason Center, in Dallas, Texas, is a nonpartisan center for criminal justice research and advocacy. Launched in 2017, the Deason Center conducts, supports, and disseminates research with practical implications for criminal justice reform. It also educates about criminal justice issues and advocates for best practices. The Deason Center focuses on the Sixth Amendment right to counsel, the operation of rural criminal courts, and the use of prosecutorial charging discretion. Deason Center faculty and staff are nationally recognized experts on public defense workloads. This document summarizes how the Deason Center conducted the AB 625 workload study.

## Literature Review

The Deason Center began by conducting a comprehensive literature review of materials on California criminal procedure, court organization, and criminal code, as well as the provision of public defense services in California. The Deason Center team reviewed prior studies, academic articles, advocacy reports, news reports, and litigation materials. A summary of relevant materials on the provision of public defense services, including past county-based evaluations, civil grand jury reports, and recent news articles are included with this report at Appendix A.

## Data Review

The Deason Center also sought to review state-collected data on public defense services in California, as well as existing analyses of these data.

### California Department of Justice – Criminal Justice Staffing Data

The Deason Center reviewed California Department of Justice Data on criminal justice staffing between 2003 and 2022.<sup>2</sup> The data set is made available to the public in the [California Open Justice Portal](#) as the Law Enforcement and Criminal Justice Personnel data set. The staffing data is collected through a point in time survey. The data collected reflect actual staffing, not funded positions.<sup>3</sup>

The data set has some significant limitations. First, several counties report no public defense staffing data. Where counties provide public defense services exclusively through contract or assigned counsel systems, the survey does not capture the staffing of those systems. In 2022, 27 of California's 58 counties (47%) did not report any public defense staffing data.<sup>4</sup>

Second, because the data are collected from counties, the data reflect only those attorneys employed by county-funded agencies. In other words, it likely includes prosecutor staff in District Attorney offices but likely excludes staff in municipal prosecutor offices.<sup>5</sup>

Nonetheless, for the counties providing data, these data allow comparison of public defender and prosecution staffing. The Deason Center used such data to compare attorney and investigator staffing, as well as to analyze ratios of attorney to investigators and attorneys to overall support staff. This analysis is included at Appendix D.

### California Controller – County Budget Data

The Deason Center analyzed the most recent (FY 2022-23) data on county expenditures reported to the California Controller. The Deason Center downloaded data for two expenditure line items: District Attorney-Prosecution\_General (Prosecution) and Public Defender\_General (Public Defense).<sup>6</sup> As of August 2025, 50 counties had



reported both Prosecution and Public Defense Expenditures. Six counties failed to report any public defense expenditures.<sup>7</sup> An additional two counties failed to report prosecution expenditures.<sup>8</sup>

The Deason Center analyzed these data, alongside population data, to understand and compare per capita expenditures on the prosecution and defense respectively by county.<sup>9</sup> This analysis is included at Appendix E.

## Advisory Group

With the assistance of the Office of State Public Defender and the California Public Defender Association, the Deason Center convened an Advisory Group which included representatives from the public defense community, criminal justice reform advocates, and the counties. The members of the Advisory Group included:

- Claudia Bautista – Chief Public Defender, Ventura County
- Caitlin Becker – Chief Social Worker, Santa Cruz Public Defender<sup>10</sup>
- Mica Doctoroff – Senior Staff Attorney, Criminal Justice Program, ACLU Northern California
- Raj Jayadev – CEO, Silicon Valley De-Bug
- Lael Kayfetz – Chief Public Defender, Siskiyou County
- Lisa Maguire – Director, Assigned Counsel Program, San Mateo County
- Peter T. McGuire – Supervising Attorney, Tulare County Public Defender<sup>11</sup>
- Ryan Morimune – Legislative Advocate, CA Association of Counties
- Graciela Martinez – Assistant Public Defender, Los Angeles County
- Dan Messner – Deputy Public Defender, San Bernardino County<sup>12</sup>
- Bikila Ochoa – National Policy Director, Anti-Recidivism Coalition
- Tracie Olson – Chief Public Defender, Yolo County
- Richard Owens – Senior Staff Counsel, Committee on Revision of the Penal Code
- Sylvia Perez-McDonald – Director, Independent Defense Counsel Office, Santa Clara County
- Stephanie Regular – Supervising Attorney, Contra Costa Public Defender<sup>13</sup>
- Judy Rogado – Supervising Attorney, Tulare County Public Defender<sup>14</sup>
- Marketa Sims – Deputy Alternate Defender, Orange County
- Arlene Speiser – Assistant Public Defender, Orange County
- Brendon Woods – Chief Public Defender, Alameda County

The Advisory Group met four times in 2024 and 2025. During these meetings, the Advisory Group provided input on study methods, including recommending counties for site visits and providing critical input on the scope of, and recruiting for, focus groups. The Advisory Group also reviewed and provided input on preliminary findings. The Deason Center provided members of the Advisory Group with an advanced draft of the

report summary.<sup>15</sup> The members also received an advanced draft of the report, but they provided no input on the final report.

## Site Visits

With the input of the Advisory Group, the Deason Center conducted comprehensive site visits in nine California counties. In selecting site visit counties, the Deason Center and Advisory Board members considered county size and population density, public defense program type, geographic distribution, demographic diversity, percentage of population in poverty, and county crime and incarceration statistics.

Deason Center team members spent more than 55 field days conducting site visits in California counties. During these site visits the Deason Center team observed court and program operations, and conducted interviews with public defense providers, supervisors, trial attorneys, non-trial attorneys, investigators, social workers, administrative assistants and other support staff, as well as court personnel, county administrators, and criminal justice reform advocates. In all, the Deason Center conducted more than 180 interviews.

Recordings or notes from interviews were cleaned, coded and anonymized. All interviewees were promised anonymity. For this reason, in this report, quotes are identified only by position type, e.g., investigator, attorney, and, where relevant, type of public defense system.

## Focus Groups

### *Public Defense Practitioners*

The Deason Center also conducted 10 focus groups with public defense providers, including chief public defenders and program administrators, supervisors, trial attorneys, non-trial attorneys, investigators, social workers, and other support staff members. The Deason Center distributed requests for attorney and support staff participants through emails which were disseminated through listservs and organizations, including the OSPD, CPDA and the California Attorneys for Criminal Justice (CACJ). Additionally, Deason Center team members reached out to chief public defenders, program administrators and contract law firm directors and requested that information about focus groups be circulated to their attorneys and staff. To ensure that public defense providers throughout California had an opportunity to provide input for this study, the Deason Center specifically solicited focus group participation from public defense programs in counties not selected for site visits.

Potential participants were directed to a webpage with information on the study and focus groups. The webpages included a link to a participant form, which collected information about the participant's experience and position in public defense. If the person had recent experience providing adult criminal public defense services in

California, they were deemed qualified to participate. Qualified participants were sorted into focus groups by position and offered the opportunity to participate.

All focus groups occurred over Zoom, with the exception of chief public defender focus groups, which occurred in person at the CPDA Chief Public Defender conference in September 2025. Zoom focus groups were recorded. At the chief public defender focus groups, facilitators took notes.

The size of focus groups ranged from four to 15. When a volunteer could not participate in a relevant focus group, Deason Center staff members offered to conduct individual interviews. All focus group participants were promised anonymity. For this reason, in this report, quotes are identified only by position type and, when relevant, public defense program type.

### *Client and Client Community*

The Deason Center also conducted a focus group with former clients and client family members. To solicit client and client family participation, requests for volunteers were distributed through client community advocates and organizations in both Spanish and English. Advocates and organizations distributed focus group information out over listservs and social media. Potential participants were directed to a webpage with information on the study and focus groups. The webpages included a link to a participant form, which verified that volunteers were either recent prior public defense clients or family members of recent public defense clients.

The client and family focus group was held over zoom. To facilitate participation, client focus group participants were provided a \$100 Visa gift card.

### **Chief Public Defender Survey**

As part of the project, Deason Center staff administered a survey to chief public defenders in all county-operated public defender offices and alternate defender offices operating separately from public defender offices (n = 36). Private law offices contracted to deliver public defense services were not included. The survey was designed to gather information on attorney staffing, availability and usage of support staff and other resources, and workloads in public defender offices. Specific topics included:

- Numbers of positions and vacancies for various categories of attorneys and staff
- Sufficiency of staffing
- Recruitment and retention
- Access to support staff and experts
- Caseloads
- Budgets and sources of funding
- Data systems

The survey was conducted through the Qualtrics platform and was distributed via e-mail to chief public defenders on September 24, 2024. Beginning on October 17, 2024, Deason Center staff conducted individual follow-up by e-mail and by telephone to encourage recipients who had not yet responded to complete the survey. By the time data collection ended in January 2025, all 36 recipients had completed at least some portions of the survey. The report on this survey is included at Appendix C.

#### *Support Staffing Data Verification*

The survey requested that respondents provide data on existing attorney and support staff positions and vacancies. In analyzing provided data, the Deason Center identified some potential data ambiguities. For example, in some offices with conflict divisions, it was unclear whether the staffing and vacancy numbers included or excluded these divisions. Further, it was unclear in some instances whether a blank response reflected a zero or a decision not to respond. For this reason, the Deason Center reached out to respondents and asked them to review staffing and vacancy data provided. Respondents were asked to ensure that responses included all divisions, including conflict divisions, and to respond numerically to all questions. A total of 33 offices verified staffing data; 32 of those offices also verified vacancy data. These verified staffing and vacancy data were used to analyze current attorney to support staff ratios and vacancy rates included in the survey report at Appendix C.

## ENDNOTES – APPENDIX B

<sup>1</sup> California AB 625 (2021) codified as CA Govt. Code § 15403 (to be automatically repealed on January 1, 2029).

<sup>2</sup> See CA Penal Code §§ 13010-13012; 13020-13023.

<sup>3</sup> See California Department of Justice, Law Enforcement and Criminal Justice Personnel, last visited July 23, 2025.

<sup>4</sup> See Cal. DOJ Data Analysis, Appendix D.

<sup>5</sup> In some counties, these municipal prosecutors have significant attorney staff. In Los Angeles, for example, the data likely exclude attorneys in the Long Beach City Prosecutor's office, though these attorneys prosecute misdemeanor cases that are defended by the Los Angeles Public Defender Office.

<sup>6</sup> The reported expenditure data are likely incomplete. For example, public defense expenditures paid for through the court, such as appointed investigators and experts, may be reported as court expenditures, not public defense expenditures. Similarly, city prosecutor offices are likely not reflected in the reported prosecutor expenditures.

<sup>7</sup> These counties were Tehama County, Sutter County, Solano County, San Francisco County, Placer County, and Lassen County. See Cal. Controller Expenditure Data Analysis, Appendix E.

<sup>8</sup> These counties were Yolo County and Yuba County. See Cal. Controller Expenditure Data Analysis, Appendix E.

<sup>9</sup> These data reflect only county expenditures as categorized by the county. It likely does not reflect full public defense or prosecution expenditures. For example, it excludes any city prosecutor funding, which in some counties can be significant. Similarly, it may exclude some funding that is categorized by the county under a different line item.

<sup>10</sup> Ms. Becker subsequently left this position and accepted a public defense position outside of California.

<sup>11</sup> Mr. McGuire accepted the position previously filled by Ms. Rogado when she took a leave of absence.

<sup>12</sup> Mr. Messner subsequently became Chief Deputy Public Defender in Solano County.

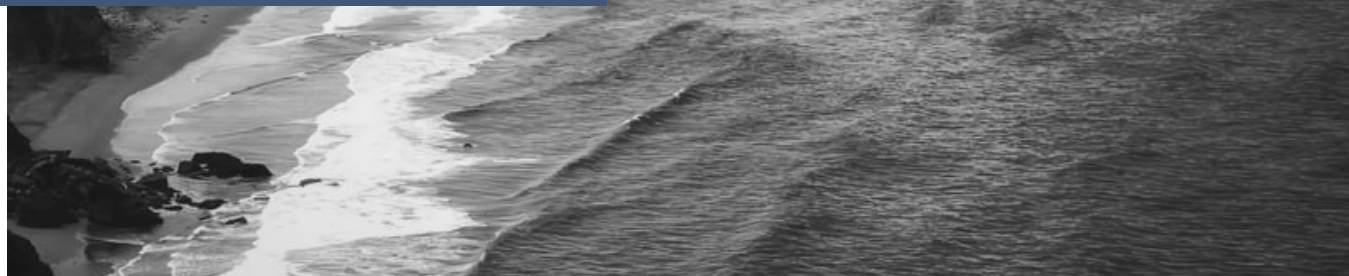
<sup>13</sup> Ms. Regular subsequently became an Assistant Public Defender in Alameda County.

<sup>14</sup> Ms. Rogado took a leave of absence during the study. She recommended that Peter T. McGuire from her office serve on the Advisory Board during her leave of absence.

<sup>15</sup> One member offered some comments on the summary. Those comments were reviewed and integrated as appropriate.

## Appendix C

# 2024 Survey of Chief Public Defenders - Results



### Survey Methodology

As part of the California Workload Study, the Deason Center staff administered a survey to chief public defenders in all county-operated public defender offices and alternate defender offices budgeted separately from public defender offices ( $n = 36$ ).<sup>1</sup> The survey gathered information on the availability and use of support staff and other resources, the perceived sufficiency of attorney and support staffing, and workloads in public defender offices. Specific topics included:

- Attorney and support staffing
- Sufficiency of staffing
- Availability and use of support staffing
- Recruitment and retention
- Workload analysis
- Budgets and sources of funding
- Data systems

The Deason Center conducted the survey through the Qualtrics platform, distributing the survey via e-mail to chief public defenders beginning on September 24, 2024.

Beginning on October 17, 2024, Deason Center staff conducted individual follow-up by e-mail and telephone to encourage recipients who had not yet responded to complete the survey. By the time data collection ended in January 2025, all 36 recipients had completed at least some portions of the survey.

Analysis showed some ambiguities in staffing data.<sup>2</sup> To rectify this issue, the Deason Center confirmed staffing and vacancy data via e-mail. After efforts to confirm this data, the Deason Center had reliable staffing data for 33 offices and vacancy data for 32 offices.

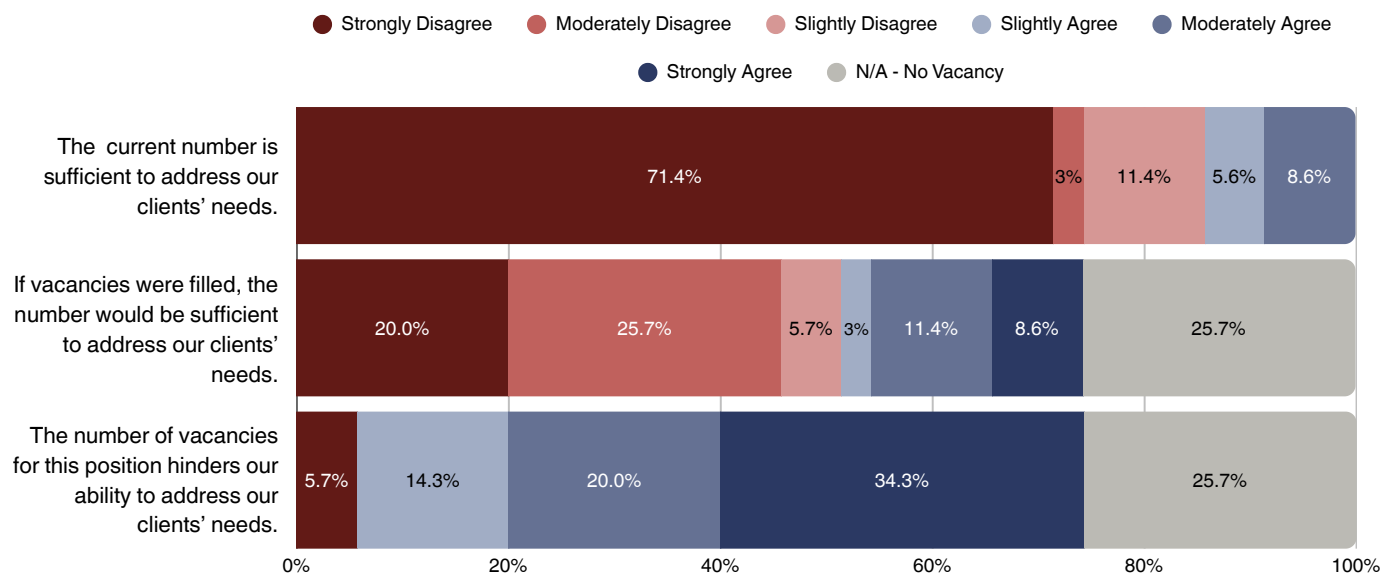
This appendix presents the results of this survey, along with details about how many respondents answered each question. Percentages shown in some figures may not sum to 100 as a result of rounding.



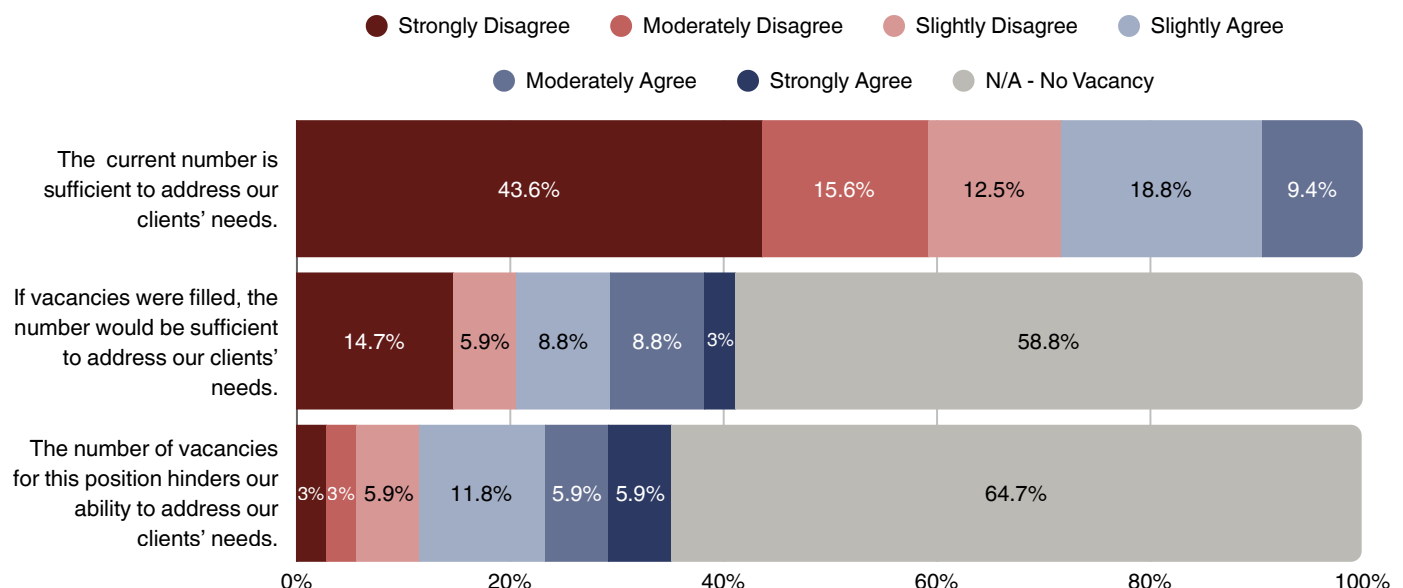
## Adequacy of Attorney Staffing

The survey asked Chief Public Defenders a series of questions regarding their perception of sufficiency of current attorney and support staffing in their office. When asked if they agreed that the current number of trial attorneys is sufficient to address clients' needs, 71% of Chief Public Defenders strongly disagreed.

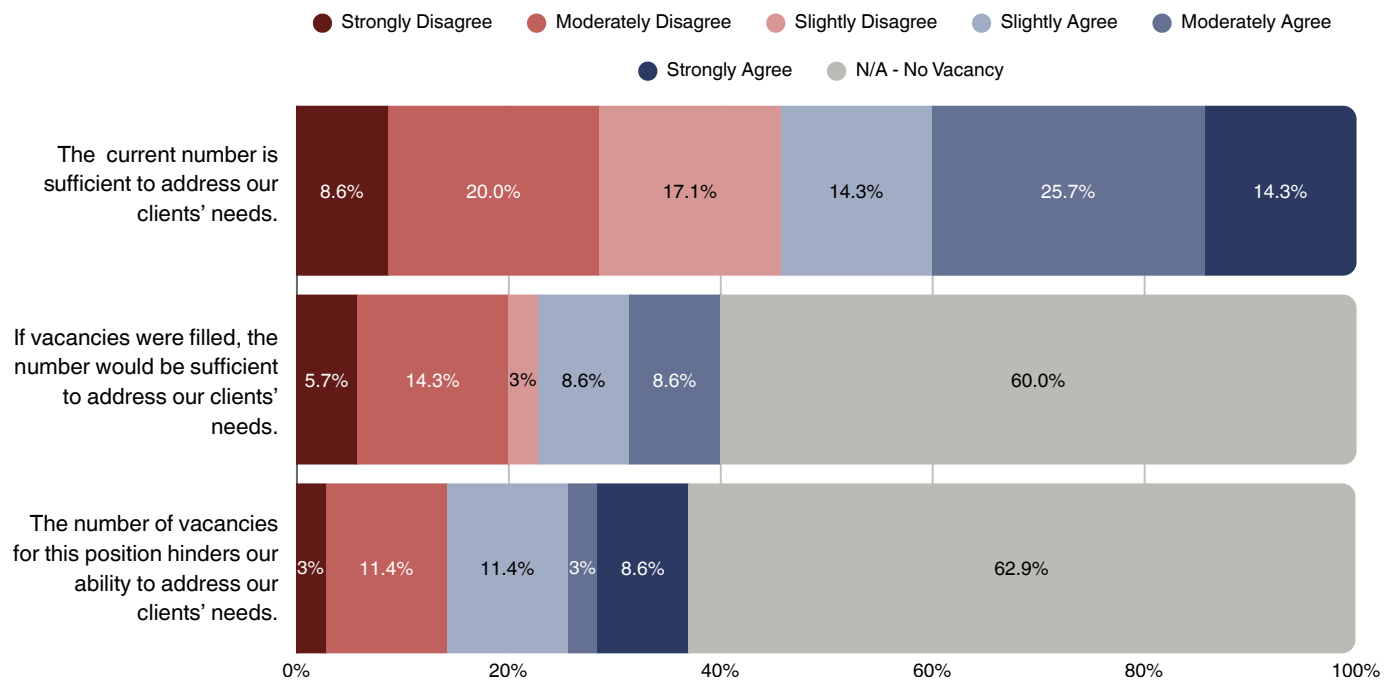
**Figure 1: Adult Criminal Trial Attorney Sufficiency**



**Figure 2: Non-Trial/Specialty Attorney Sufficiency**



**Figure 3: Juvenile Trial Attorney Sufficiency**

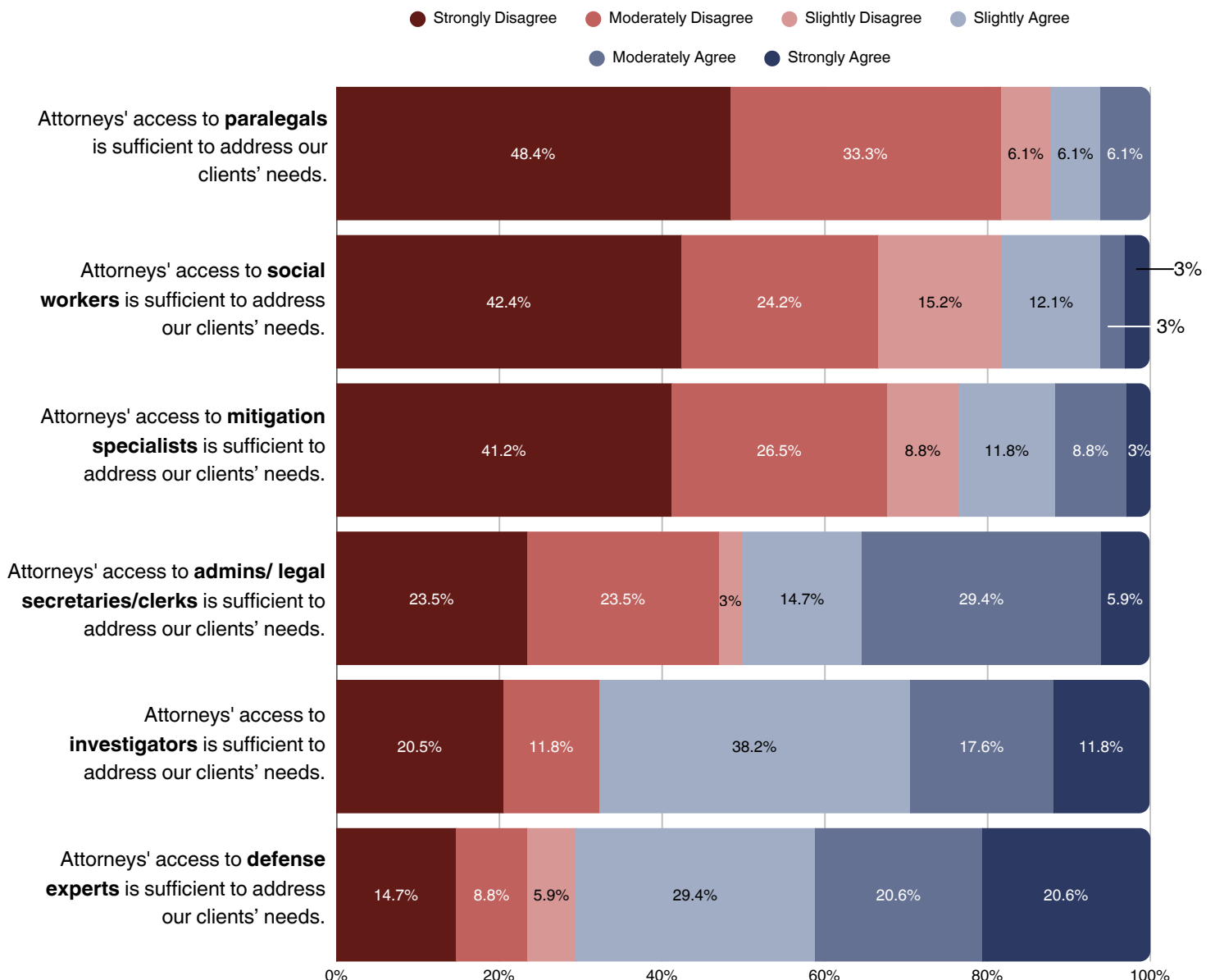


## Support Staffing

### *Adequacy of Access to Support Staff and Experts*

Chief public defenders overwhelmingly reported that their attorneys' access to most types of support staff was inadequate. As shown in Figure 4, the vast majority of chief public defenders did not agree that their attorneys' access to paralegals, social workers, and mitigation specialists was adequate to meet clients' needs. Around half felt that attorneys' access to legal secretaries/clerks was inadequate, and nearly one-third reported inadequate access to investigators. Around 70% reported sufficient access to defense experts.

**Figure 4: Attorney Access to Support Staff in Adult Criminal Cases**



## Support Staffing Ratios

The survey asked chief public defenders to report current staffing by position, divided into four categories: Full-Time (Filled); Part-Time (Filled); Full-Time (Vacant); Part-Time (Vacant).<sup>3</sup> From these staffing data, the Deason Center calculated ratios between total attorney positions and total support staff positions both by category and overall. The calculated staffing ratios were then compared to the recommended staffing ratios for California.

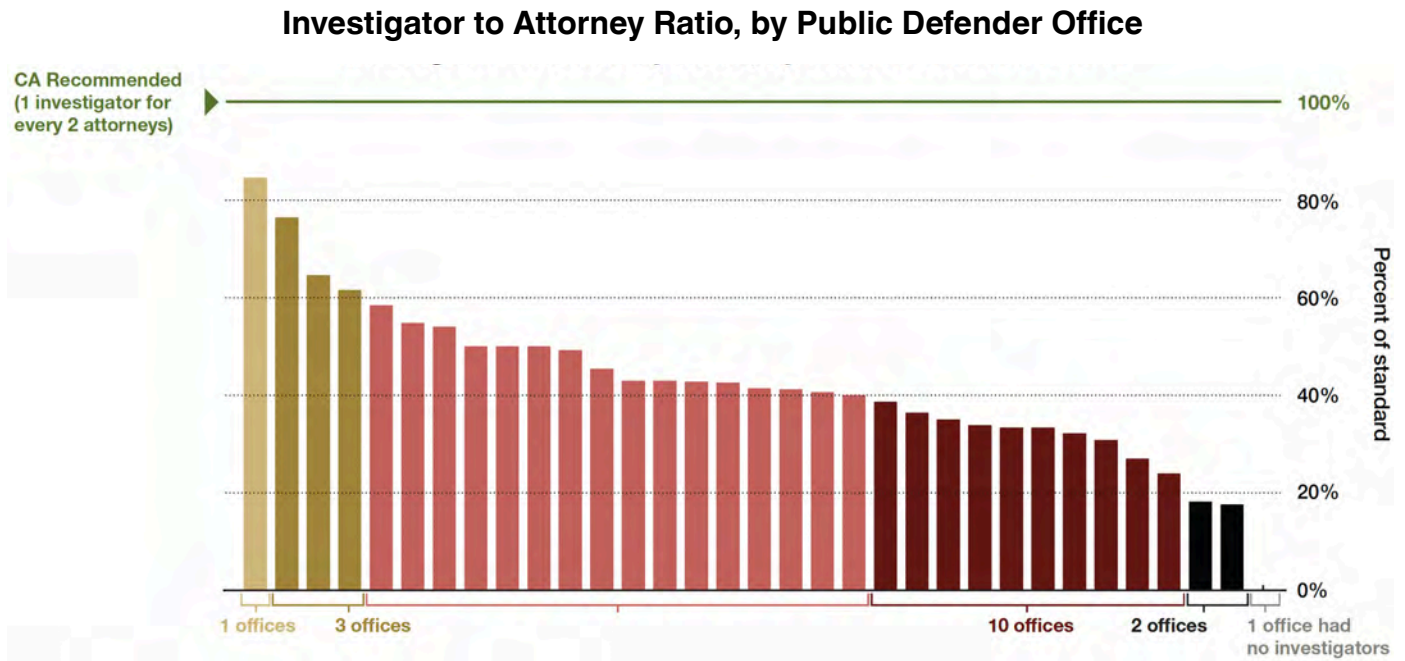
### Recommended Support Staffing Standards for California Public Defense Systems



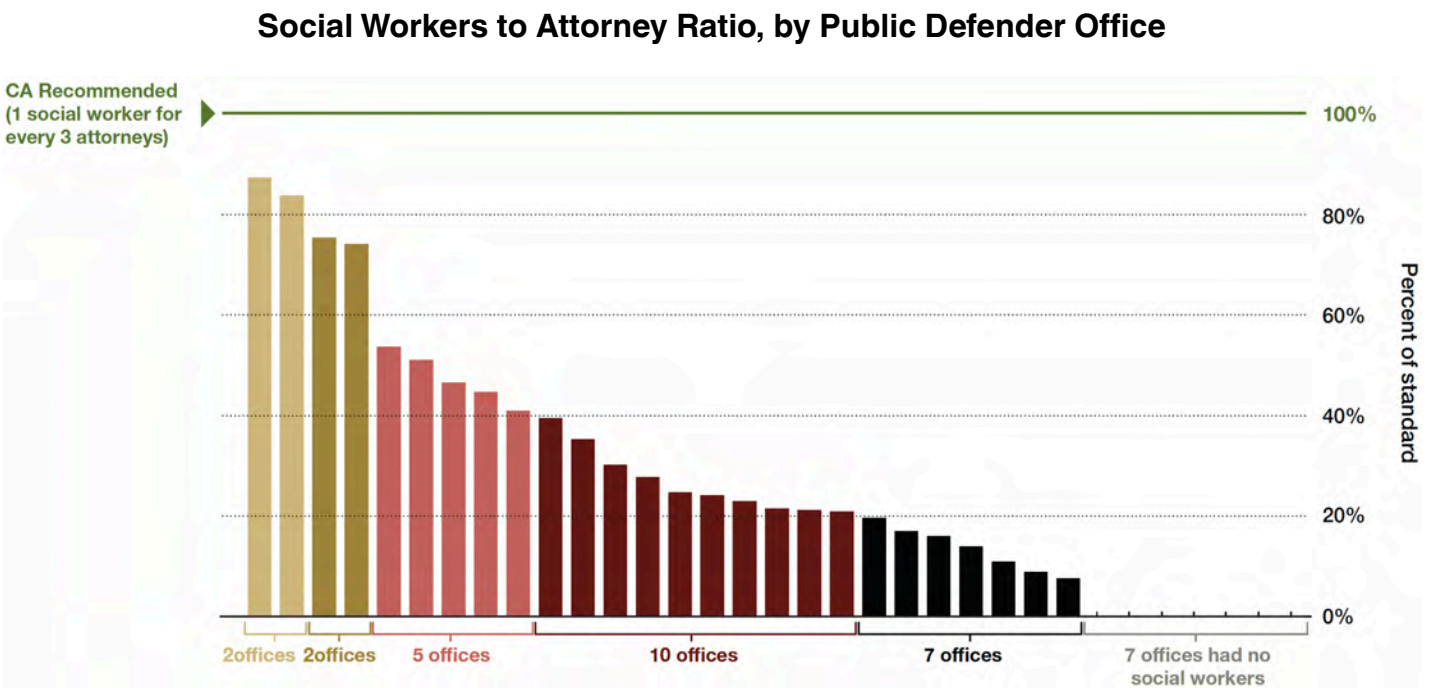
Compliance with the recommendations varies by support staff position. The majority (24 offices) of public defender offices meet the recommended ratio of at least one administrative staff member for every four attorneys, however, no offices meet the standard of at least one investigator for every two attorneys, just two offices meets the standard of one paralegal for every four attorneys, and no office meets the standard of one social worker and/or mitigation specialist for every three attorneys.

Eleven offices have no paralegals at all, seven have no social workers or mitigation specialists, and one has no in-house investigators.

**Figure 5: No California public defender office has enough investigators**

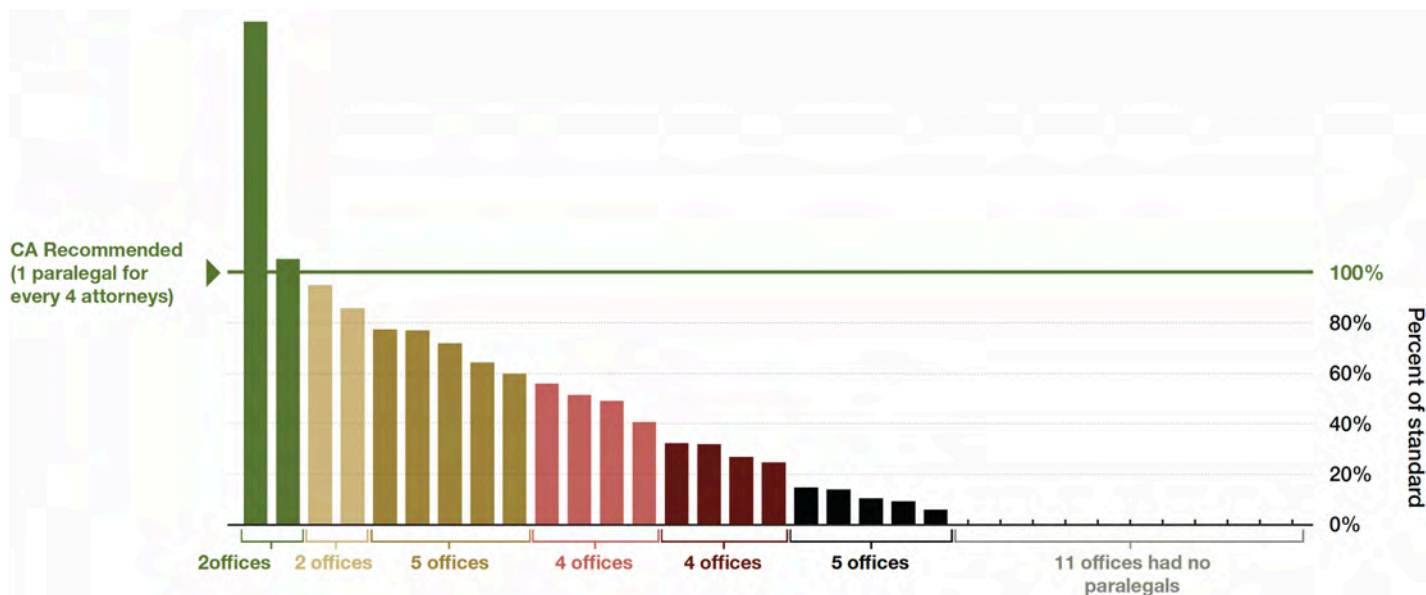


**Figure 6: California public defender offices have too few social workers**



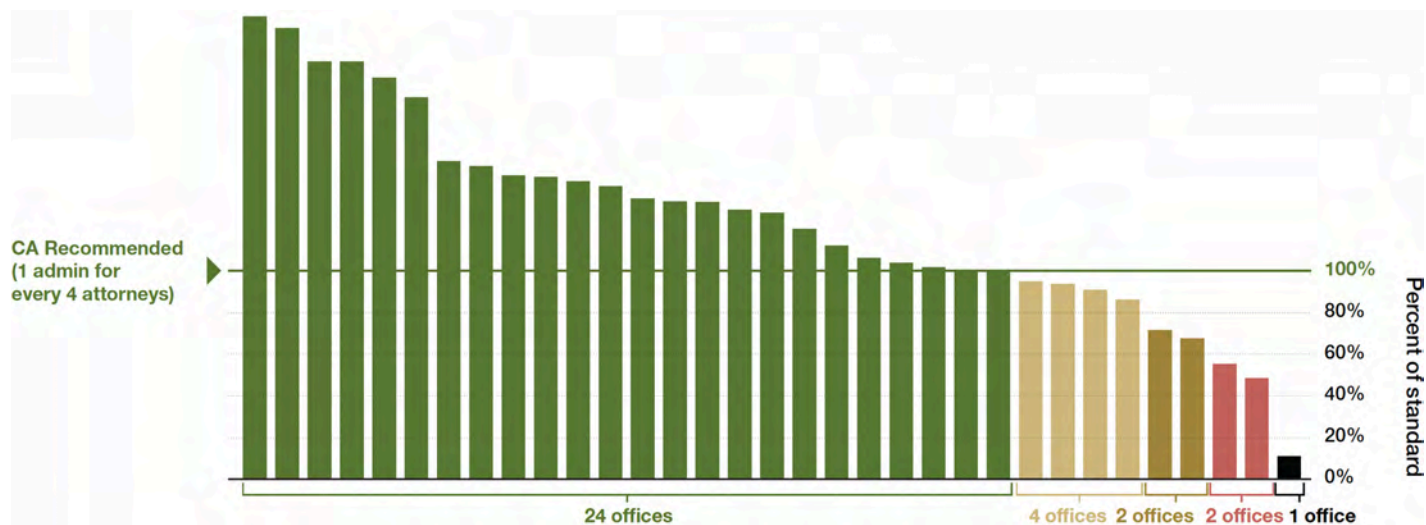
**Figure 7: Most California public defender offices have too few paralegals**

**Paralegal to Attorney Ratio, by Public Defender Office**



**Figure 8: Most California public defender offices have sufficient administrative staff**

**Admin to Attorney Ratio, by Public Defender Office**

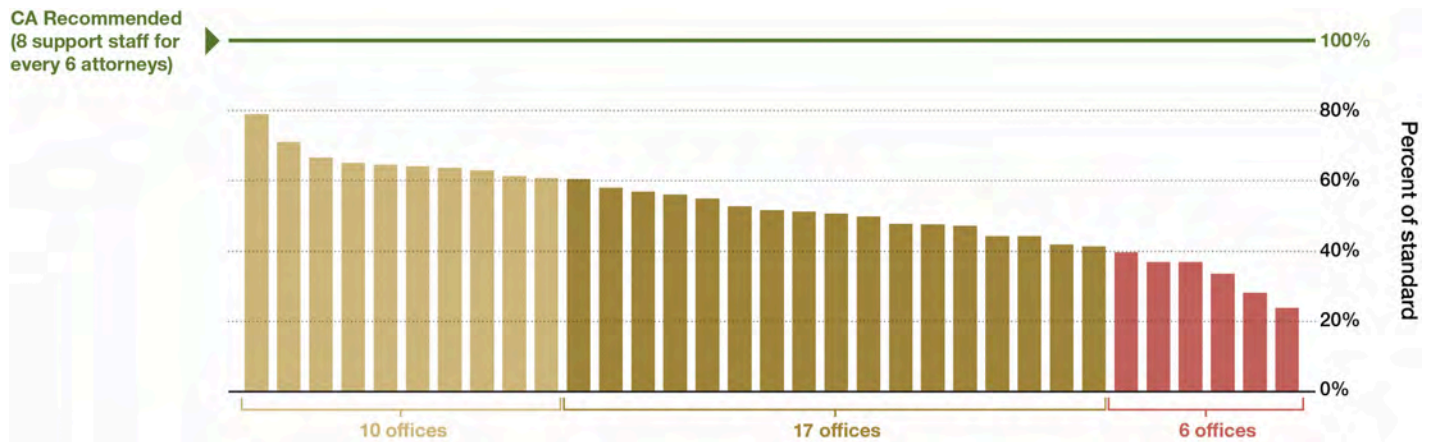




Across all types of support staff, the recommended ratios require eight non-attorney staff members for every six lawyers. None of the 33 California public defender offices with verified staffing data meet this standard.

**Figure 9: Public defender offices do not have enough support staff**

**Support Staff to Attorney Ratio, by Public Defender Office**



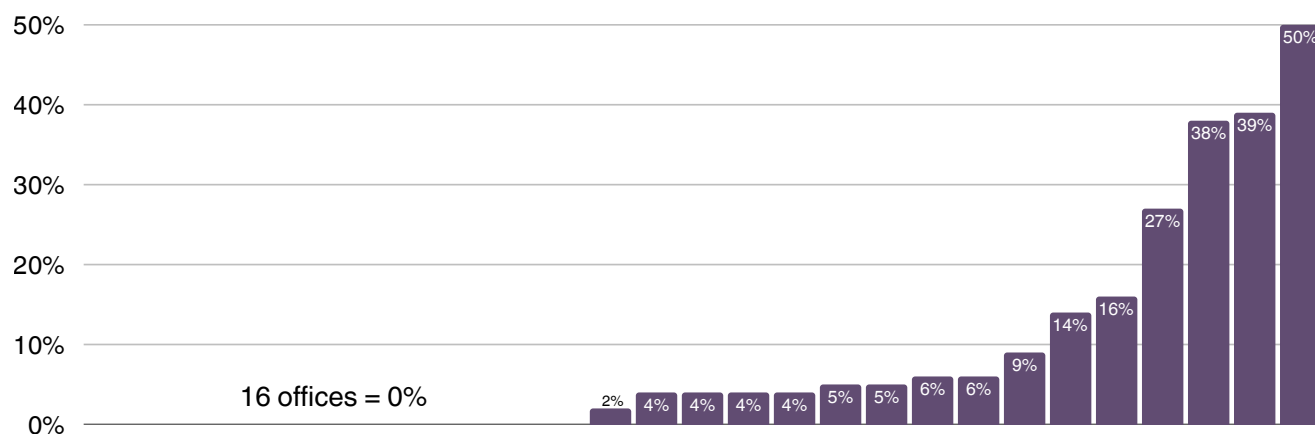
## Vacancy Rates

Using the raw staffing and vacancy data, the Deason Center calculated current vacancy rates by position type.

### *Line Attorney Vacancies*

Vacancy rates for line attorneys vary substantially across California public defender offices. Thirty-two offices verified vacancy data. Half of those offices (16 out of 32) reported no line attorney vacancies. In offices with vacancies, rates ranged as high as 50% (Figure 10).

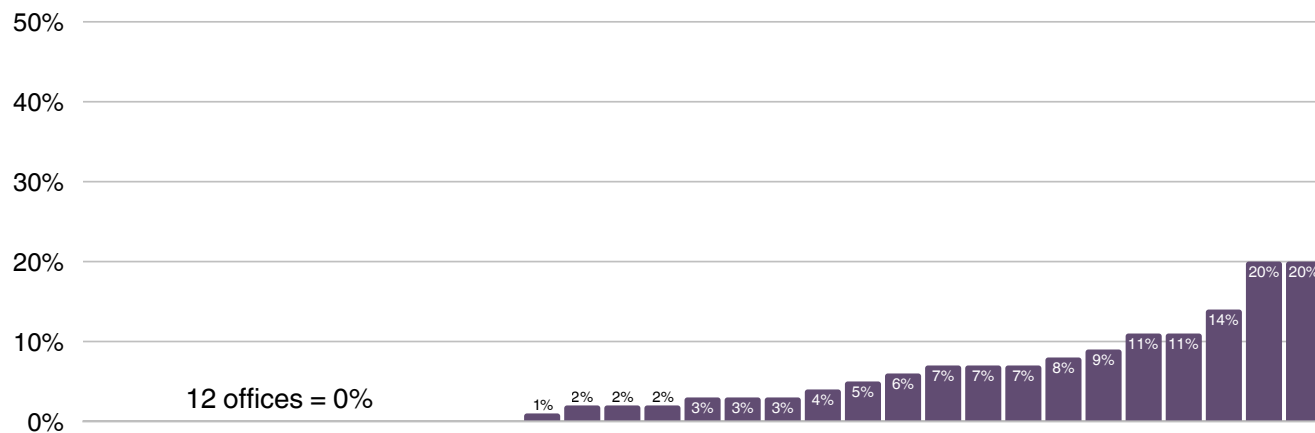
**Figure 10: Line Attorney Vacancy Rate by Office**



### *Support Staff Vacancies*

Vacancy rates for support staff positions were more consistent and generally lower than line attorney vacancy rates.

**Figure 11: Support Staff Vacancy Rate by Office**

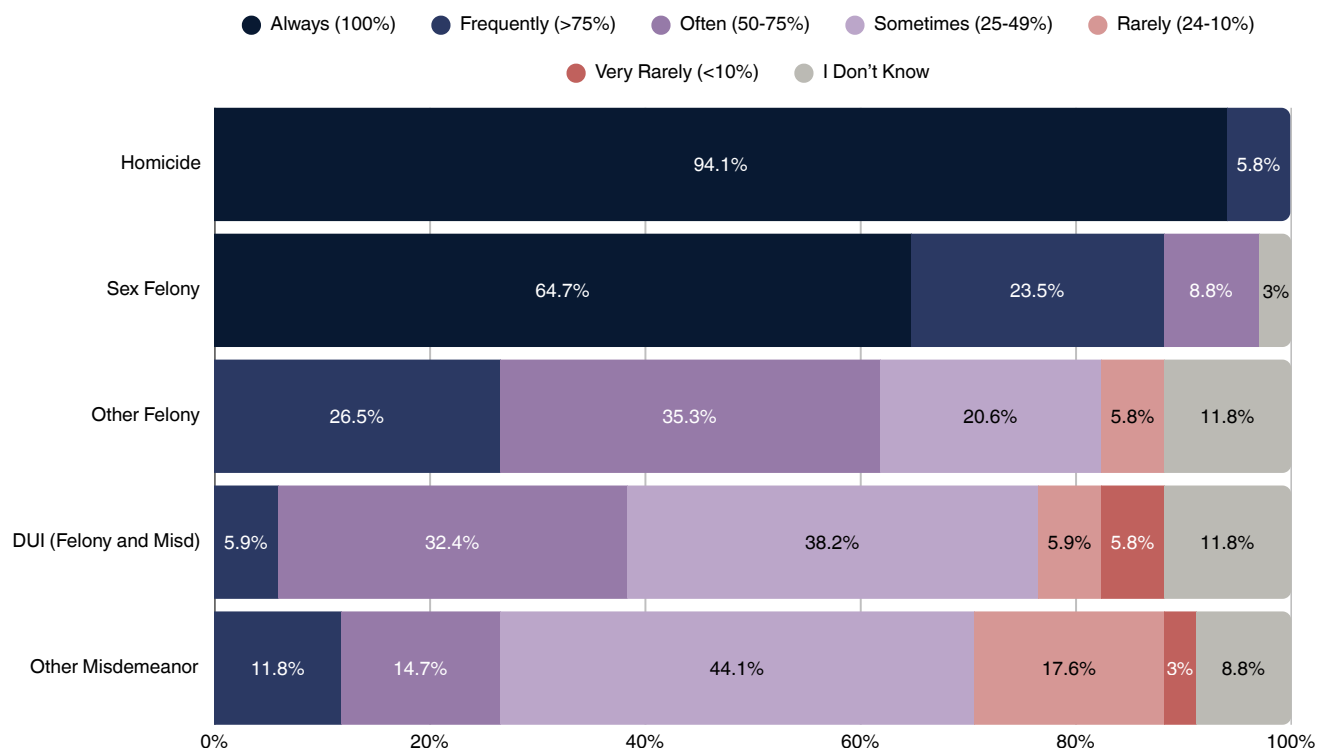


## Access to and use of Support Staff Services and Experts

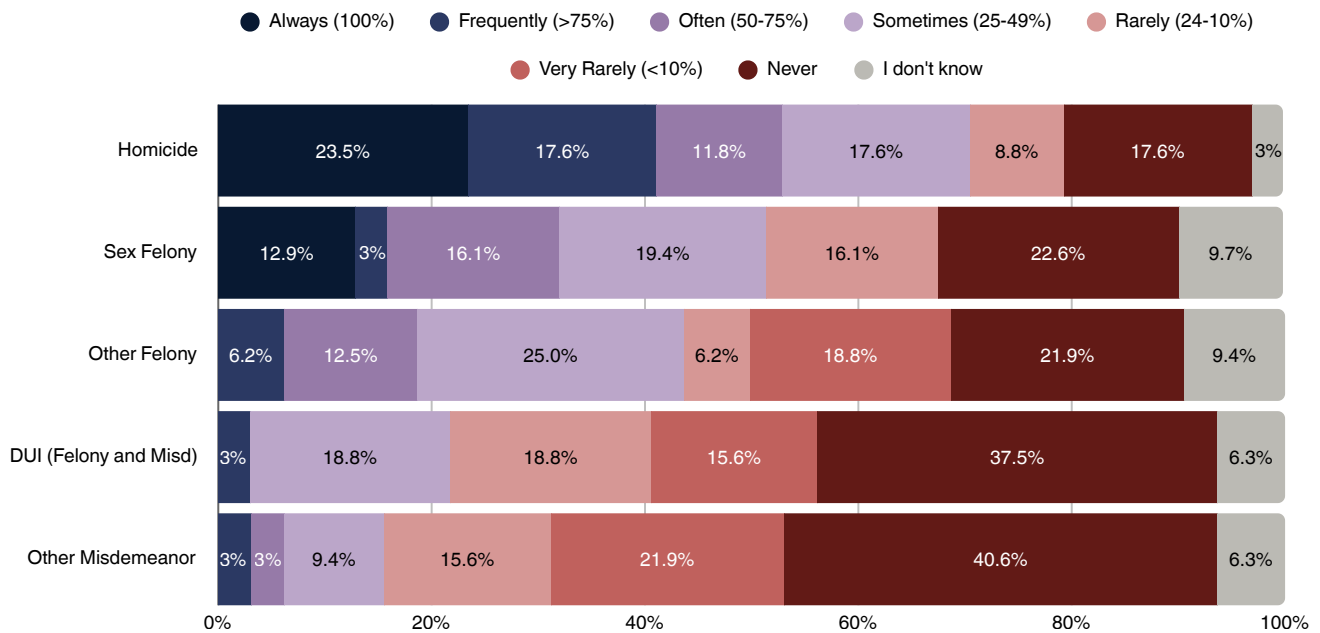
The survey asked chief public defenders to report how frequently support staff and defense experts were used in specific types of cases. Figures 12 through 16 present the results by position. Across all positions, support staff and experts were used most frequently in homicide and sex felony cases and least frequently in misdemeanor cases, reflecting both the relative complexity of the issues and the prioritization of scarce staff and expert resources for the most serious of cases with the greatest sentencing exposure.



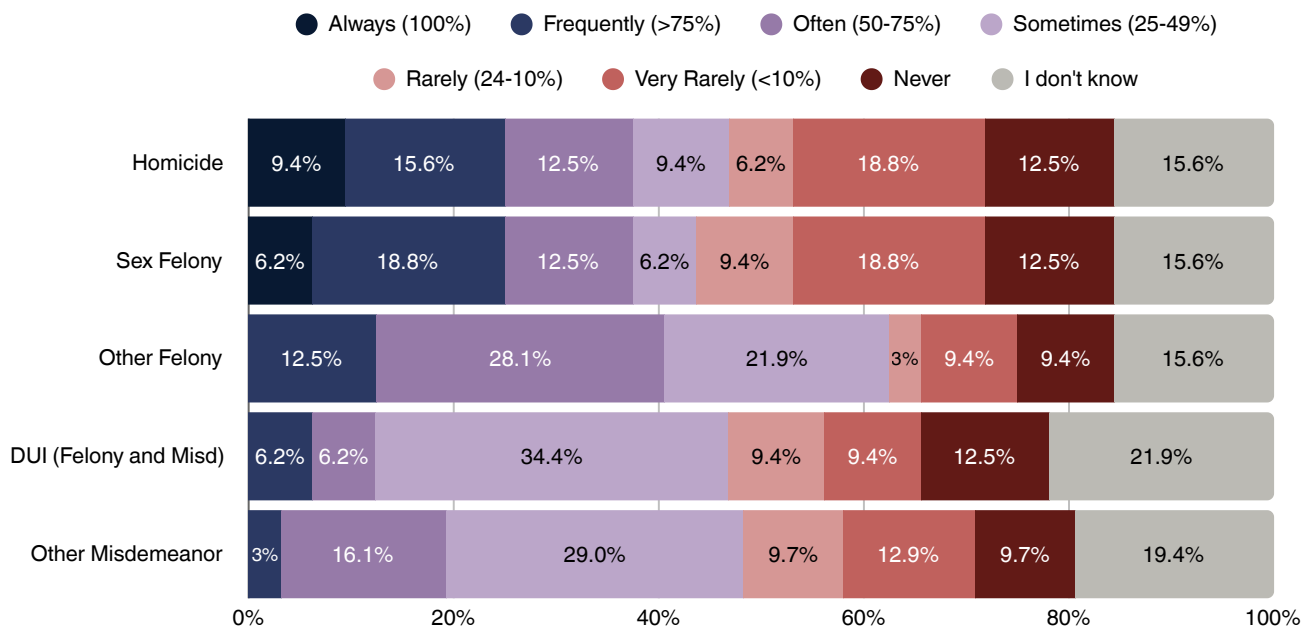
**Figure 12: In your office, how often are INVESTIGATORS used in the below types of ADULT CRIMINAL cases?**



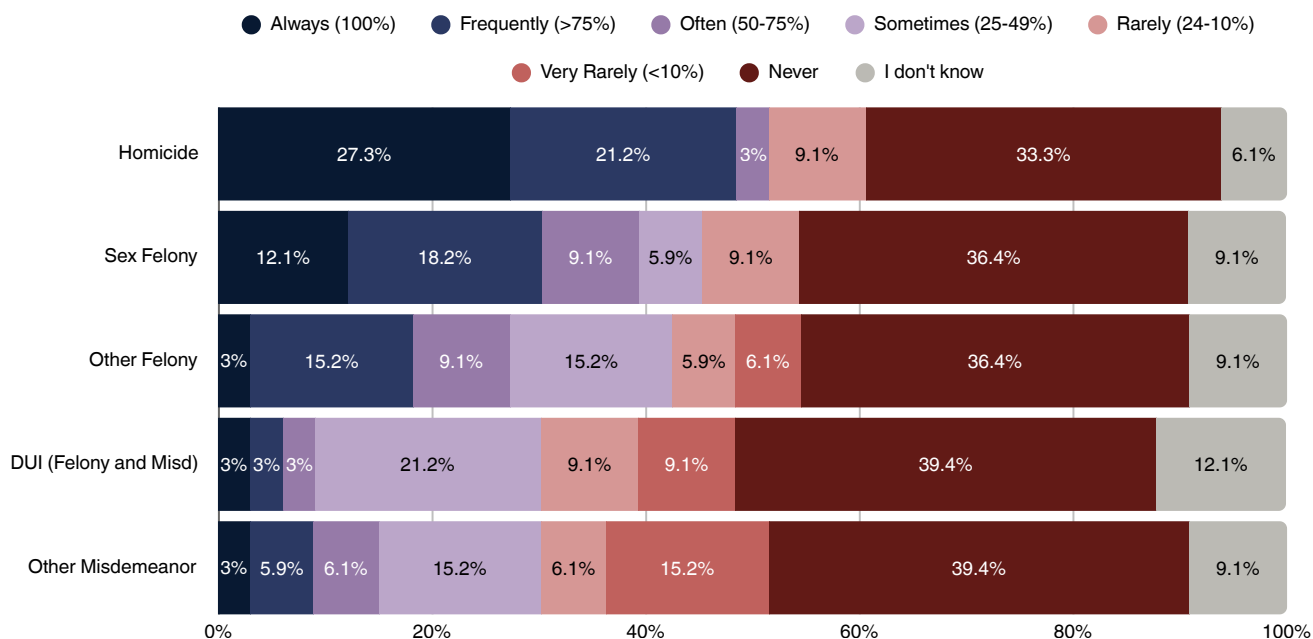
**Figure 13: In your office, how often are MITIGATION SPECIALISTS used in the below types of ADULT CRIMINAL cases?**



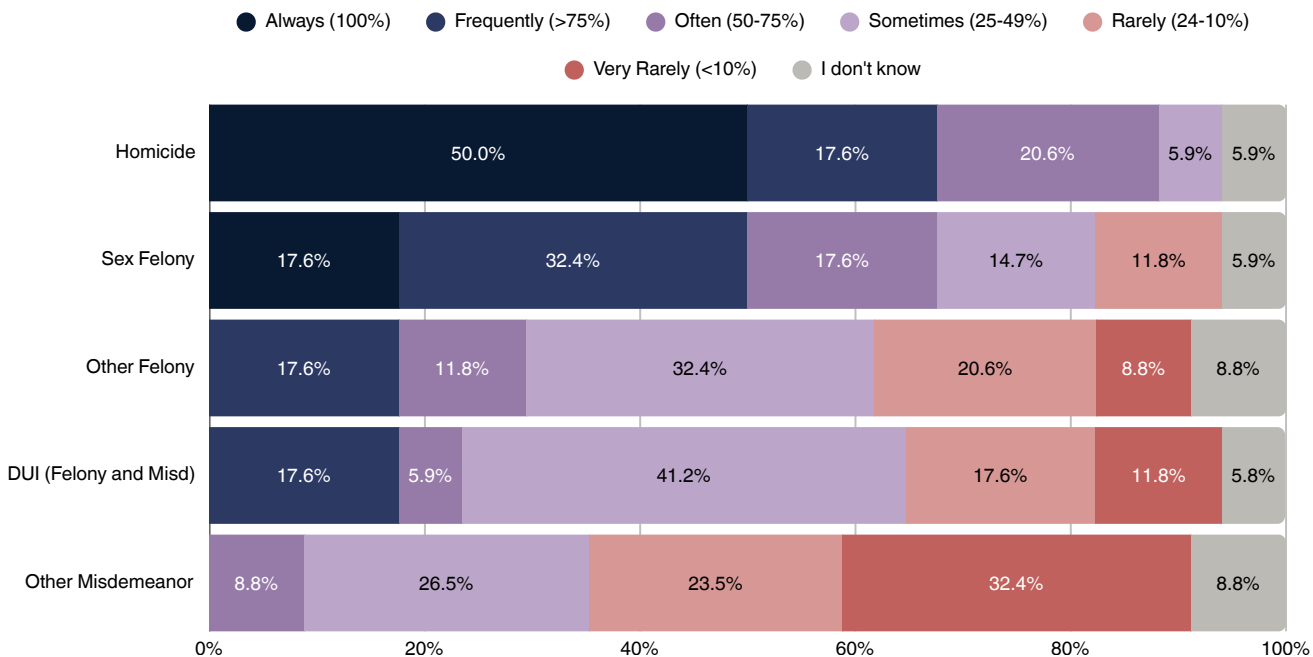
**Figure 14: In your office, how often are SOCIAL WORKERS used in the below types of ADULT CRIMINAL cases?**



**Figure 15: In your office, how often are *PARALEGALS* used in the below types of *ADULT CRIMINAL* cases?**

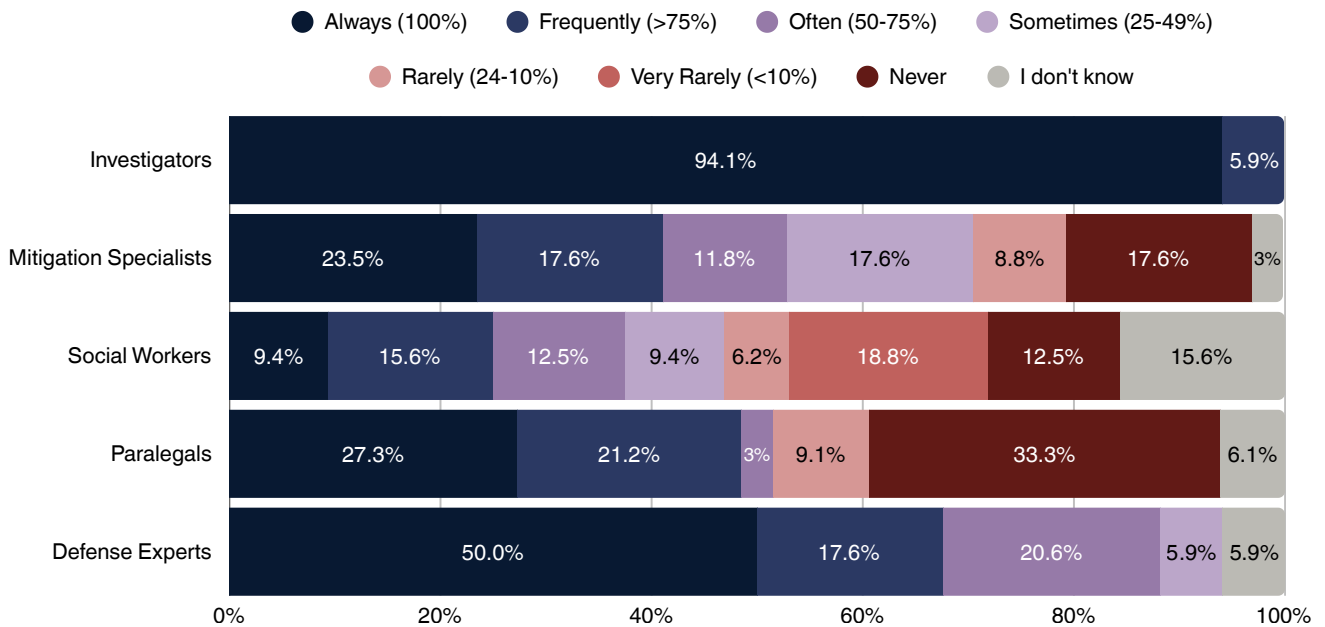


**Figure 16: In your office, how often are *DEFENSE EXPERTS* used in the below types of *ADULT CRIMINAL* cases?**

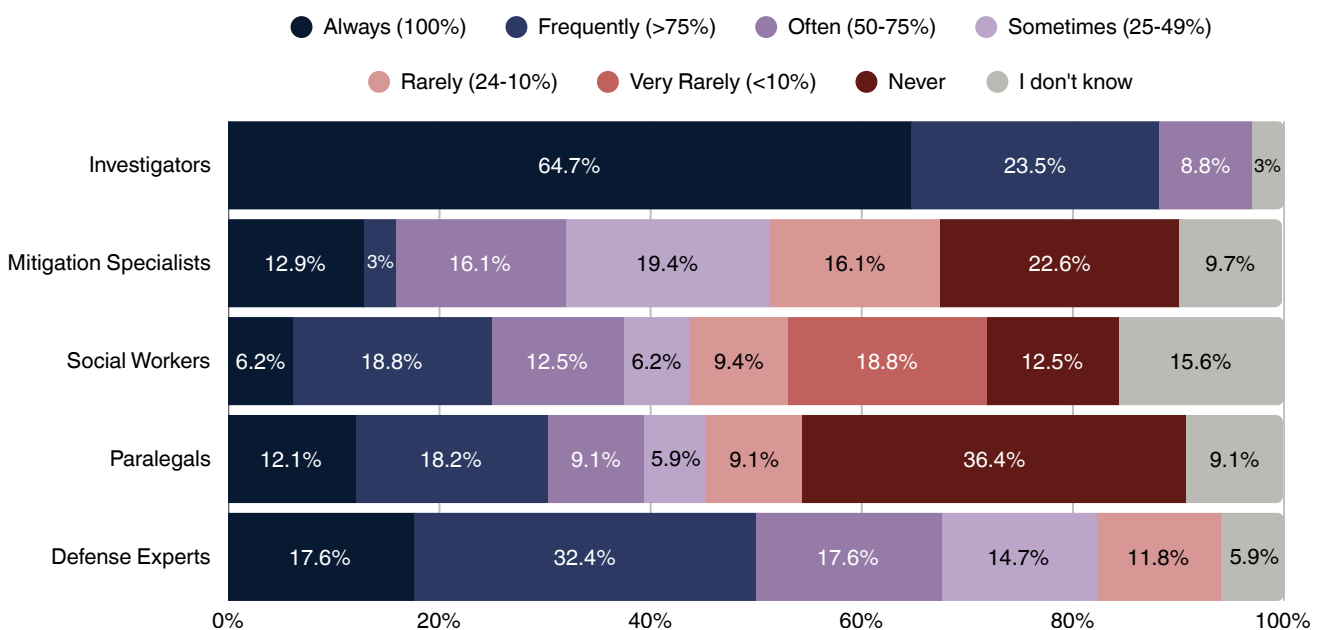


Figures 17 through 21 present the same results by case type. Again, support staff and expert resources are most often used in the most serious cases, and are less frequently involved in less serious felonies, DUI cases, and misdemeanors.

**Figure 17: In your office, how often are the following support staff used in HOMICIDE cases?**

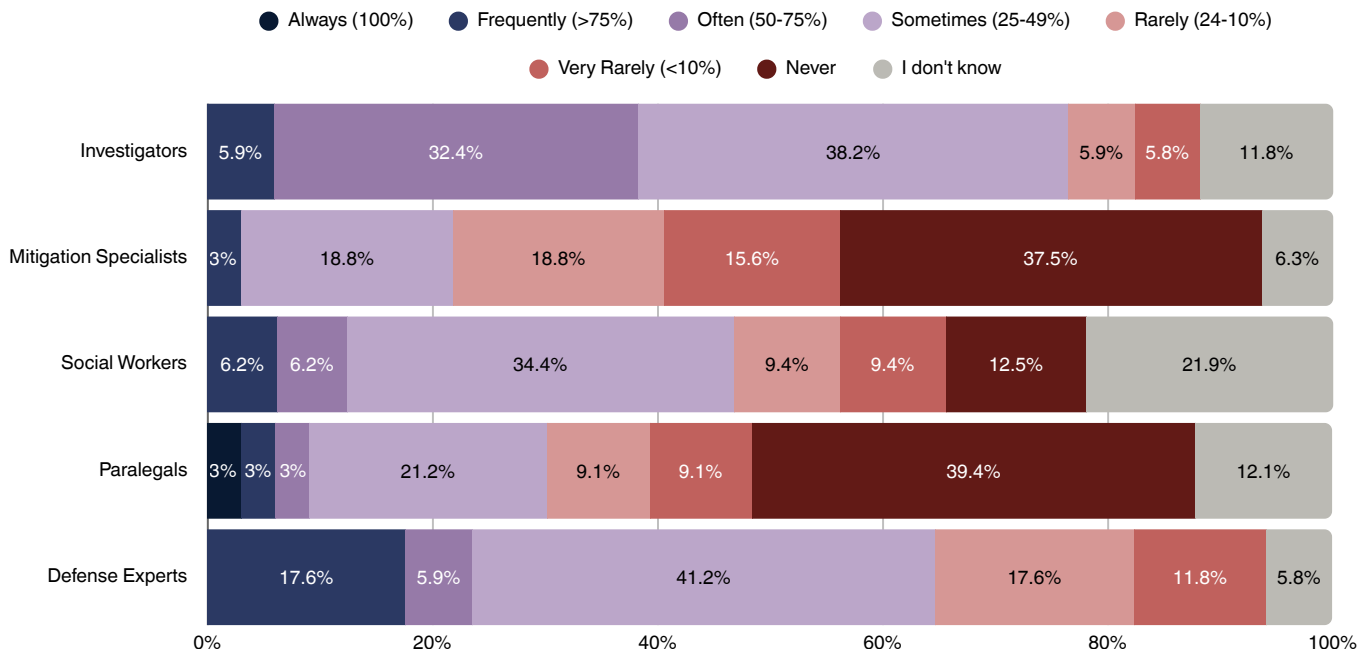


**Figure 18: In your office, how often are the following support staff used in SEX FELONY cases?**

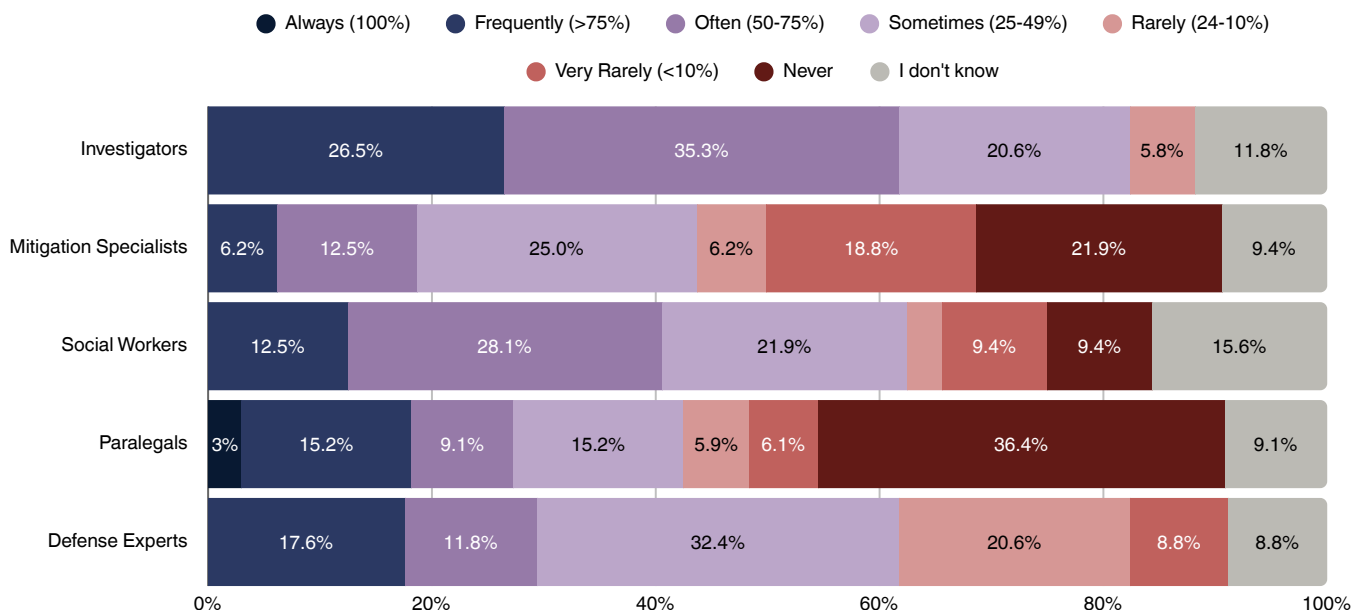




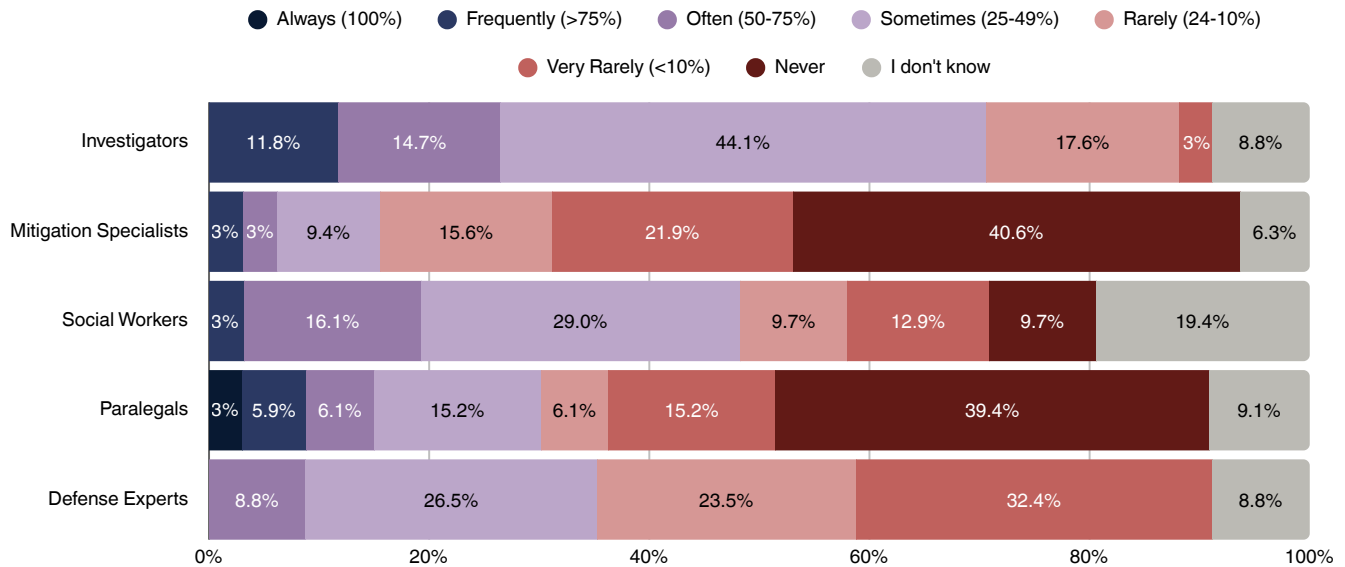
**Figure 19: In your office, how often are the following support staff used in DUI cases?**



**Figure 20: In your office, how often are the following support staff used in OTHER FELONY cases?**

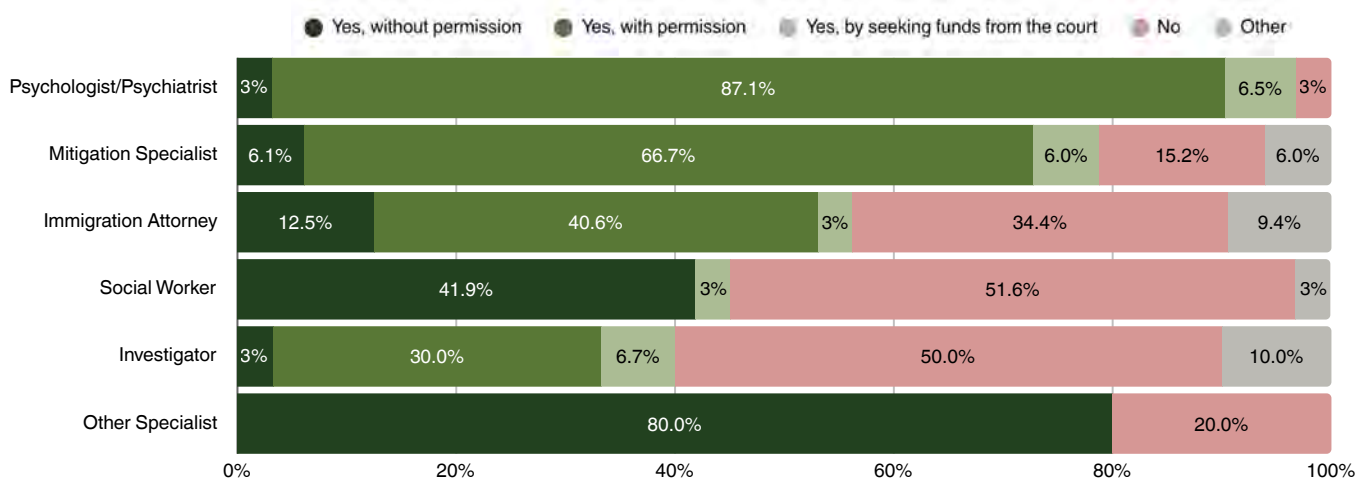


**Figure 21: In your office, how often are the following support staff used in OTHER MISDEMEANOR cases?**



Most California public defender offices have some in-house support staff. To determine whether these offices have additional means of access to support staff, the survey asked chief defenders whether attorneys in their office can retain additional support staff services. Access to outside support staff and specialists varies by position type. As shown in Figure 22, most respondents reported that their attorneys could hire outside psychologists/psychiatrists, mitigation specialists, and other specialists and experts without the court's permission, although access to a psychologist or psychiatrist was usually controlled by the office. Access to outside immigration attorneys, social workers, and investigators was less common.

**Figure 22: Can your attorneys use/hire support staff or specialists who do NOT work for your office?**



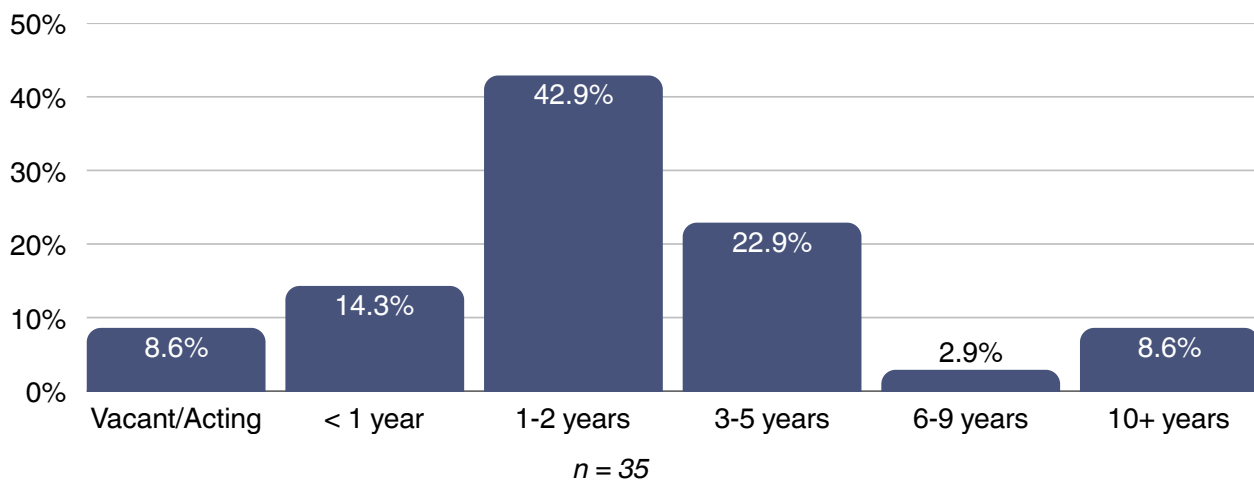
## Attorney Oversight

### Chief Public Defenders

The majority of California's chief public defenders are relatively new to their positions. As shown in Figure 23, more than half of chief public defenders reported having held their position for two years or less, and 8.6% of chief public defender positions were reported to be vacant or filled by acting chiefs. Just over one-third (34.4%) have three or more years' experience in the position, and only 8.6% have held their position for longer than a decade.

**Figure 23: Chief Public Defender Tenure**

How long has the current chief public defender been in that position?



As shown in Table 1, more than half of California's chief public defenders carry at least a partial caseload, with 17.1% carrying 50% or more of a typical trial attorney's caseload.

**Table 1: Does the Chief Public Defender in Your Office Carry a Caseload?**

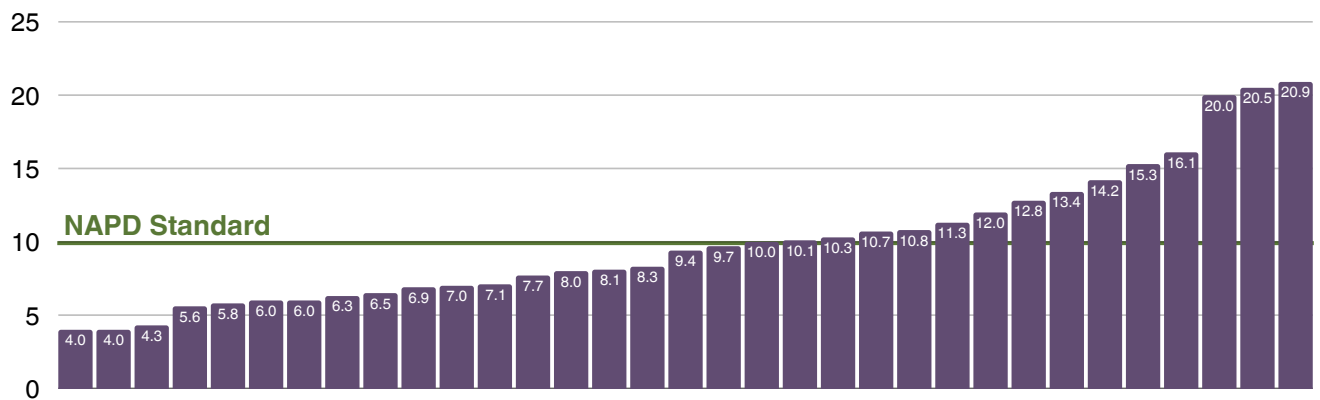
No	42.9%
Yes, a minimal caseload (under 10% of a typical trial attorney caseload)	17.1%
Yes, between 10% and 50% of a typical trial attorney caseload	22.9%
Yes, 50% or more of typical trial attorney caseload	17.1%

n = 35

## Attorney Supervision

The National Association for Public Defense (NAPD) recommends a minimum of one full-time supervisor for every ten attorneys.<sup>5</sup> Total supervisory capacity in full-time equivalent (FTE) was calculated for each office by attributing 0.5 FTE supervisory capacity to each supervising attorney with an active caseload, 1.0 FTE supervisory capacity to each supervising attorney with no caseload, and a fractional FTE supervisory capacity to the chief public defender in proportion to the chief public defender's reported caseload. As shown in Figure 24, nearly half of public defender offices (14 out of 33, or 44%) fail to meet the standard of one full-time equivalent supervisor for every ten line attorneys.

**Figure 24: Attorneys per FTE Supervisor, by Office**

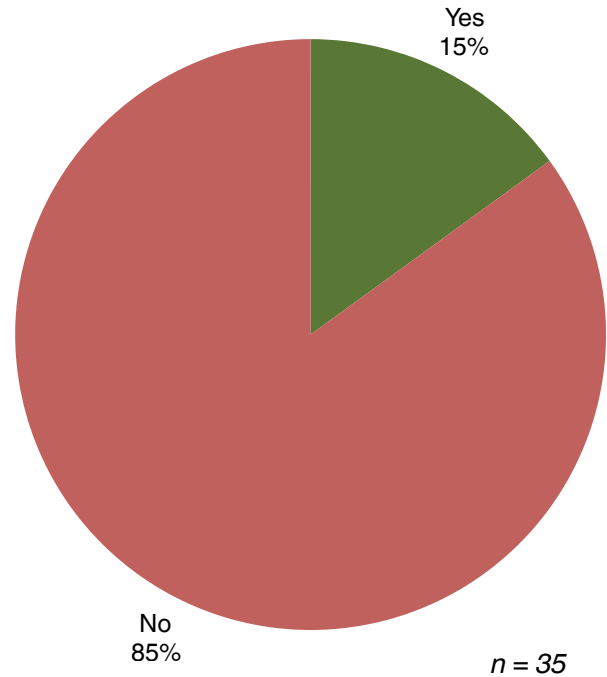


## Caseload Limits and Overload

Only 15% of California public defender offices have established formal standards or limits for attorney workloads or caseloads (Figure 25). Nearly half of offices, however, report applying the National Public Defense Workload Study (NPDWS) to estimate attorney staffing or budget needs (Table 2.)

More than half of chief public defenders report that their offices can refuse or suspend appointments due to case overload, and 35% report having done so within the 12 months prior to the survey (Table 2).

**Figure 25: Does your office have any workload or caseload standards or limits for attorneys?**



**Table 2: Caseload limits, standards, and overload**

	Yes	No	I don't know	n
Has your office applied the recently published National Public Defense Workload Study to estimate attorney staffing or budget needs?	48.6%	45.7%	5.7%	35
Can your office refuse or suspend appointments due to case overload?	57.1%	25.7%	17.1%	35
Has your office refused or suspended appointments due to case overload in the last 12 months?	35.0%	65.0%	0.0%	20

## Attorney Development and Supervision

### Attorney Training

As shown in Figure 26, California's chief public defenders report providing training for their attorneys. More than two-thirds of offices have an in-house training program for new attorneys, 80% provide ongoing in-house training, and all provide funding for attorneys to attend external training programs. Just over half of offices have formal mentorship programs for new attorneys.

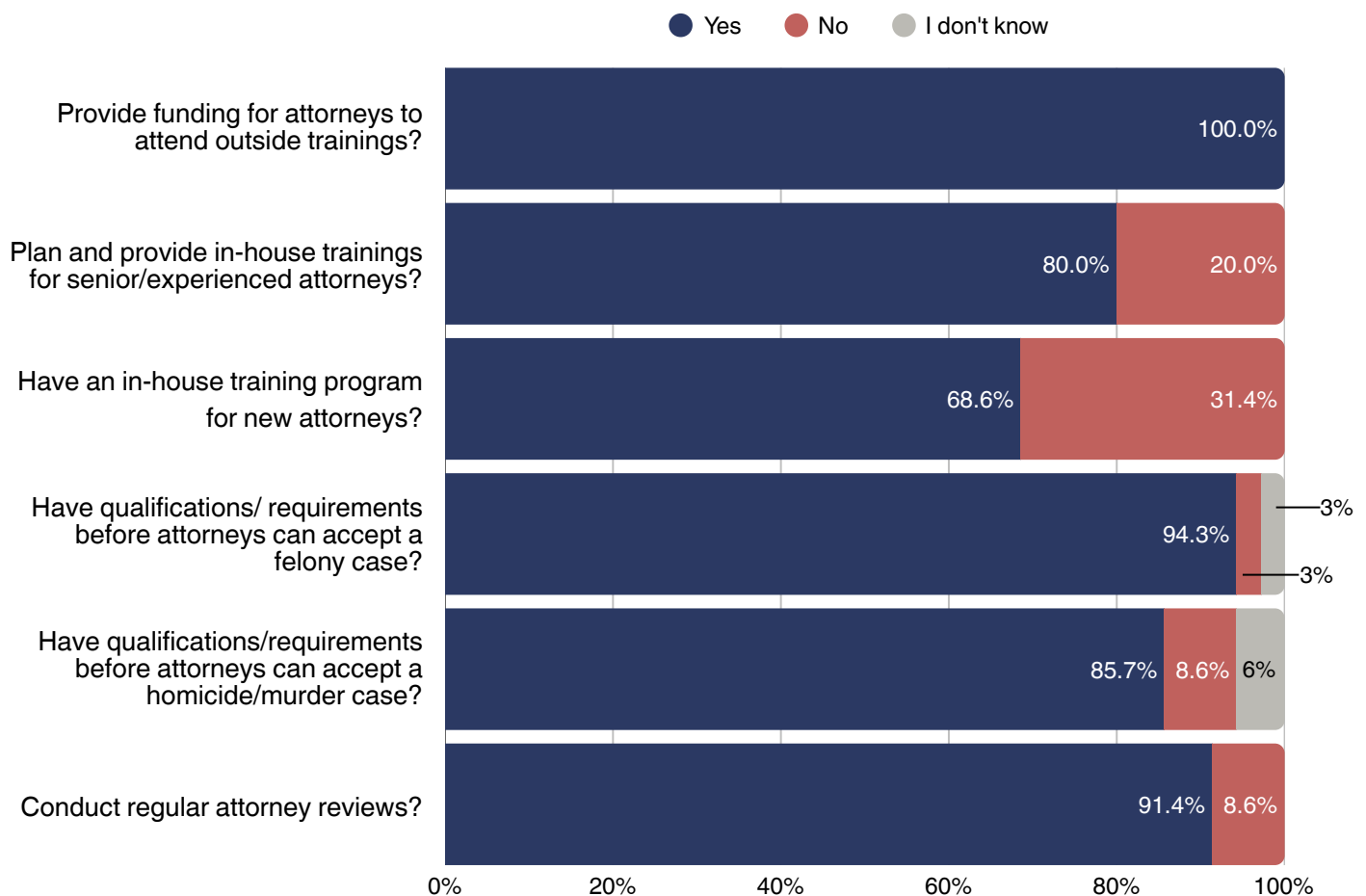
### Attorney Qualifications

Nearly all chief public defenders (94.3%) report that their offices have formal qualifications for attorneys to accept felony cases, and homicide cases (85.7%).

### Attorney Reviews

More than 90% of chief public defenders report that their offices conduct regular reviews of attorneys.

**Figure 26: Attorney Training, Qualifications, and Reviews**



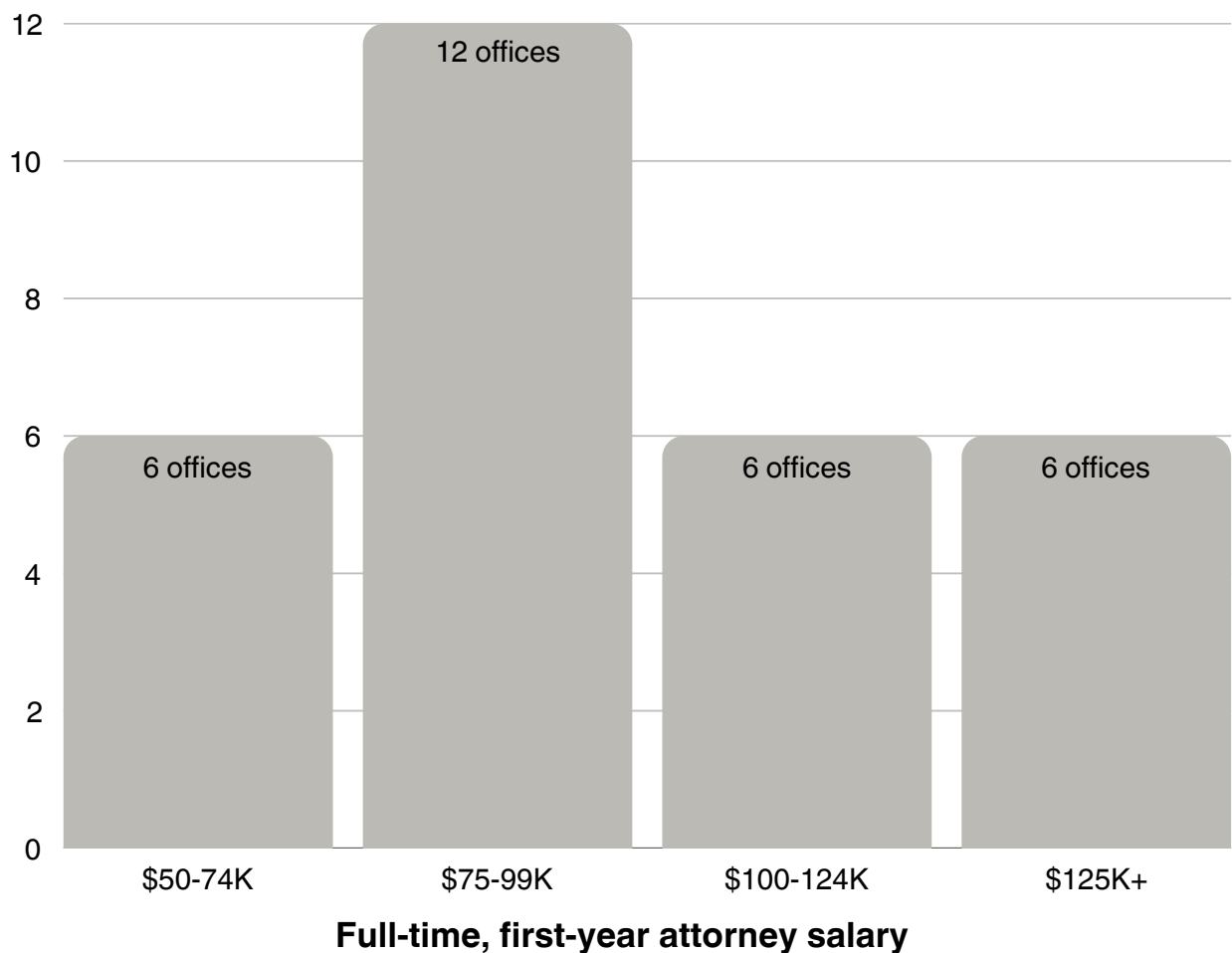


## Public Defender Salary

Among the 30 public defender offices that reported starting salary information, annual starting salaries for new attorneys ranged from \$55,000 to \$147,914, with a median of \$94,137.<sup>4</sup> In reviewing these data, often proximate counties have widely disparate starting attorney salaries. In the Bay Area, the lowest reported started salary was just half of the highest reported starting salary.



**Figure 27: Salaries for new public defenders vary among California public defender offices**

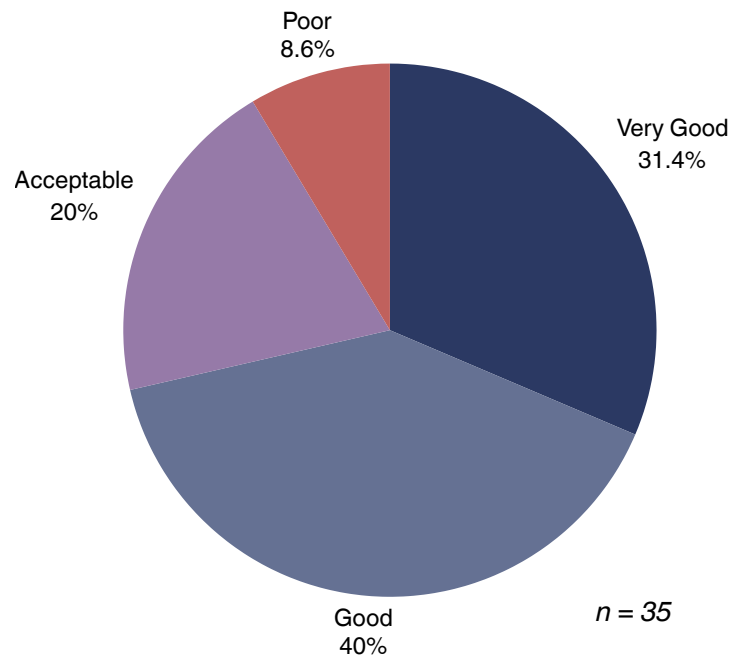


*n* = 30

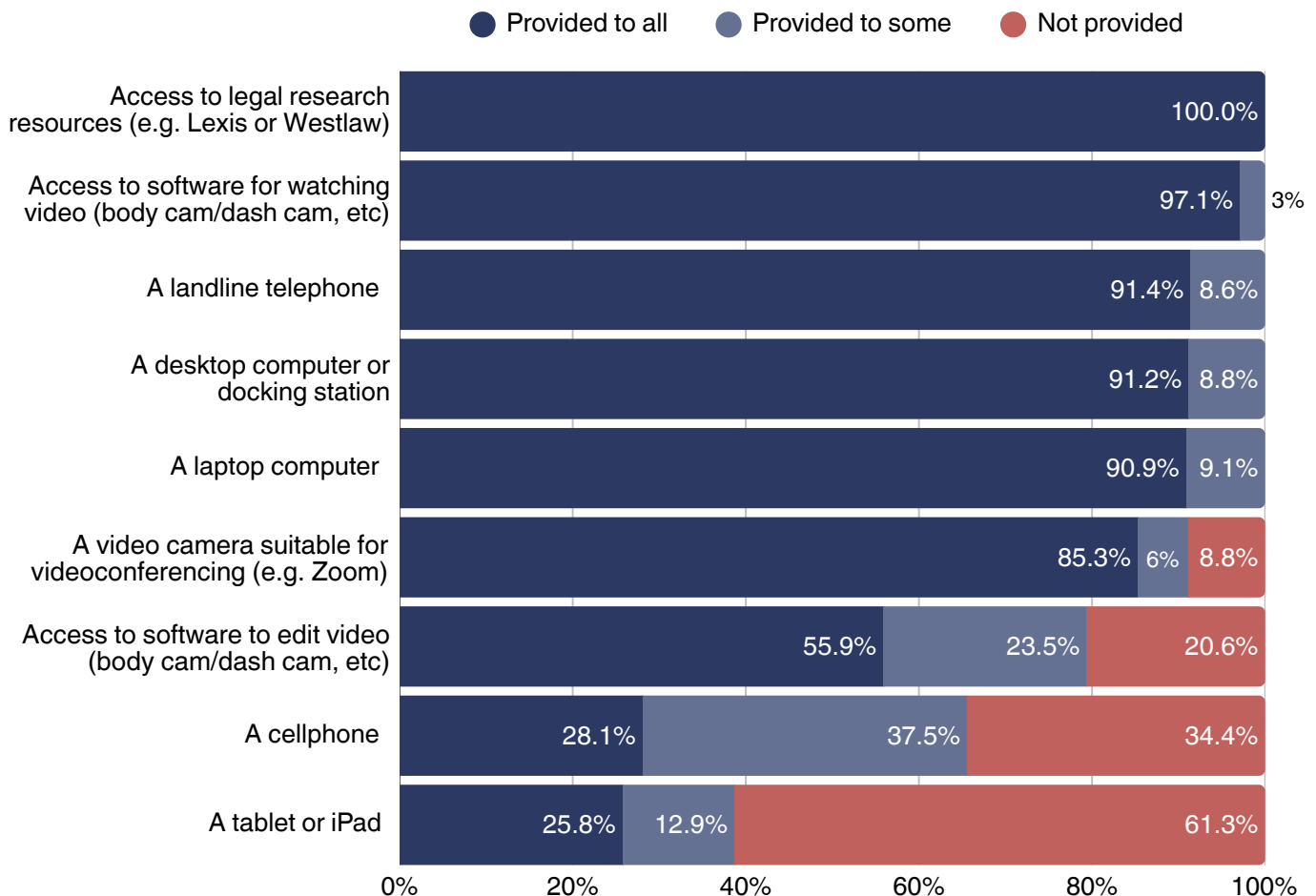
## Access to Technology

All chief public defenders report that their office provides all attorneys with access to online legal research resources. The vast majority of offices provide all attorneys with a telephone, a computer, and software for watching video evidence. The vast majority of chief public defenders (71.4%) characterized their attorneys' access to technology as good or very good.

**Figure 28: How would you characterize your attorneys' access to technology?**



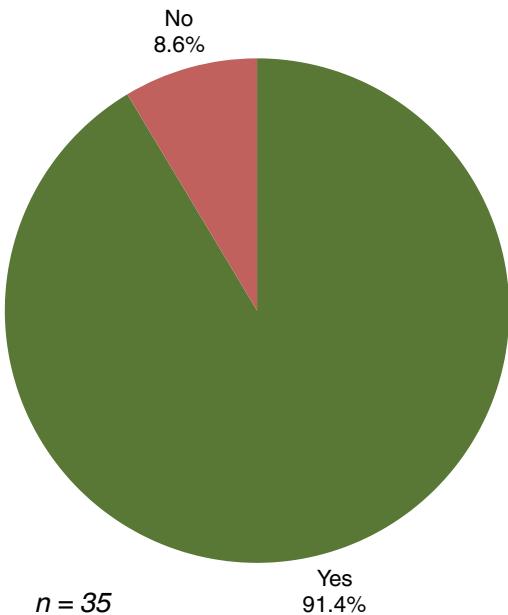
**Figure 29: Attorneys' access to different technology**



## Case Management Systems

As shown in Figure 30, more than 90% of California's public defender offices have a computerized case management system (CMS). A wide variety of systems are in use across the state (Table 3). Half of these systems automatically import data from court data systems (Figure 31).

**Figure 30: Does your office use a Case Management System (CMS)?**



**Table 3: What is the name of your CMS?**

Developed in-house	18.8%
eDefender	12.5%
JCATS	9.4%
Defender Data	6.3%
Odyssey	3.1%
JCATS, Other	3.1%
Developed in-house, Other	3.1%
Other	43.8%

n = 35

**Figure 31: Does your CMS automatically import data from your court's data system?**

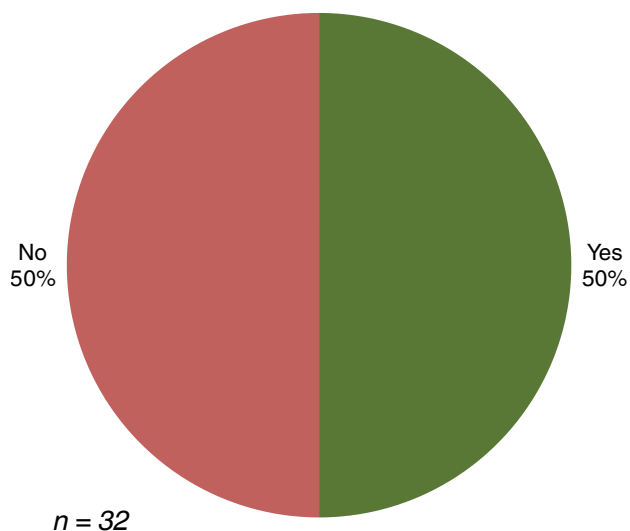


Table 4 shows the data elements captured in the CMS. Case management systems appear to be most successful at capturing basic case information such as opening date, original charges, attorney assigned, and client contact information.

**Table 4: How well does your CMS capture these data elements?**

	Yes, does this well	Yes, but not well	No, but I wish it did	No, and I don't want it	I don't know	n
Date of case opening	84.4%	12.5%	0.0%	0.0%	3.1%	32
Date of appointment	71.0%	19.4%	0.0%	3.2%	6.5%	31
Charges at case initiation	78.1%	12.5%	6.3%	0.0%	3.1%	32
Added, reduced or amended charges	50.0%	25.0%	21.9%	0.0%	3.1%	32
Charge/case enhancements (gun, three strikes)	53.1%	31.3%	12.5%	0.0%	3.1%	32
Attorney assigned to the case	78.1%	15.6%	3.1%	0.0%	3.1%	32
Attorney withdrawals and substitutions – identity of attorney	59.4%	28.1%	9.4%	0.0%	3.1%	32
Attorney withdrawals and substitutions – date	56.3%	31.3%	9.4%	0.0%	3.1%	32
Client background/ demographic information	37.5%	37.5%	15.6%	0.0%	9.4%	32
Client contact information	68.8%	21.9%	3.1%	0.0%	6.3%	32

	Yes, does this well	Yes, but not well	No, but I wish it did	No, and I don't want it	I don't know	n
Instances of client communication	59.4%	21.9%	15.6%	0.0%	3.1%	32
Current client custody status	38.7%	35.5%	19.4%	3.2%	3.2%	31
Changes in client custody status	28.1%	25.0%	40.6%	3.1%	3.1%	32
Consultation/use of experts	38.7%	38.7%	19.4%	0.0%	3.2%	31
Consultation/use of social workers	48.4%	29.0%	12.9%	3.2%	6.5%	31
Consultation/use of investigators	58.1%	25.8%	12.9%	0.0%	3.2%	31
Discovery received	53.1%	34.4%	9.4%	0.0%	3.1%	32
Discovery provided	33.3%	43.3%	16.7%	0.0%	6.7%	30
Written motions filed	53.1%	31.3%	9.4%	3.1%	3.1%	32
Hearings	68.8%	28.1%	0.0%	0.0%	3.1%	32
Entry into formal programs (collaborative courts; diversion)	54.8%	22.6%	16.1%	3.2%	3.2%	31
Manner of disposition (e.g., dismissal, guilty plea, nolo contendere)	54.8%	32.3%	9.7%	0.0%	3.2%	31
Sentence	45.2%	41.9%	9.7%	0.0%	3.2%	31

Many case management systems cannot produce the data required to support the implementation of workload standards. More than half of CMS are ineffective at producing reports of new cases by year and by highest charge, and more than 40% are ineffective at reporting on new cases by year and by attorney (Table 5). A majority of chief public defenders, however, report that someone in the office can produce at least some custom queries, reports, or data extracts from the CMS (Table 6).

**Table 5: Is your CMS effective at producing the following?**

	Yes	No	I don't know
Open cases by attorney	75.0%	21.9%	3.1%
New cases assigned to your office by year	65.6%	28.1%	6.3%
New cases assigned to your office by year and by highest charge	34.4%	53.1%	12.5%
New cases assigned to your office by year and by attorney assigned	46.9%	40.6%	12.5%

*n* = 32

**Table 6: Does your CMS produce customized queries and reports?**

Yes, we can produce custom queries, reports, and/or data extracts	62.5%
We could, but we do not have the necessary staff or expertise	15.6%
No, we do not have access or permissions and must rely on the CMS vendor	3.1%
Other, please explain:	18.8%
I don't know	0.0%

*n* = 32



### *Offices Without Case Management Systems*

The three offices without case management systems all report using paper files and Excel spreadsheets to store case information. One also uses an invoicing system, and one reports using an “other” system. Although all three offices can accurately report open cases by attorney, none can report new cases by year and by highest charge (Table 7).

**Table 7: Case management in offices without a CMS**

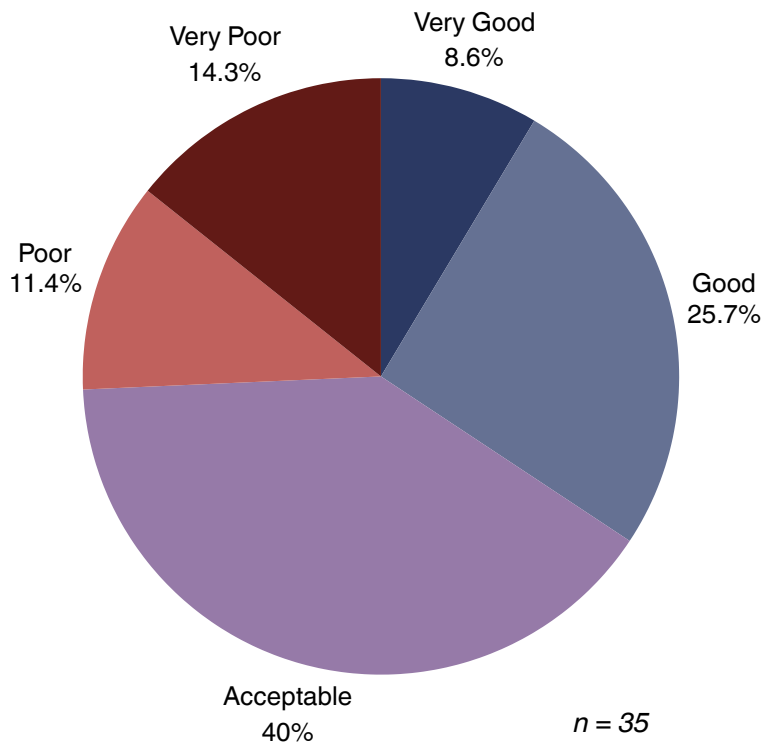
	Yes	No	I don't know
The ability to accurately report new cases assigned to your office by year and by highest charge	0.0%	66.7%	33.3%
The ability to accurately report new cases assigned to your office by year	66.7%	33.3%	0.0%
The ability to accurately report new cases assigned to your office by year and by attorney assigned	33.3%	66.7%	0.0%
The ability to accurately report open cases by attorney	100.0%	0.0%	0.0%
A form an attorney must use when opening a new case	33.3%	66.7%	0.0%
A form an attorney must use when closing a case	0.0%	100.0%	0.0%

*n* = 3

### *Satisfaction with Current Data System*

Chief public defenders varied widely in their satisfaction with the office’s data system. Thirty-four percent of chief public defenders reported their current data systems were very good or good, but 25.7% rated their current data system as poor or very poor.

**Figure 32: How would you characterize the current data system(s)?**



### *Case Counting*

A consistent definition of a case is required to compare caseloads across offices and to implement workload standards. However, chief public defenders report different ways of defining a case. Almost three-quarters of offices count groups of charges contained in a single charging document as a single case; only 8.6% of offices define a case as a group of charges arising from a single incident or a related series of incidents, in accordance with the National Public Defense Workload Study (NPDWS) definition of a case (Table 8).

**Table 8: How are cases counted?**

All charges against a single client are counted as a single case, even when the charges arise from multiple incidents	14.3%
Single charging document	74.3%
Each charge against every client is counted as a separate case	2.9%
Groups of charges arising from a single incident or related series of incidents against a single client are counted as a single case	8.6%

*n* = 35

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Nearly 62% of offices count a probation violation as a separate case, consistent with the NPDWS case type categories. (Table 9).

---

**Table 9: How does your office count probation violations/revocations?**

A probation violation/revocation is considered part of the case in which the client was placed on probation	20.6%
A probation violation/revocation is counted as a separate case	61.8%
Other	17.6%

*n* = 34

### *Time Tracking*

As shown in Table 10, few offices currently require attorneys and staff to track their time. Investigators are more likely to be required to track their time than attorneys or social workers. Non-trial and specialty attorneys are the least likely to be required to track their time.

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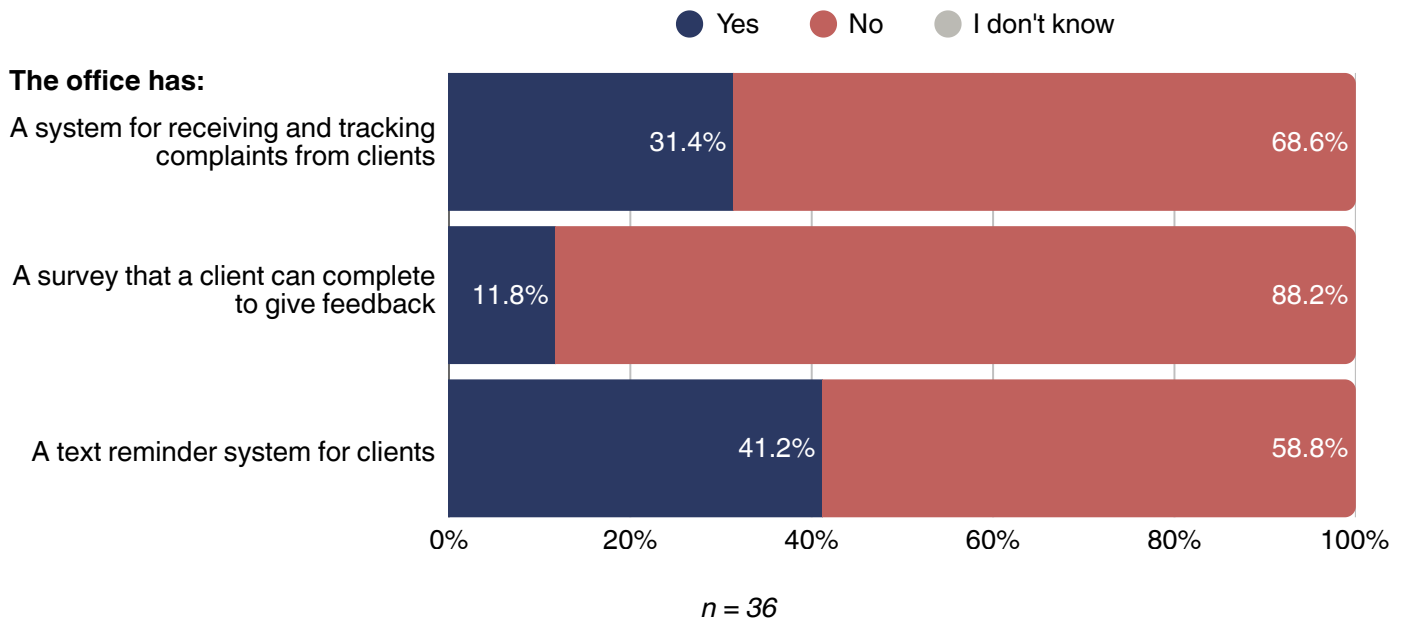
**Table 10: Are employees in your office required to track their time?**

	No	Sometimes	Yes	n
Managing/Supervising Attorneys	68.6%	22.9%	8.6%	35
Trial attorneys	71.4%	17.1%	11.4%	35
Non-trial/specialty attorneys	81.3%	12.5%	6.3%	32
Investigators	55.9%	23.5%	20.6%	34
Social Workers	69.0%	20.7%	10.3%	29
Other	55.6%	22.2%	22.2%	9

## Client Interaction

Some public defender offices use technology and/or surveys to exchange data with clients. As shown in Figure 33, 41.2% of public defender offices use text-based reminder systems for clients. Fewer than one-third of offices have systems for receiving and tracking client complaints, and just 11.8% use client feedback surveys.

**Figure 33: Using technology to interact with clients**



# Endnotes

1. Private law offices contracted to deliver public defense services were not included.
2. In some instances, responses included blanks that appeared to indicate “zero” but could have indicated a decision not to respond. In offices with conflict divisions, it was sometimes unclear whether the responding chief public defender had included conflict division attorneys and staff in their response.
3. Survey participants were promised anonymity. Because the number of public defender offices is so small, raw staffing numbers would allow for identification of respondents. To protect this anonymity, this report excludes raw staffing and vacancy data, instead reporting vacancy rates and the relevant ratio analysis of attorneys to support staff.
4. Because of the even number of responses, this value is the mean of two median values.
5. NAPD Policy Statement on Public Defense Staffing (May 2020), at 1.





## APPENDIX D

# Analysis of 2022 CA Department of Justice Staffing Data

The Deason Center analyzed the most recent (2022) data on county criminal justice staffing reported to the California Department of Justice (CA DOJ). The Deason Center downloaded data from the CA DOJ's Law Enforcement and Criminal Justice Personnel data set. The Center analyzed these data to understand and compare staffing in district attorney's offices and public defender offices in California.

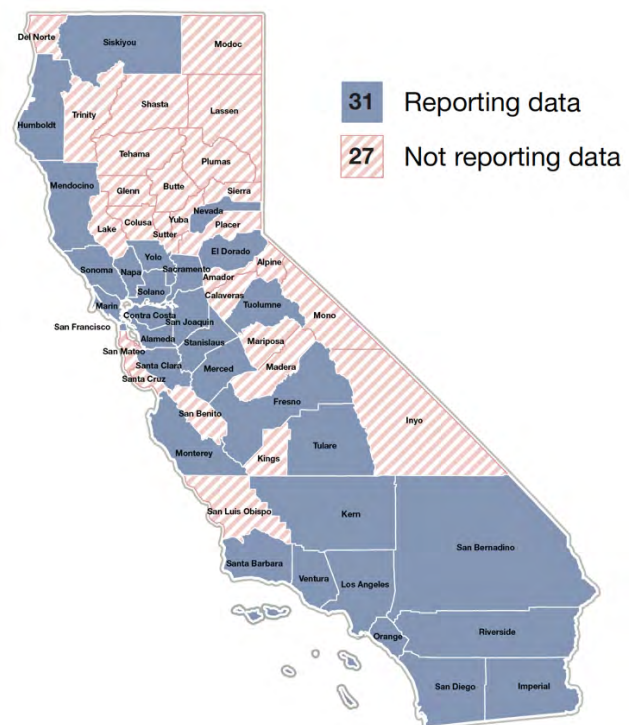
As of August 2025, all 58 counties had provided prosecution staffing data, but only 31 counties had provided public defense staffing data. All of the counties reporting public defense staffing data had a public defender office that provided primary public defense services. The Deason Center compared the staffing of district attorneys' offices and public defender offices in the 31 counties that submitted data for both.

### Data Limitations

The staffing data are collected through a point in time survey. As a result, the data collected reflect actual staffing, not funded positions.

The data collected include only personnel "employed by district attorneys and public defenders." As a result, the staffing totals for both prosecutor and public defense may be, in some instances, underinclusive. For public defender offices, the personnel in conflict divisions and offices are likely included. However, any attorneys or support staff working on conflict cases through a contract or by assignment are likely not included. The prosecutor data include only those personnel working for the county district attorney's office. They likely do not include personnel working for municipal prosecutors, e.g., the Long Beach City Prosecutor in Los Angeles County. In some counties, municipal prosecutor staffing is significant.

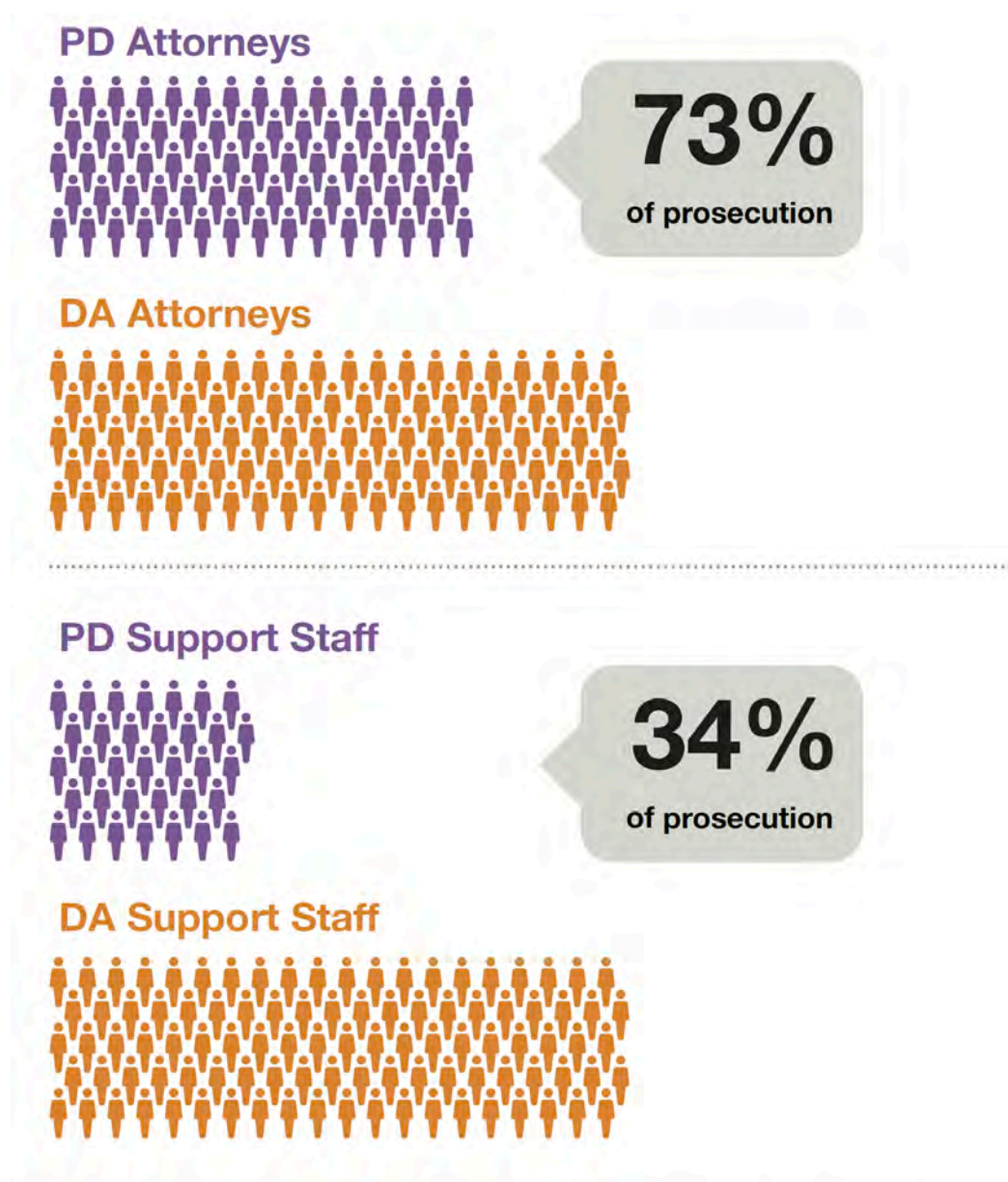
### California DOJ Public Defense Staffing Data (2022)



## The staffing disparities between public defender offices and district attorneys' offices are profound.

The 2022 data show that attorney staffing in public defender offices was only 73% of attorney staffing in district attorneys' offices. Public defense support staffing was even more deficient when compared to the support staff available to district attorneys. Overall, county public defender offices had only 34% of the support staff as their district attorney counterparts.

### Public Defense Staffing Compared to Prosecution (2022)

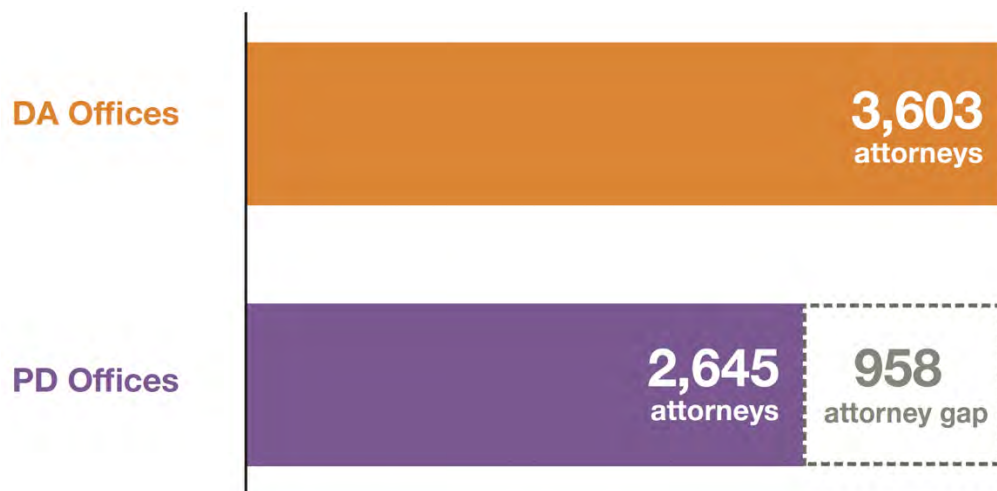


Data from 31 counties that report staffing data to California Department of Justice (2022)

## Attorney Staffing: District Attorney v. Public Defense

In total, across the 31 reporting counties, public defender offices had 958 fewer attorneys than their district attorney counterparts.

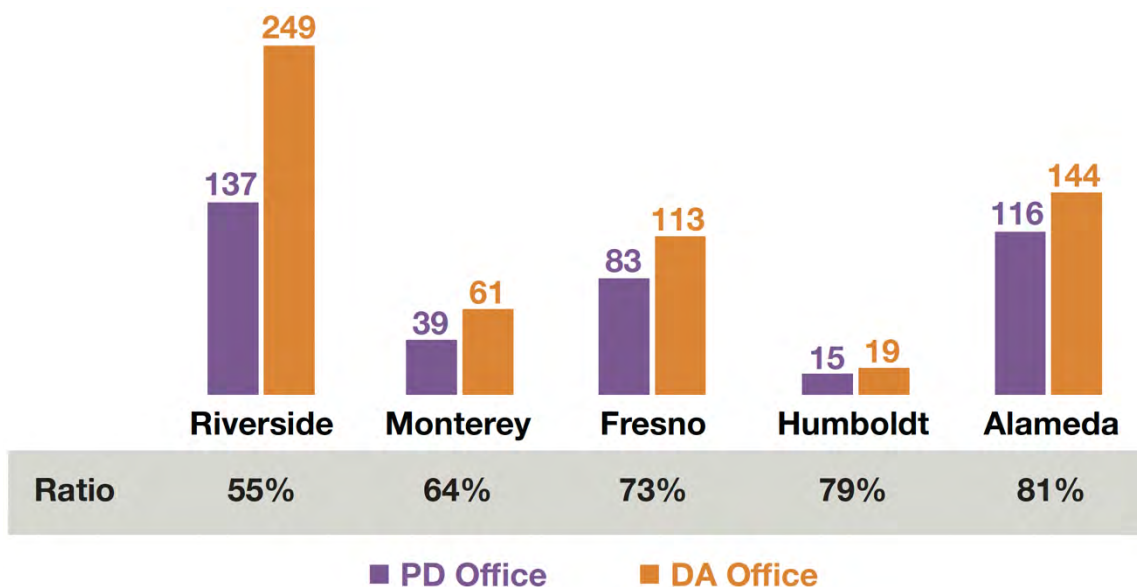
### California Public Defenders Are Understaffed Compared to District Attorneys



Data from 31 counties that report staffing data to California Department of Justice (2022)

In five counties (Merced, Napa, Riverside, San Bernardino, San Joaquin), the counties reported that the public defenders had fewer than 60% of the attorneys of their district attorney's office. The chart below shows the comparisons of five example counties.

### Attorney Staffing Comparisons (2022)



Data from California Department of Justice (2022)

## Investigator Staffing: District Attorney v. Public Defense

The California DOJ staffing data separate investigator staffing from other support staffing. In 2022, California public defender offices had, on average, only 37% of the investigators as their county district attorneys' offices.

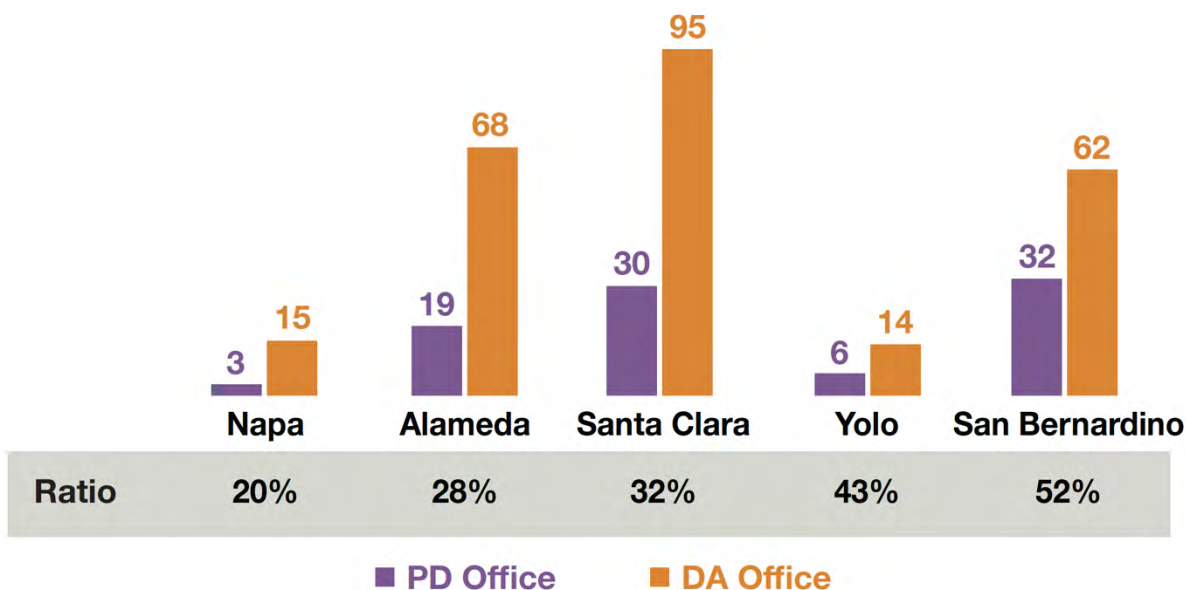
### California Public Defenders Have Far Fewer Investigators Than the District Attorneys



Data from 31 counties that report staffing data to California Department of Justice (2022)

Two counties (Nevada and Siskiyou) reported having no public defense investigators. In another five counties (El Dorado, Imperial, Merced, Monterey, and Tulare), the public defender office had less than 20% of the investigators of their district attorney's office. The chart below shows the comparisons of five example counties.

### Investigator Staffing Comparisons (2022)



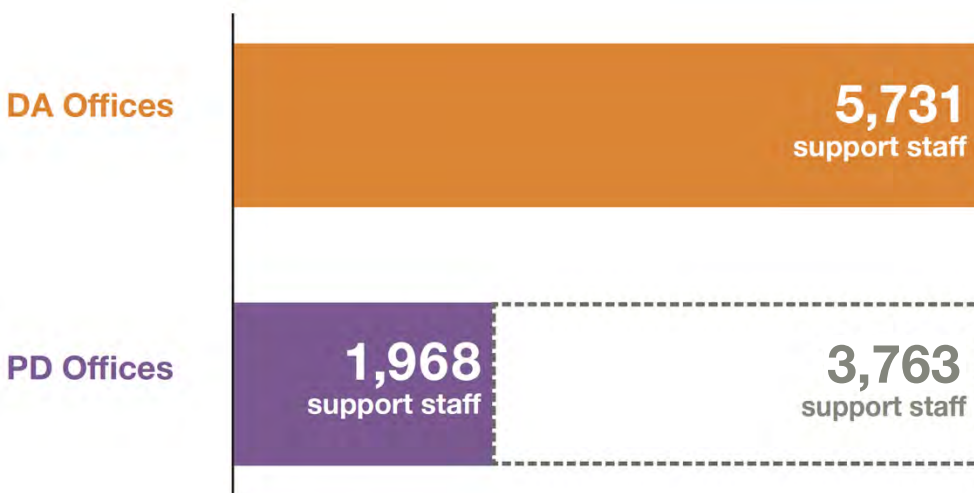
Data from California Department of Justice (2022)



## Overall Support Staffing: District Attorney v. Public Defense

On average, district attorneys' offices had 1.82 non-attorney support staff per attorney, while public defender offices had only 0.77 support staff per attorney, a difference of more than one full-time staff person per attorney. Across all 31 reporting counties, public defender offices had 3,763 fewer support staff than the district attorney's offices.

## California Public Defenders Have Far Fewer Total Support Staff Than the District Attorneys



Data from 31 counties that report staffing data to California Department of Justice (2022)

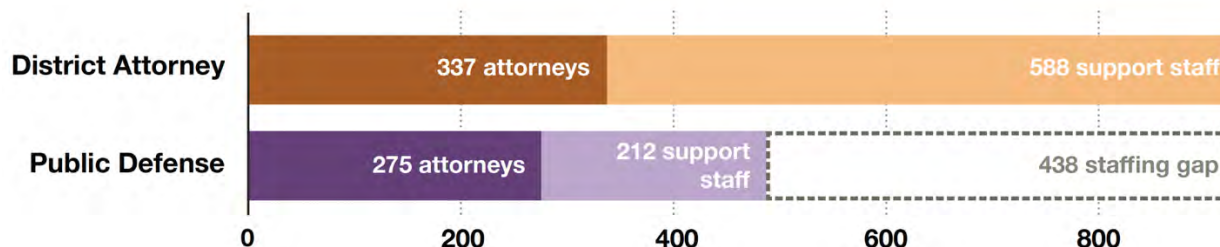
## Overall Staffing: District Attorney v. Public Defense

Viewed together, the attorney and support staffing disparities compound to create enormous overall staffing disparities between public defender offices and their district attorney counterparts.

San Diego County is illustrative of this effect, as the comparative ratios in San Diego are almost precisely the average across all of California. In San Diego, the district attorney's office had 337 attorneys, compared to 275 attorneys in the public defender office (81% as many lawyers). The district attorney's office also had approximately 1.7 support staff per attorney, while the public defender office had only 0.77 support staff per attorney.

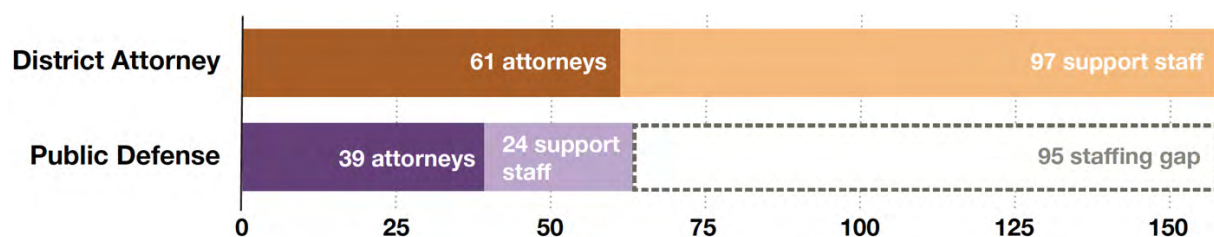
The result is that the district attorney's office had almost twice the total positions as the public defender office (an overall staffing disparity of more than 400 positions).

## San Diego Staffing Disparities, 2022



In Monterey, the district attorney's office had 61 attorneys, compared to 39 attorneys in the public defender office (64% as many lawyers). The Monterey district attorney's office also had approximately 1.6 support staff per attorney, while the public defender office had only 0.62 support staff per attorney. Overall, the district attorney's office had a staff that was 2.5 times larger than the public defender office.

## Monterey Staffing Disparities, 2022





# County Staffing, California Department of Justice Data (2022)

## Prosecution Staff

	Staff Total	Attorneys Total	Non-Attorney Staff				Investigator to Attorney Ratio	Non-Attorney to Attorney Ratio
			Total	Investigators	Clerical	Other		
Alameda	426	144	282	68	96	118	47%	196%
Alpine	3	1	2	0	2	0	0%	200%
Amador	27	8	19	8	6	5	100%	238%
Butte	81	24	57	22	19	16	92%	238%
Calaveras	20	9	11	2	0	9	22%	122%
Colusa	13	4	9	3	3	3	75%	225%
Contra Costa	191	96	95	23	35	37	24%	99%
Del Norte	14	7	7	2	4	1	29%	100%
El Dorado	62	23	39	22	6	11	96%	170%
Fresno	250	113	137	57	57	23	50%	121%
Glenn	7	3	4	0	4	0	0%	133%
Humboldt	59	19	40	10	17	13	53%	211%
Imperial	65	15	50	17	14	19	113%	333%
Inyo	13	4	9	3	4	2	75%	225%
Kern	173	73	100	48	40	12	66%	137%
Kings	67	24	43	16	19	8	67%	179%
Lake	28	10	18	7	7	4	70%	180%
Lassen	12	3	9	2	3	4	67%	300%
Los Angeles	1,861	833	1,028	209	455	364	25%	123%
Madera	53	23	30	13	11	6	57%	130%
Marin	75	29	46	7	23	16	24%	159%
Mariposa	11	4	7	1	3	3	25%	175%
Mendocino	55	19	36	7	17	12	37%	189%
Merced	83	29	54	10	27	17	34%	186%
Modoc	7	2	5	1	3	1	50%	250%
Mono	9	4	5	2	3	0	50%	125%
Monterey	158	61	97	36	47	14	59%	159%
Napa	64	25	39	15	14	10	60%	156%
Nevada	27	10	17	5	9	3	50%	170%
Orange	799	275	524	173	86	265	63%	191%
Placer	123	46	77	19	36	22	41%	167%
Plumas	6	1	5	1	3	1	100%	500%
Riverside	699	249	450	117	122	211	47%	181%
Sacramento	398	168	230	61	56	113	36%	137%
San Benito	17	6	11	3	3	5	50%	183%
San Bernardino	621	248	373	62	178	133	25%	150%
San Diego	925	337	588	121	206	261	36%	174%
San Francisco	320	136	184	36	1	147	26%	135%
San Joaquin	244	90	154	56	53	45	62%	171%
San Luis Obispo	115	39	76	15	30	31	38%	195%
San Mateo	128	58	70	14	31	25	24%	121%
Santa Barbara	143	57	86	16	43	27	28%	151%
Santa Clara	622	193	429	95	123	211	49%	222%
Santa Cruz	106	39	67	16	26	25	41%	172%
Shasta	82	26	56	19	18	19	73%	215%
Sierra	2	1	1	0	1	0	0%	100%
Siskiyou	25	8	17	4	8	5	50%	213%
Solano	143	61	82	13	35	34	21%	134%
Sonoma	125	52	73	13	31	29	25%	140%
Stanislaus	134	47	87	19	30	38	40%	185%
Sutter	23	8	15	6	3	6	75%	188%
Tehama	23	7	16	7	8	1	100%	229%
Trinity	7	3	4	0	3	1	0%	133%
Tulare	185	50	135	59	35	41	118%	270%
Tuolumne	15	5	10	3	5	2	60%	200%
Ventura	281	103	178	54	51	73	52%	173%
Yolo	106	35	71	14	21	36	40%	203%
Yuba	14	8	6	3	2	1	38%	75%
County Average							50%	182%

# County Staffing, California Department of Justice Data (2022)

## Public Defense Staff

	Staff Total	Attorneys Total	Non-Attorney Staff				Investigator to Attorney Ratio	Non-Attorney to Attorney Ratio
	Total	Total	Total	Investigators	Clerical	Other		
Alameda	193	116	77	19	28	30	16%	66%
Alpine	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Amador	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Butte	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Calaveras	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Colusa	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Contra Costa	148	86	62	15	21	26	17%	72%
Del Norte	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
El Dorado	28	17	11	4	6	1	24%	65%
Fresno	142	83	59	21	20	18	25%	71%
Glenn	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Humboldt	31	15	16	5	8	3	33%	107%
Imperial	26	16	10	3	7	0	19%	63%
Inyo	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Kern	90	57	33	10	20	3	18%	58%
Kings	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Lake	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Lassen	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Los Angeles	1,085	690	395	70	130	195	10%	57%
Madera	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Marin	37	24	13	4	8	1	17%	54%
Mariposa	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Mendocino	27	14	13	3	8	2	21%	93%
Merced	25	17	8	1	6	1	6%	47%
Modoc	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Mono	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Monterey	63	39	24	6	14	4	15%	62%
Napa	22	13	9	3	5	1	23%	69%
Nevada	13	9	4	0	3	1	0%	44%
Orange	445	210	235	76	60	99	36%	112%
Placer	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Plumas	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Riverside	241	137	104	28	46	30	20%	76%
Sacramento	149	103	46	19	17	10	18%	45%
San Benito	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
San Bernardino	229	127	102	32	37	33	25%	80%
San Diego	487	275	212	77	75	60	28%	77%
San Francisco	199	103	96	22	18	56	21%	93%
San Joaquin	91	51	40	17	15	8	33%	78%
San Luis Obispo	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
San Mateo	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Santa Barbara	98	44	54	10	29	15	23%	123%
Santa Clara	270	140	130	30	39	61	21%	93%
Santa Cruz	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Shasta	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Sierra	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Siskiyou	9	5	4	0	4	0	0%	80%
Solano	94	55	39	9	19	11	16%	71%
Sonoma	54	32	22	8	12	2	25%	69%
Stanislaus	53	29	24	5	11	8	17%	83%
Sutter	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Tehama	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Trinity	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Tulare	80	39	41	10	12	19	26%	105%
Tuolumne	8	4	4	1	1	2	25%	100%
Ventura	126	68	58	16	17	25	24%	85%
Yolo	50	27	23	6	5	12	22%	85%
Yuba	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
County Average							20%	77%

# County Staffing, California Department of Justice Data (2022)

## Public Defense to Prosecution Staff Ratios

	Attorneys			Non-Attorney Staff (Total)			Investigators		
	Public Defense	Prosecution	Ratio	Public Defense	Prosecution	Ratio	Public Defense	Prosecution	Ratio
Alameda	116	144	81%	77	282	27%	19	68	28%
Contra Costa	86	96	90%	62	95	65%	15	23	65%
El Dorado	17	23	74%	11	39	28%	4	22	18%
Fresno	83	113	73%	59	137	43%	21	57	37%
Humboldt	15	19	79%	16	40	40%	5	10	50%
Imperial	16	15	107%	10	50	20%	3	17	18%
Kern	57	73	78%	33	100	33%	10	48	21%
Los Angeles	690	833	83%	395	1,028	38%	70	209	33%
Marin	24	29	83%	13	46	28%	4	7	57%
Mendocino	14	19	74%	13	36	36%	3	7	43%
Merced	17	29	59%	8	54	15%	1	10	10%
Monterey	39	61	64%	24	97	25%	6	36	17%
Napa	13	25	52%	9	39	23%	3	15	20%
Nevada	9	10	90%	4	17	24%	0	5	0%
Orange	210	275	76%	235	524	45%	76	173	44%
Riverside	137	249	55%	104	450	23%	28	117	24%
Sacramento	103	168	61%	46	230	20%	19	61	31%
San Bernardino	127	248	51%	102	373	27%	32	62	52%
San Diego	275	337	82%	212	588	36%	77	121	64%
San Francisco	103	136	76%	96	184	52%	22	36	61%
San Joaquin	51	90	57%	40	154	26%	17	56	30%
Santa Barbara	44	57	77%	54	86	63%	10	16	63%
Santa Clara	140	193	73%	130	429	30%	30	95	32%
Siskiyou	5	8	63%	4	17	24%	0	4	0%
Solano	55	61	90%	39	82	48%	9	13	69%
Sonoma	32	52	62%	22	73	30%	8	13	62%
Stanislaus	29	47	62%	24	87	28%	5	19	26%
Tulare	39	50	78%	41	135	30%	10	59	17%
Tuolumne	4	5	80%	4	10	40%	1	3	33%
Ventura	68	103	66%	58	178	33%	16	54	30%
Yolo	27	35	77%	23	71	32%	6	14	43%
County Average			73%			33%			35%
Totals	2,645	3,603	Ratio: 73%	1,968	5,731	Ratio: 34%	530	1,450	Ratio: 37%

Data from 31 California counties that report both prosecutor and public defense data (Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, Glenn, Inyo, Kings, Lake, Lassen, Madera, Mariposa, Modoc, Mono, Placer, Plumas, San Benito, San Luis Obispo, San Mateo, Santa Cruz, Shasta, Sierra, Sutter, Tehama, Trinity, Yuba not reporting).

# Analysis of FY 2022-23 CA Controller Expenditure Data

The Deason Center analyzed the most recent (FY 2022-23) data on expenditures reported by counties to the California State Controller. The Deason Center downloaded data from Controller's County Financial Data portal for two expenditure line items: District Attorney-Prosecution\_General (Prosecution) and Public Defender\_General (Public Defense). These data reflect county-reported expenditures only and may not reflect full public defense or prosecution expenditures.<sup>1</sup> As of August 2025, 50 of California's 58 counties had reported both prosecution and public defense expenditures. The Deason Center analyzed these data, to understand and compare per capita expenditures by county, as well as overall expenditures across the reporting counties. These analyses revealed glaring disparities between prosecution and public defense expenditures.

## California Controller Expenditure Data (FY 2022-23)



### Overall Expenditures: Prosecution v. Public Defense

The Deason Center aggregated expenditures from the 50 counties that reported both data. The analysis revealed that California counties spent only 56% as much on public defense as they did on prosecution.

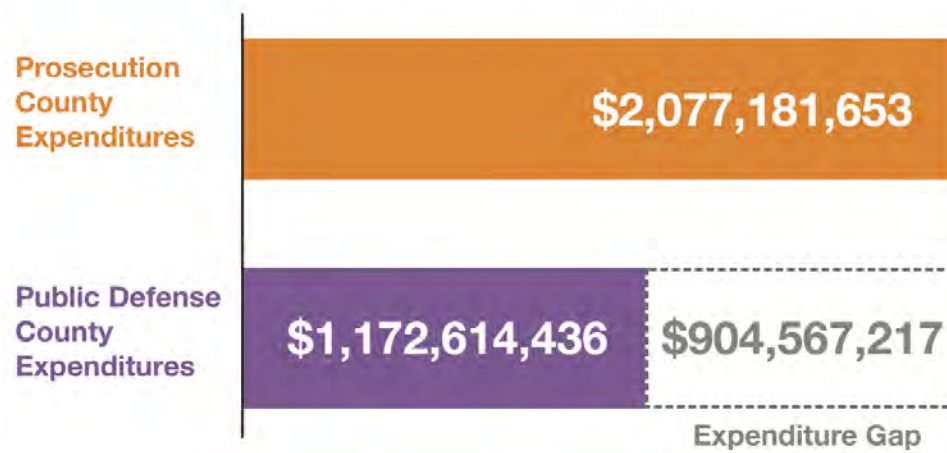
### Expenditure (FY 2022-23)



County expenditures from 50 counties that reported data to California Controller (FY 2022-23)

Statewide, the total spending gap between prosecution and public defense was almost \$1 billion dollars.

## Statewide Expenditure (FY 2022-23)



County expenditures from 50 counties that reported data to California Controller (FY 2022-23)

## Per Capita Expenditure: Public Defense v. Prosecution

To better understand this difference, the Deason Center analyzed per capita expenditure by county.<sup>2</sup> Statewide, spending on per capital public defense was \$31.69 per capita, while individual county per capita spending ranged from \$4.11 to \$71.17. By contrast, per capita spending on prosecution was \$56.14, and individual county per capital spending ranged from \$37.77 to \$295.27.

## Statewide Per Capita Expenditure (FY 2022-23)

### Prosecution Per Capita County Expenditure



### Public Defense Per Capita County Expenditure



### Expenditure Gap Per Capita

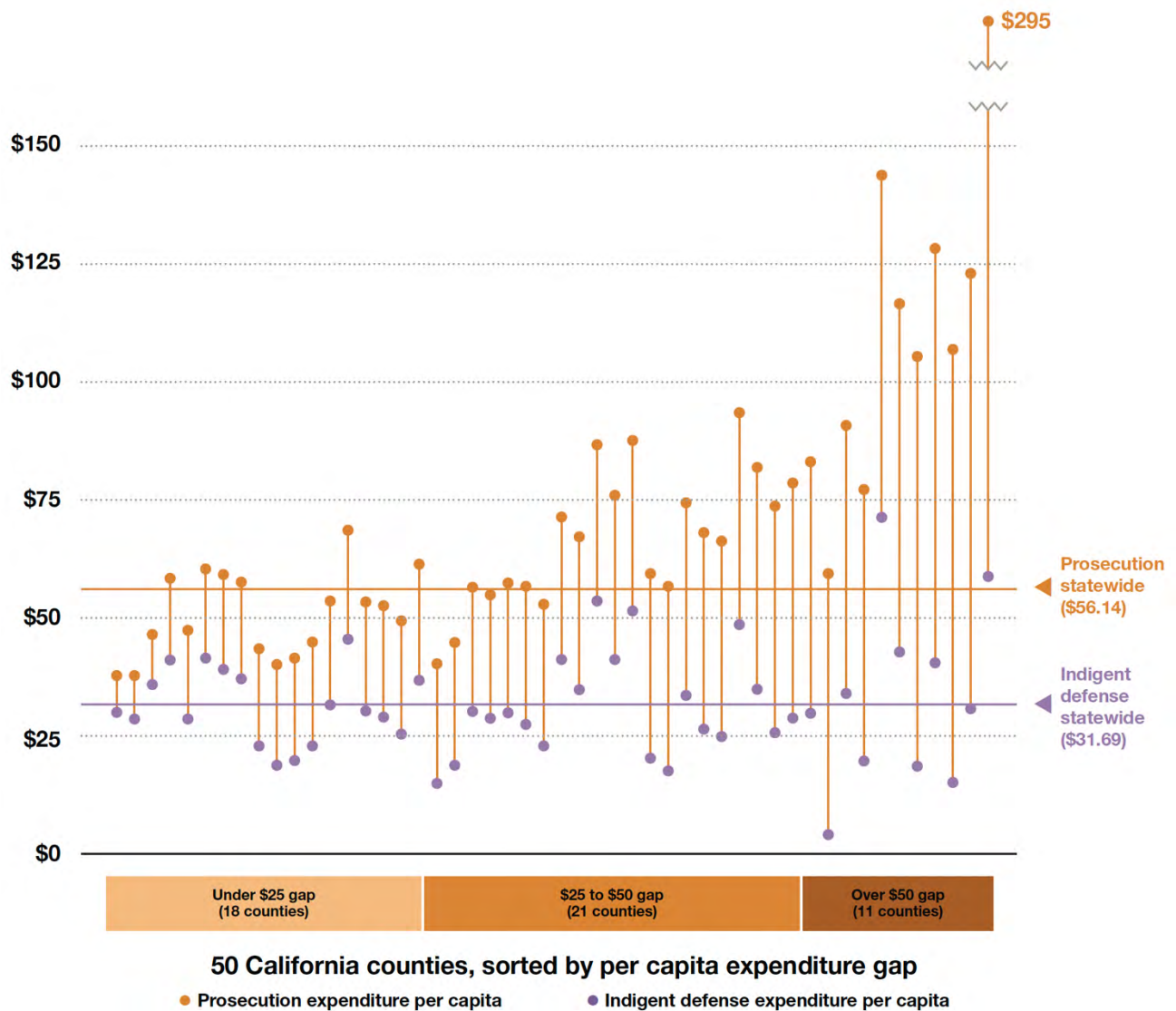


County expenditures from 50 counties that reported data to California Controller (FY 2022-23)



Every county reporting both public defense and prosecution expenditure data spent more on prosecution than public defense. Twenty-five counties spent less than half what they spent on prosecution on public defense. Eight of those counties spent less than a third of what they spent on prosecution on public defense.

## Per Capita Expenditure on Prosecution vs. Public Defense, by County (FY 2022-23)





# County Expenditures, California Comptroller Data (FY 2022–23)

Data from 50 California counties that report (Lassen, Placer, San Francisco, Solano, Sutter, Tehama, Yolo, Yuba not reporting)

	Expenditure		Per Capita Expenditure		Expenditure Parity %
	Public Defense	Prosecution	Public Defense	Prosecution	Public Defense / Prosecution
Statewide Total	\$1,172,614,436	\$2,077,181,653	\$31.69	\$56.14	56%
County Average	\$23,452,289	\$41,543,633	\$31.64	\$73.01	47%
Alameda	\$60,442,818	\$94,320,078	\$36.90	\$57.58	64%
Alpine	\$66,192	\$332,476	\$58.79	\$295.27	20%
Amador	\$1,267,689	\$5,141,811	\$30.33	\$123.02	25%
Butte	\$4,083,804	\$16,016,330	\$19.69	\$77.24	25%
Calaveras	\$817,540	\$2,649,056	\$17.55	\$56.87	31%
Colusa	\$333,435	\$2,361,384	\$15.09	\$106.88	14%
Contra Costa	\$33,217,657	\$43,897,982	\$28.58	\$37.77	76%
Del Norte	\$1,039,183	\$1,571,782	\$39.11	\$59.15	66%
El Dorado	\$4,947,901	\$14,184,852	\$25.71	\$73.71	35%
Fresno	\$25,899,592	\$50,342,416	\$25.39	\$49.36	51%
Glenn	\$639,436	\$1,229,607	\$22.68	\$43.62	52%
Humboldt	\$4,929,089	\$8,232,934	\$36.78	\$61.44	60%
Imperial	\$3,403,496	\$7,263,825	\$18.85	\$40.22	47%
Inyo	\$751,611	\$2,379,784	\$40.52	\$128.30	32%
Kern	\$27,343,411	\$34,747,293	\$29.83	\$37.91	79%
Kings	\$630,201	\$9,139,596	\$4.11	\$59.63	7%
Lake	\$1,789,210	\$4,626,015	\$26.34	\$68.10	39%
Los Angeles	\$349,486,232	\$452,826,611	\$35.91	\$46.53	77%
Madera	\$3,745,051	\$8,641,678	\$22.92	\$52.89	43%
Marin	\$8,071,361	\$13,707,479	\$31.57	\$53.61	59%
Mariposa	\$577,434	\$1,542,901	\$33.97	\$90.78	37%
Mendocino	\$3,683,992	\$6,787,579	\$41.23	\$75.96	54%
Merced	\$5,537,186	\$13,201,182	\$18.81	\$44.84	42%
Modoc	\$256,430	\$492,963	\$29.94	\$57.55	52%
Mono	\$939,937	\$1,899,760	\$71.17	\$143.84	49%
Monterey	\$15,216,570	\$35,661,039	\$34.93	\$81.86	43%
Napa	\$5,706,960	\$15,615,301	\$42.77	\$117.02	37%
Nevada	\$3,090,686	\$5,454,333	\$30.28	\$53.43	57%
Orange	\$95,244,346	\$178,333,049	\$30.19	\$56.53	53%
Plumas	\$355,835	\$2,014,416	\$18.61	\$105.36	18%
Riverside	\$50,723,234	\$148,690,480	\$20.26	\$59.39	34%
Sacramento	\$45,192,460	\$75,563,986	\$28.34	\$47.39	60%
San Benito	\$1,036,784	\$2,754,979	\$15.17	\$40.31	38%
San Bernardino	\$43,502,281	\$91,392,764	\$19.77	\$41.53	48%
San Diego	\$113,062,586	\$220,729,863	\$34.41	\$67.18	51%
San Joaquin	\$19,613,067	\$53,468,380	\$24.34	\$66.35	37%
San Luis Obispo	\$8,117,285	\$22,177,403	\$28.78	\$78.64	37%
San Mateo	\$20,912,978	\$40,303,052	\$28.48	\$54.89	52%
Santa Barbara	\$18,272,314	\$31,688,329	\$41.20	\$71.45	58%
Santa Clara	\$97,625,195	\$166,206,291	\$51.46	\$87.61	59%
Santa Cruz	\$14,141,896	\$22,873,651	\$53.63	\$86.74	62%
Shasta	\$8,219,023	\$12,389,619	\$45.50	\$68.58	66%
Sierra	\$154,671	\$297,299	\$48.64	\$93.49	52%
Siskiyou	\$1,429,429	\$3,195,840	\$33.29	\$74.42	45%
Sonoma	\$13,079,640	\$27,403,607	\$27.06	\$56.69	48%
Stanislaus	\$12,659,202	\$24,849,925	\$22.85	\$44.86	51%
Trinity	\$644,289	\$950,313	\$41.08	\$60.59	68%
Tulare	\$13,925,494	\$25,263,730	\$28.97	\$52.55	55%
Tuolumne	\$2,218,246	\$3,158,591	\$40.99	\$58.36	70%
Ventura	\$24,570,077	\$69,208,039	\$29.49	\$83.08	36%

## ENDNOTES – APPENDIX E

<sup>1</sup> The California State Controller provides limited information on the direction provided to counties in categorizing spending. As a result, the Center is unable to determine how comprehensive the county-provided data are. The reported data may also exclude some funding that is categorized by the county under a different line item. For example, investigator or expert services approved courts may be categorized as a court expense, and therefore not included in public defense expenditures. Importantly, because the data provided are county-based, they likely exclude all city or municipal prosecutor funding. In some counties these expenditures are significant.

<sup>2</sup> Per capita funding was calculated based on 2023 County Population Estimates, Census Bureau County Population Totals for 2020-2024, California (March 2025).



## APPENDIX F

# Mapping Analysis of California Attorney Shortages

The Deason Center performed a geospatial analysis to understand trends in lawyer density in urban and rural California counties. Based on obtainable data, this analysis addresses the availability of attorneys generally; it is not limited to criminal attorneys, or attorneys with a demonstrated interest in serving as public defense providers. Looking at overall attorney availability provides the broadest possible assessment of legal practitioners in these areas who could serve as public defense providers.

The Center assessed changes in lawyer population and lawyer density, (*i.e.*, the number of lawyers relative to the general population), at the county level between 2016 and 2024. The Deason Center found:

- While the number of lawyers in California has increased overall, urban counties experienced more rapid and substantial increases in the numbers of lawyers and lawyer density.
- In contrast, many rural counties experienced reductions in both the numbers of lawyers and lawyer density.
- The analysis of newly-admitted lawyers showed that new lawyers are clustered in urban areas.
- The analysis of the location of the state's law schools showed that they are overwhelmingly located in urban areas, which likely contributes to new lawyers working in urban areas.

**This Appendix is divided into four substantive sections:**

- An overview of the data used in this analysis.
- An analysis of changes in the population and density of California attorneys between 2016 and 2024.
- An examination of the trends in attorney population and density in the state's rural counties.
- An analysis of the locations of the most recently admitted members of the bar, and the state's law schools.

## An overview of the Deason Center's data

### Attorney data

The Deason Center obtained two sets of data on California lawyers, from 2016 and 2024 respectively.

- The 2016 list was provided to the Center by Prof. James W. Meeker of the University of California at Irvine. Prof. Meeker had previously used it to prepare a 2019 analysis for the California Commission on Access to Justice.<sup>1</sup> The list contained every California attorney with an in-state address as of February 12, 2016.
- The 2024 list was obtained in 2024 by the Deason Center from the Office of the State Public Defender, which had obtained it from the State Bar of California. This list contained all attorneys registered in the state as of June 27, 2024, including those with out-of-state addresses.

Both lists also included information on each attorney's date of admission to the California bar. Each list also included both 'active' and 'inactive' attorneys. Inactive attorneys are those who are not practicing law in California.<sup>2</sup> To capture the full extent of legal knowledge and expertise across the state of California, the Center retained both inactive as well as active lawyers in its analyses.

### Population data

Population data for each California county were obtained from the American Community Survey, a publication of the United States Census Bureau.

The United States Census Bureau produces two estimates of county populations. The Population Estimates Program (PEP) takes the decennial census (the most recent being from 2020) and adjusts county population estimates using official records of mortality, births, and migration.

The American Community Survey (ACS), by contrast, is an annual survey and includes 3.5 million people. The 'five-year estimates' calculations use data from the most recent five years of the ACS (totaling around 17.5 million responses) and are considered the most accurate estimates of county populations for certain purposes.<sup>3</sup>

The Center reviewed both ACS and PEP data. The Center elected to use the ACS data for this analysis because of the high quality of the dataset and its suitability for the research questions under study. Notably, both datasets are generally consistent, with one exception (Alpine County) where the ACS data suggests a population increase of 43% while the PEP data suggested an increase of 7%. Since the trend is the same and the county has a small population (less than 2000), this difference is not material to the analysis.<sup>4</sup>

Finally, while the Deason Center chose to use the ACS data, which are more recent because it is updated annually, the 2024 data were not available when the analysis was done. Therefore, the Deason Center extrapolated from the 2022 data to develop an estimated 2024 data set.

## Changes in attorney population and density

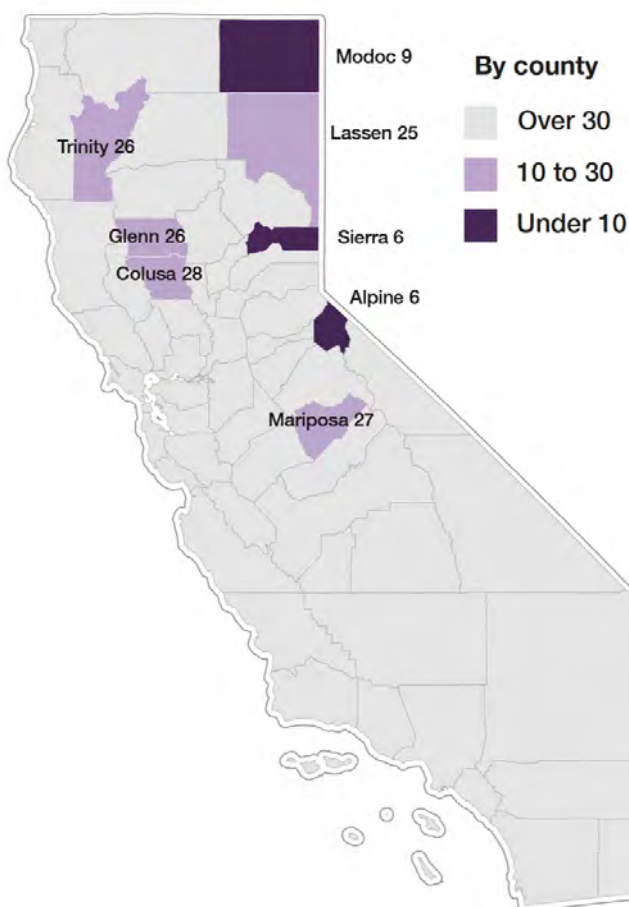
### The number of lawyers in California

Using the data described above, the Deason Center calculated the total number of attorneys with addresses located inside each of California's 58 counties in 2016 and 2024. The 2016 dataset included 197,231 attorneys; the 2024 dataset included 215,324 attorneys after those with out-of-state addresses were omitted. Accordingly, the Deason Center concluded the number of attorneys in California increased by 18,093 between 2016 and 2024, or approximately 9%.

### In 2024, some counties had an acute shortage of lawyers

Despite California's lawyer population exceeding 200,000 in 2024, some counties had very few lawyers. Three counties – Modoc, Sierra, and Alpine – had fewer than 10 attorneys in 2024. In five more counties – Colusa, Glenn, Lassen, Mariposa, and Trinity – there were more than 10 but fewer than 30.

### Number of lawyers, 2024



## **Changes in attorney populations by county**

To understand these shortages, the Center's analysis focused on assessing changes in lawyer population density by county between 2016 and 2024.

To assess changes in lawyer population at the county level, the Center 'geocoded' each attorney in both datasets. Geocoding is a computerized process which allocates physical latitude and longitude coordinates (or, in the case of the Center's analysis, a county) to an address.

In the 2016 dataset, 193,442 of the lawyers on the list (or around 98%) included a county name. For each attorney where the county name was missing, other information (such as a street address or zip code) was present. This other information ultimately enabled the Center to geocode every attorney on the list to a county.

In the 2024 dataset, every attorney had a county listed.

## **Comparison to the national average in 'lawyer density'**

According to the American Bar Association, there were approximately 1.3 million lawyers in the United States in 2020, or approximately four attorneys for every 1,000 residents nationwide.<sup>5</sup>

The Deason Center took this national average as a guidepost. The Center's analysis categorized California's counties above and below the figure of four-per-thousand in lawyer density. Any county with above four attorneys for every 1,000 residents is more 'lawyer dense' than the United States as a whole. Any county with fewer than four attorneys per 1,000 residents is less 'lawyer dense' than the United States as a whole.

## **Lawyer Density in California Counties in 2016 and 2024**

The Deason Center computed the 'lawyer density' of each California county. Following a method adopted by the American Bar Association and others, lawyer density is computed by taking the total number of lawyers in a county, dividing by the total population of the county, and multiplying by 1,000.<sup>6</sup>

The Deason Center computed lawyer densities for every California county in both 2016 and 2024 by taking the number of attorneys in each county in that year and dividing by the county population for the same year. As stated above, lawyer density for 2024 was based on extrapolated 2022 ACS population data.<sup>7</sup>

## **The number of low lawyer density counties increased between 2016 and 2024**

While California's attorney population grew overall, the number of counties with an acute shortage of attorneys (fewer than one per 1,000 residents) increased from six to seven.

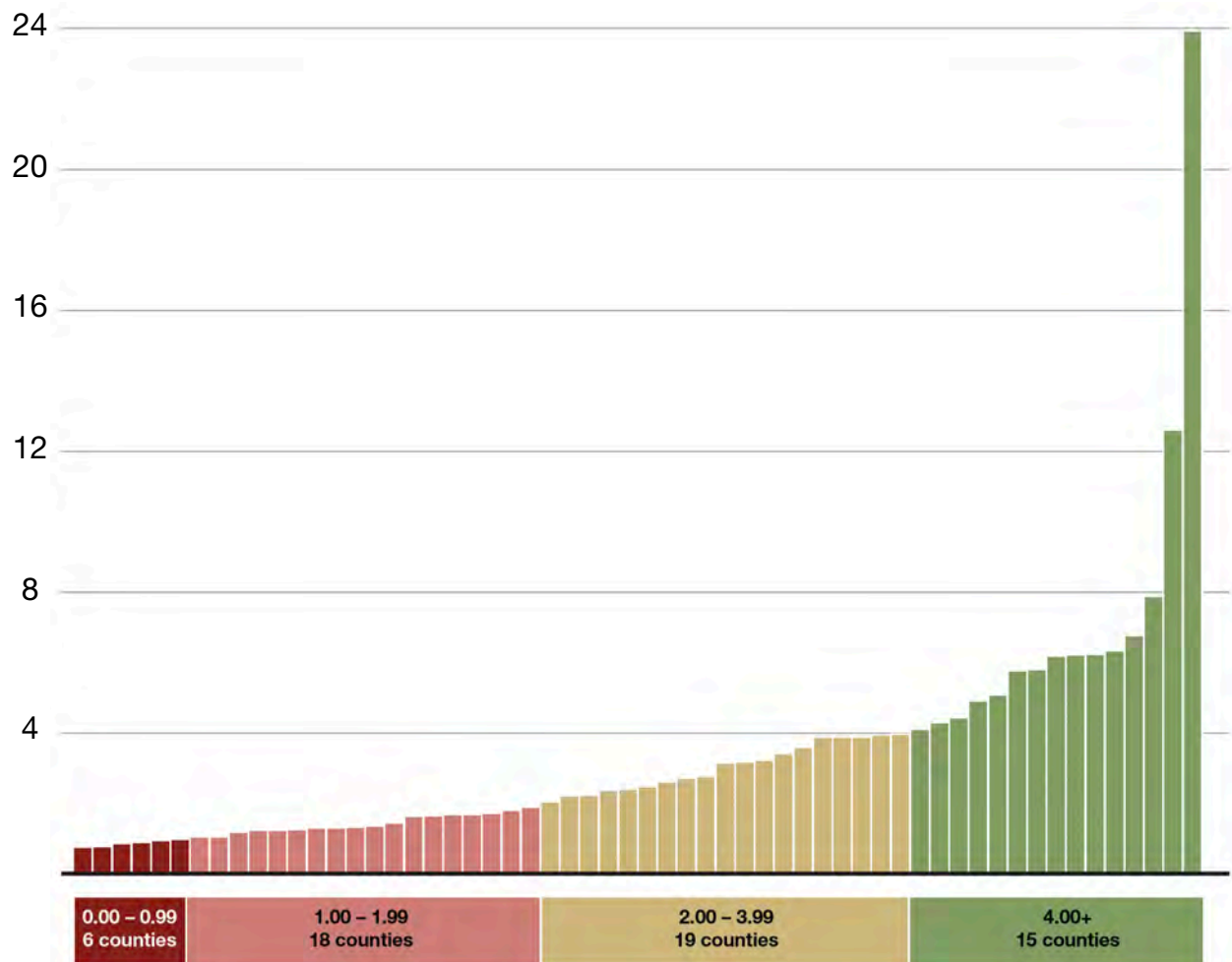


In 2016:

- Fifteen counties had lawyer densities above four in 1,000 people.
- Nineteen counties had lawyer densities between two and four in 1,000 people.
- Eighteen counties had lawyer densities between one and two in 1,000 people.
- Six counties had lawyer densities under one in 1,000 people.

## Lawyer density, 2016

Lawyers per 1,000 residents, by county

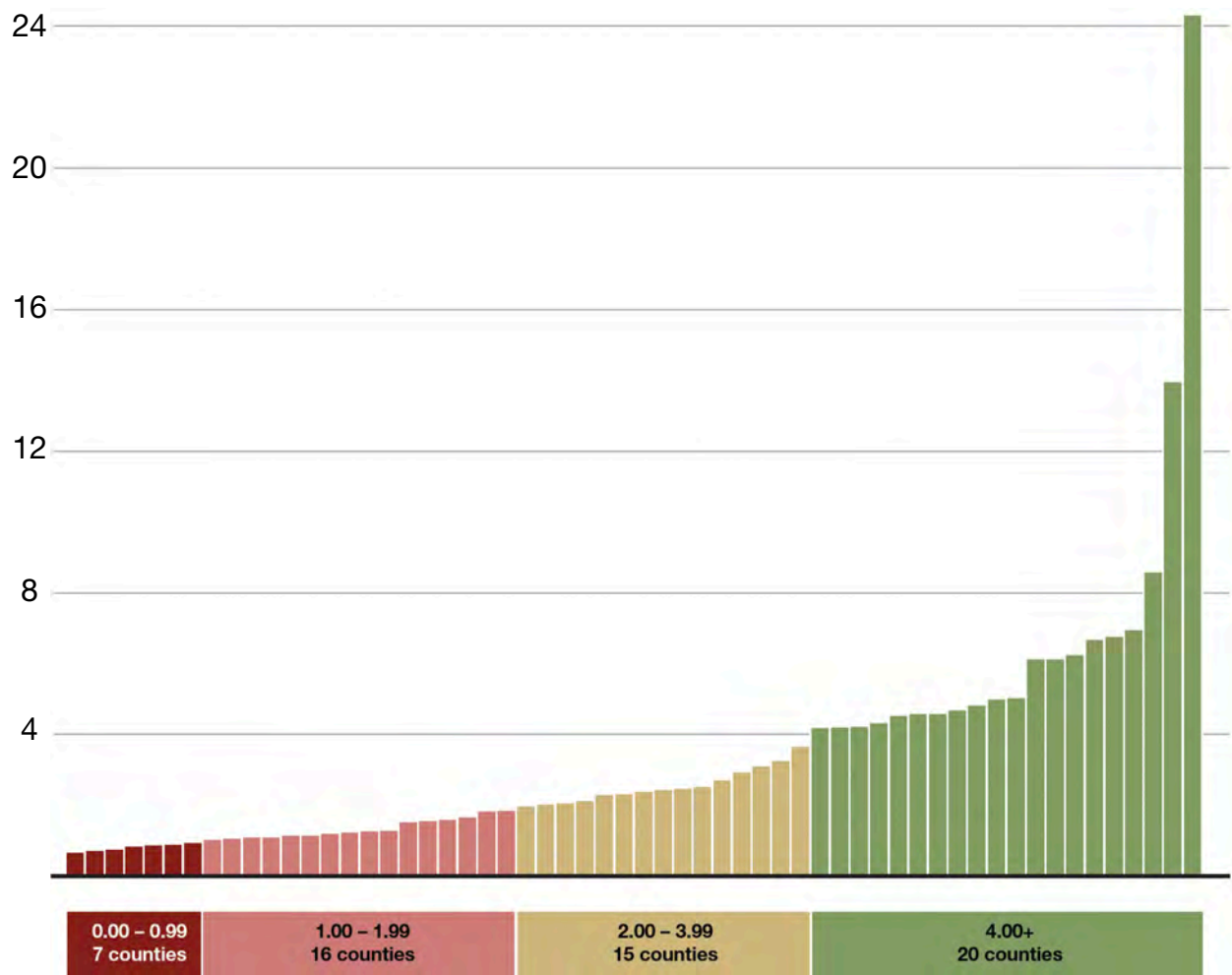


In 2024:

- Twenty counties had lawyer densities above four in 1,000 people.
- Fifteen counties had lawyer densities between two and four in 1,000 people.
- Sixteen counties had lawyer densities between one and two in 1,000 people.
- Seven counties had lawyer densities under one in 1,000 people.

## Lawyer density, 2024

Lawyers per 1,000 residents, by county



Of the six counties with an attorney density under one per 1,000 in 2016, five counties (Kings, Merced, Madera, Glenn and Tulare) still had an attorney density in this range in 2024. In three of those five counties, attorney density decreased between 2016 and 2024.

The sixth county, Modoc, increased to over one per 1,000 by 2024. In 2016, the county had just eight attorneys. That number increased to nine in 2024. This increase, combined with a population decrease from slightly over 9000 to around 8,500, caused its attorney density to inch up from 0.89 to 1.06 per 1,000.

Two counties (Lassen and Imperial) saw their attorney density decrease below 1 per 1,000 in this period. Each saw substantial reductions in the number of registered attorneys. Lassen went from 33 registered attorneys in 2016 to 25 in 2024, taking it from a rate of 1.04 per thousand to 0.86. Imperial fell from 186 to 155 attorneys, dropping from 1.03 per thousand residents to 0.78.

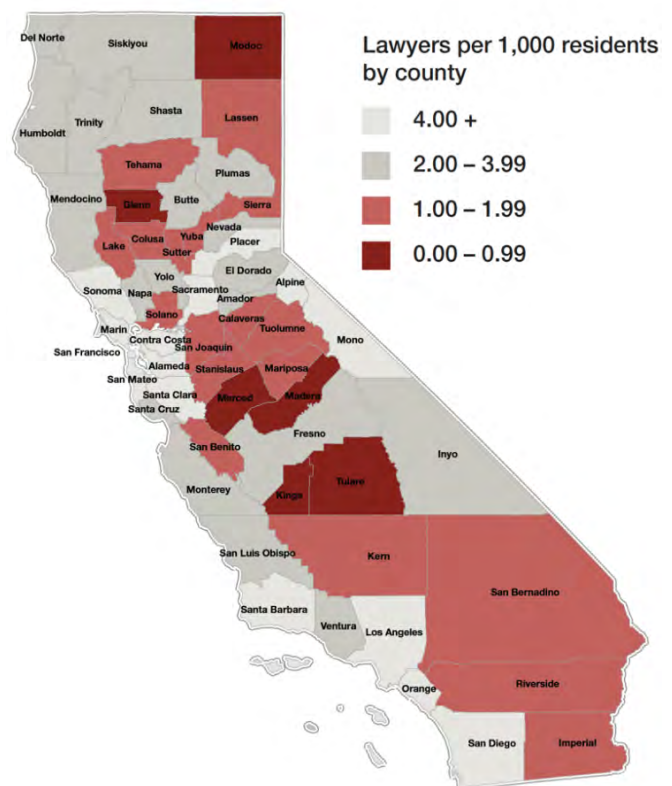
### Mapping the degree of change in lawyer density by county

The Deason Center mapped changes in lawyer density for each county.

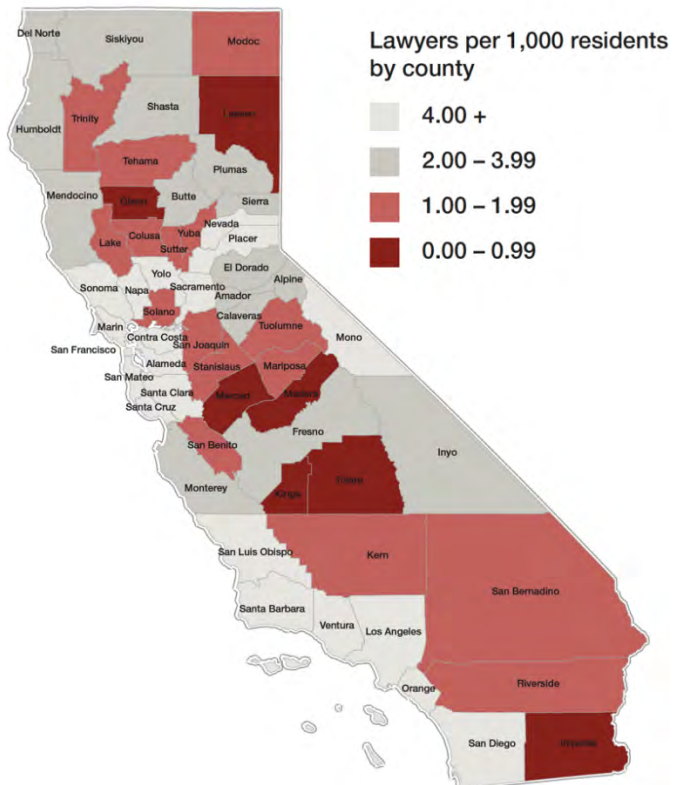
Changes in lawyer density can be caused both by changes in county population and by changes in attorney population. As the number of attorneys in a county increases, its lawyer density will increase. If the population of a county decreases, its lawyer density will increase.

Often, both the number of lawyers and the population of the county changed between 2016 and 2024, resulting in changes in lawyer density across the state.

### Lawyer density, 2016



### Lawyer density, 2024

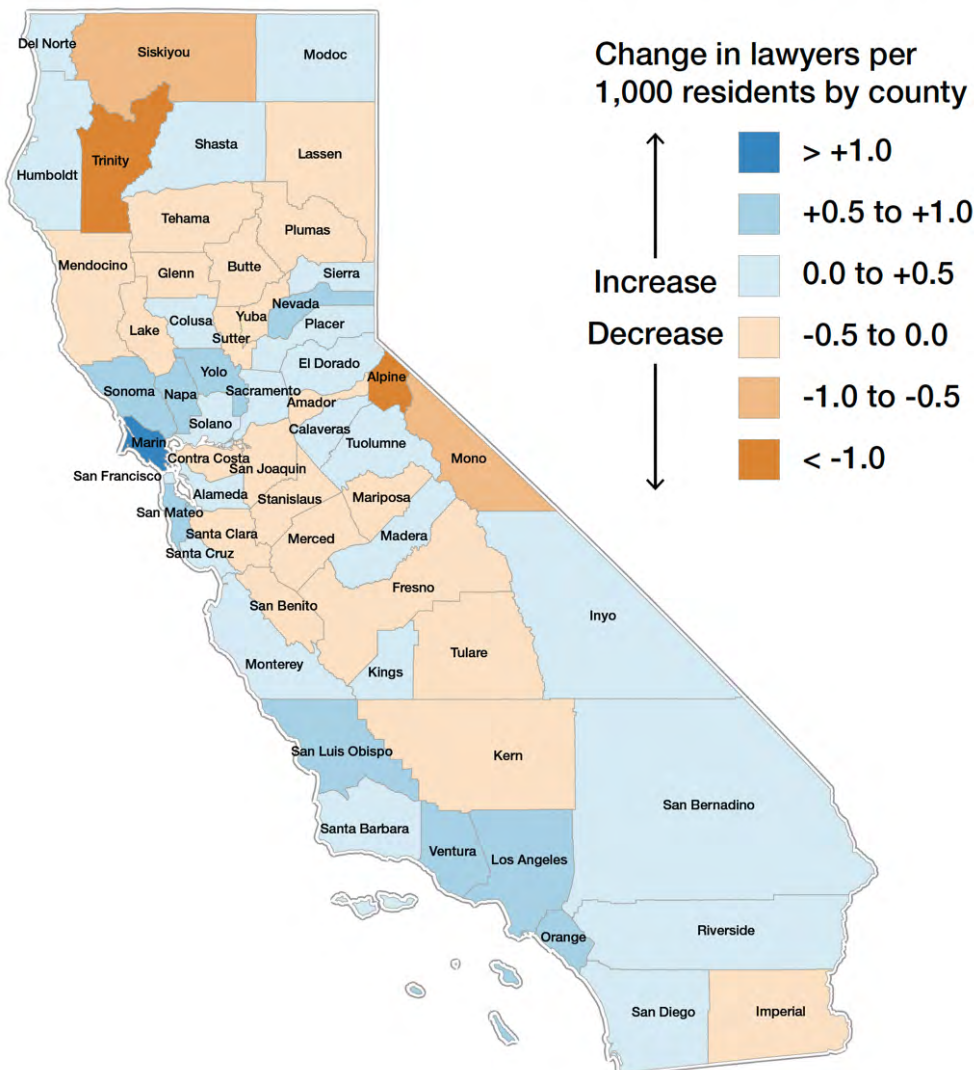


Changes in lawyer density were computed by subtracting attorney density in 2016 from attorney density in 2024. For example, the change in lawyer density in a county which reduced from two attorneys per 1,000 people in 2016 to one attorney per 1,000 people in 2024 was rated as ‘-1’.

Twenty-five California counties experienced a reduction in attorney density between 2016 and 2024. Thirty-three saw an increase.

- One county (Marin) increased by more than one attorney per 1,000 people
- Nine counties increased by between 0.5 and one attorney per 1,000 people
- Twenty-three counties increased by under 0.5 attorneys per 1,000 people
- Twenty-one counties decreased by under 0.5 attorneys per 1,000 people
- Two counties decreased by between 0.5 and one attorney per 1,000 people
- Two counties decreased by more than one attorney per 1,000 people

## Change in lawyer density, 2016 to 2024



## Large decreases in lawyer density in specific counties

Trinity and Alpine Counties experienced reductions in attorney density greater than one lawyer per thousand between 2016 and 2024.

- In Trinity County, attorney density decreased from 3.41 to 1.55 per thousand, a 55% decrease. This largely reflected a precipitous decrease in the attorney population (from 45 to 26), accompanied by a modest increase in general population.
- In Alpine County, the total number of attorneys reduced from eight in 2016 to six in 2024. This decrease, combined with an increase in general population, resulted in a 45% decrease in attorney density from 6.76 to 3.69 per 1,000.

Two counties – Mono and Siskiyou– had reductions in attorney density between 0.5 and 1 lawyer per thousand.

- In Mono County, the number of attorneys decreased from 69 to 55. The general population also declined (from over 14,000 to under 13,000). Attorneys per thousand decreased from 4.91 to 4.25, a 13% decline.
- In Siskiyou County, the number of attorneys decreased from 137 to 104 while the general population of the county increased modestly. The result was a decrease in absolute attorney density from 3.14 to 2.35 attorneys per thousand (almost 25%).

## Large increases in lawyer density in specific counties

In Marin County, the attorney population increased from 3,273 to 3,651, while the general population increased only very modestly. The result was an increase in lawyer density from 12.62 per 1,000 to 14 per 1,000, almost an 11% increase.

Nine counties – Los Angeles, Napa, Nevada, Orange, San Luis Obispo, San Mateo, Sonoma, Ventura, and Yolo – increased their lawyer density by at least 0.5 attorneys per thousand people. On average, the attorney population of these counties grew by over 16% while their general populations were almost flat – growing on average by 0.5%.

## Changes in lawyer density by county rurality

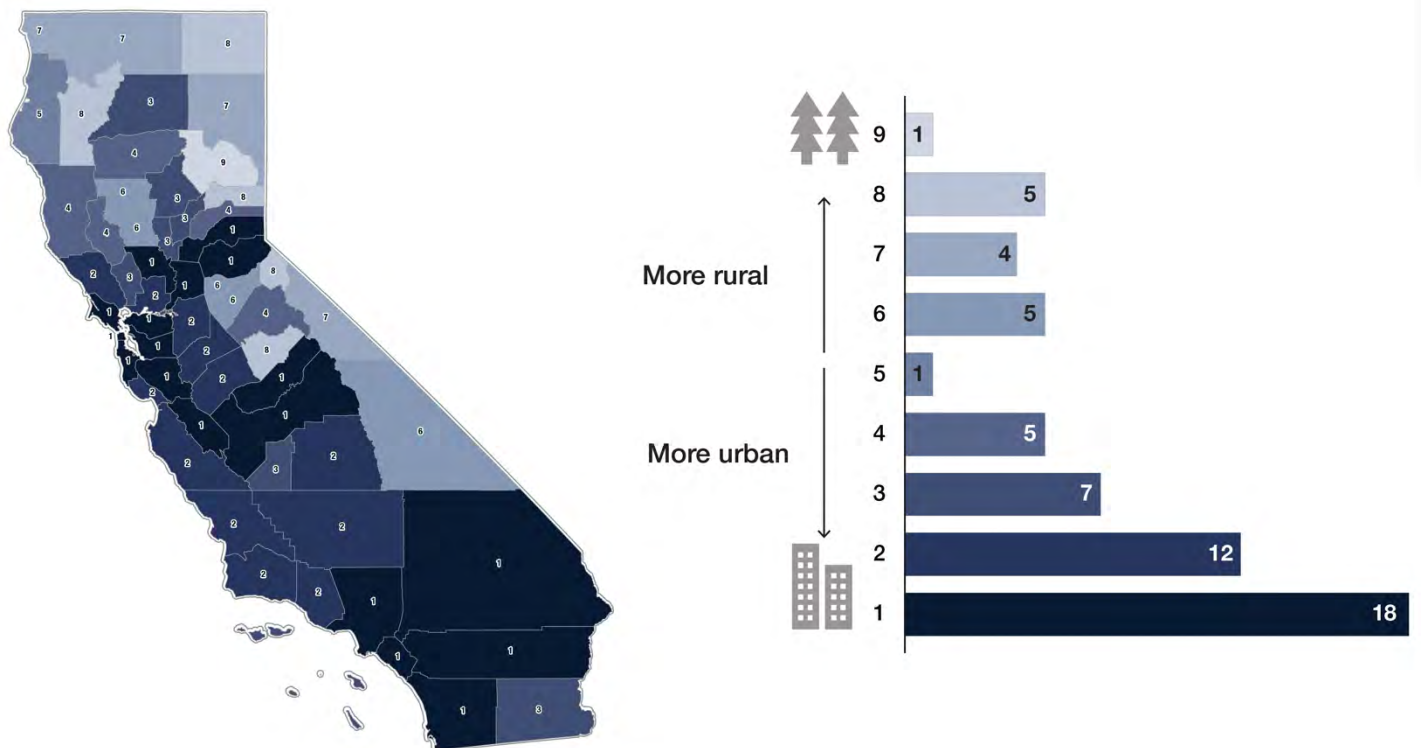
### Defining Urban and Rural Counties in California – 2020 Rural Urban Continuum Codes

To compare trends in rural and urban California counties, the Center used a classification system developed by the United States Department of Agriculture known as the Rural-Urban Continuum Codes (RUCC).<sup>8</sup> The RUCC divide all counties in the United States into nine categories of relative urbanization and rurality. The codes are reviewed and recalculated every ten years. The most recent revision was issued in 2023 and was based on 2020 data.<sup>9</sup>



Although the codes are based on 2020 data, the Deason Center decided to use these codes to analyze both the 2016 and 2024 lawyer and population data. If classifications based on 2016 and 2024 population data had been available, the classification of certain counties might have changed. However, rurality changes slowly, and better data are not available. Furthermore, the significant trends identified in this analysis would not be affected by small changes in the county categories.

## Rural-Urban Continuum Codes (RUCC) 2023



### How California's Counties are Designated 'Metropolitan' and 'Non-Metropolitan'

The RUCC rely and expand upon definitions developed by the United States Office of Management and Budget (OMB) that distinguish 'metropolitan' and 'non-metropolitan' counties.

OMB defines counties as **metropolitan** if they are 'integrated' with an 'urban area,' provided the urban area in question has a population of over 50,000 people.<sup>10</sup>

- **Urban areas** are defined as places centered around 'urban cores'. An urban core is defined as an area that averages 425 housing units per square mile. The outer boundaries of the urban area extend as far as housing unit density remains



above 200 per square mile.<sup>11</sup> Urban areas are not necessarily contained within a single county.

- A county is considered **‘integrated’** into an urban area if it either contains the ‘core’ of an urban area, or if more than 25% of its workers commute to work in the county that contains such a core.<sup>12</sup>

All counties not classified as ‘metropolitan’ are classified ‘non-metropolitan’ by default.

## California’s metropolitan counties

In 2020, **37 of California’s 58 counties were classified as metropolitan** by the OMB.

The RUCC divide these 37 counties into three groups based on the population of the OMB-designated metropolitan area in which they are integrated. Any county that is integrated with a metropolitan area of total population over 1,000,000, for example, would be classified in category ‘1’. This would be true even if the population of the county itself was under 1,000,000.

<b>Category 1</b>	Counties integrated with a <b>metropolitan area with a population over 1 million</b> are classified as ‘1’ within the RUCC scheme. In 2020, there were 18 counties classified as ‘1’ in California. These included ten with populations over 1 million inside the county itself. They also included others, such as Yolo County, with an estimated population of 216,403 in 2020. Yolo was classified as a ‘1’ because it is integrated with the Sacramento Metropolitan Area which had a total population over 2.5 million. <sup>13</sup>
<b>Category 2</b>	Counties integrated with <b>metropolitan areas with populations over 250,000 but under 1 million</b> are classified as ‘2’ in the RUCC scheme. This included 12 California counties in 2020. <sup>14</sup>
<b>Category 3</b>	Counties integrated with <b>metropolitan areas with populations over 50,000 but under 250,000</b> were classified as ‘3’. Seven California counties were classified as RUCC 3 in 2020. <sup>15</sup>

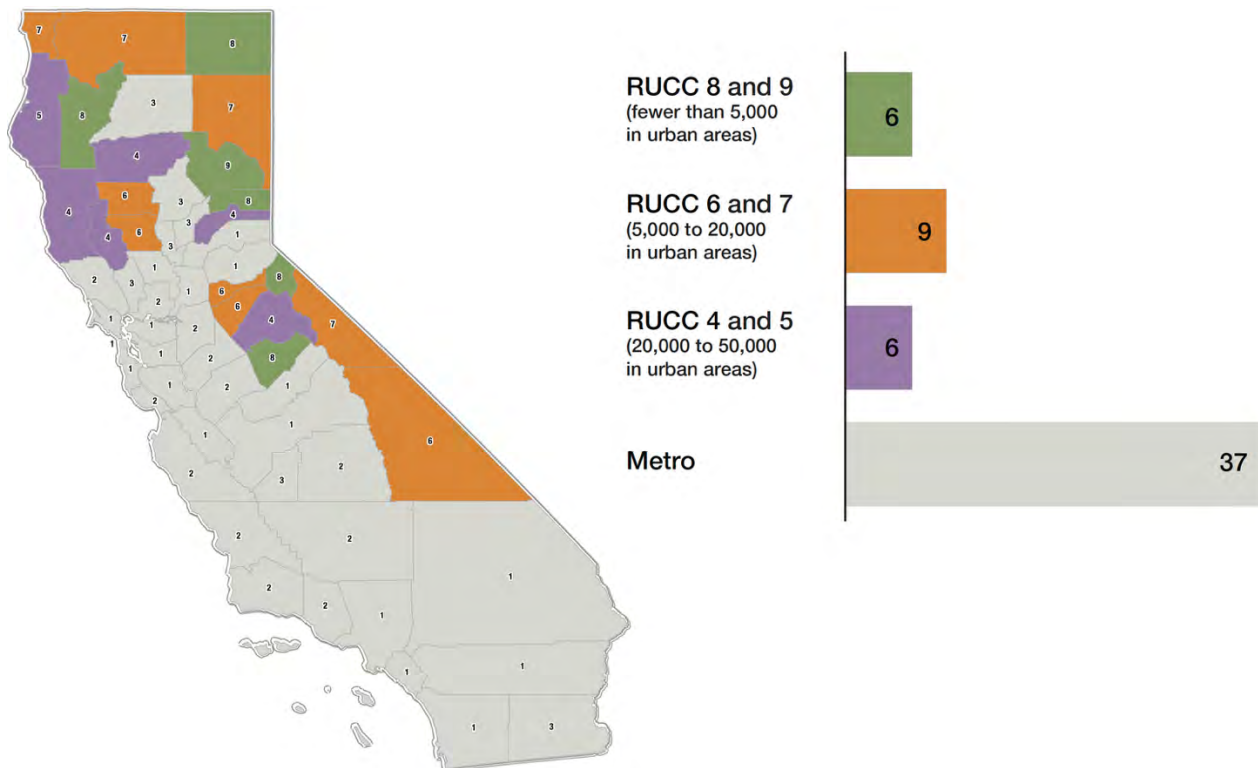
## California’s non-metropolitan counties

The remaining **21 counties in California were classified as ‘non-metropolitan’**. These 21 were divided by the RUCC codes into a further six sub-categories based on two criteria.

The first criterion is the **urban population of the county**. Classification among the six non-metropolitan categories of county is based on the total population living in urban areas within the county.

- Counties classified as '4' and '5' had urban populations between 20,000 and 50,000.
- Counties classified as '6' and '7' had urban populations between 5,000 and 20,000.
- Counties classified as '8' and '9' had urban populations under 5,000.

## Rural-Urban Continuum Codes (RUCC) 2023

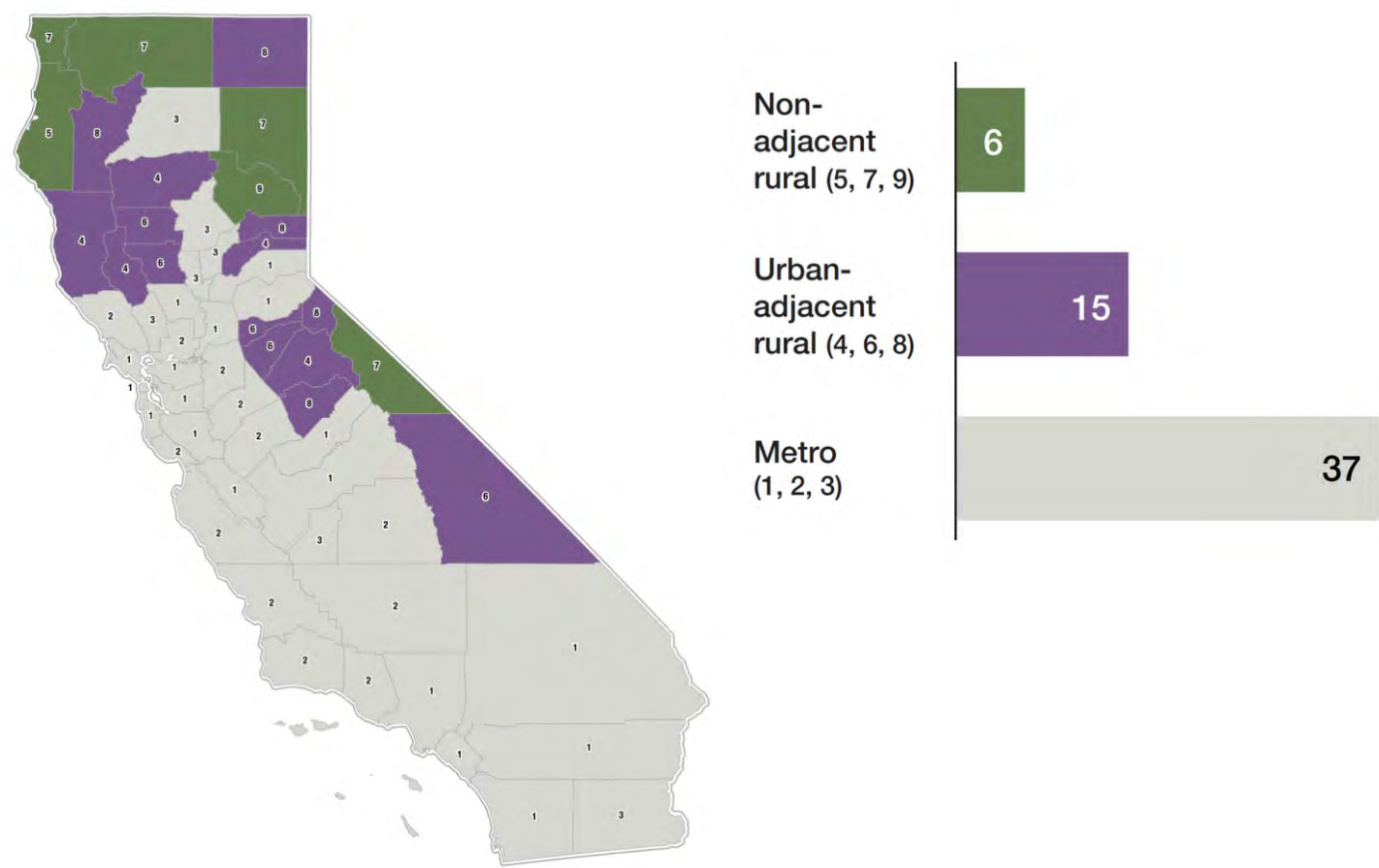


The second criterion is **physical adjacency to a metropolitan county**. 'Adjacency' is defined as a county that is both physically next to a metropolitan county, and where at least 2% of its population commutes to the metropolitan county for work.

Counties classified as '4', '6', or '8' are adjacent to a metropolitan county. They are then subcategorized by the size of the county's largest urban area as described above.

Counties classified as '5', '7', or '9' are not adjacent to a metropolitan county. They are then subcategorized by the size of the county's largest urban area as described above.

# Rural-Urban Continuum Codes (RUCC) 2023



Category 4	Five California counties were classified as a ‘4’ on the RUCC scale in 2020, meaning the county was adjacent to a metropolitan county and had between 20,000 and 50,000 people living in an urban area. The actual population of these counties ranged from 55,620 (Tuolumne County) to 102,241 (Nevada County).
Category 5	One county (Humboldt County) was ranked ‘5’ on the RUCC scale, meaning it had between 20,000 and 50,000 people living in urban areas but was not adjacent to a metropolitan county. Humboldt had a population of 136,463 in 2020.
Category 6	Five counties were classified as ‘6’ on the RUCC scale. These counties are adjacent to a metropolitan county and each had between 5,000 and 20,000 people living in their largest urban area. The total population of these counties ranged from 19,016 to 45,292.

<b>Category 7</b>	Four counties were classified as '7' on the RUCC scale. These counties were not adjacent to a metropolitan county and had between 5,000 and 20,000 people living in their largest urban areas. The total population of these counties ranged from 13,195 to 44,076.
<b>Category 8</b>	Five counties were classified as '8' on the RUCC scale. These counties are adjacent to a metropolitan county, and each had fewer than 5,000 people living in their largest urban area. Their populations ranged from 1,204 to 16,112.
<b>Category 9</b>	One county, Plumas, was classified as a '9' on the RUCC scale. It had fewer than 5,000 inhabitants living in urban areas and was not adjacent to any metropolitan county. Its total population in 2020 was 19,790.

### The counties with the greatest reduction in lawyer density were the most rural

The Deason Center compared the RUCC rankings of counties that lost the most lawyer density to those that increased the most.

	<b>County</b>	<b>Change in lawyer density 2016 to 2024</b>	<b>Percent change in lawyer density 2016 to 2024</b>	<b>Population 2024</b>	<b>RUCC</b>
<b>Counties which lost the most density</b>	Alpine	-3.06	-45%	1,625	8
	Trinity	-1.87	-55%	16,792	8
	Siskiyou	-0.78	-25%	44,176	7
	Mono	-0.66	-13%	12,942	7
	Lassen	-0.25	-24%	31,849	7
	Amador	-0.24	-9%	41,782	6
	Tehama	-0.22	-16%	66,307	4
	Imperial	-0.18	-17%	179,835	3
	Sutter	-0.14	-10%	100,333	3
	Yuba	-0.13	-10%	84,308	3
	San Benito	-0.11	-9%	66,987	1
	Stanislaus	-0.10	-8%	559,230	2
<b>Counties which gained the most density</b>	Marin	1.38	11%	260,861	1
	Napa	0.91	23%	136,238	3
	Yolo	0.83	21%	219,631	1
	Ventura	0.75	19%	841,642	2
	Los Angeles	0.74	12%	9,896,535	1
	San Mateo	0.73	9%	754,084	1
	San Luis Obispo	0.66	18%	282,723	2
	Sonoma	0.60	14%	485,323	2
	Orange	0.60	10%	3,189,566	1
	Nevada	0.59	15%	103,550	4
	San Diego	0.48	8%	3,301,816	1
	Alameda	0.40	7%	1,683,358	1

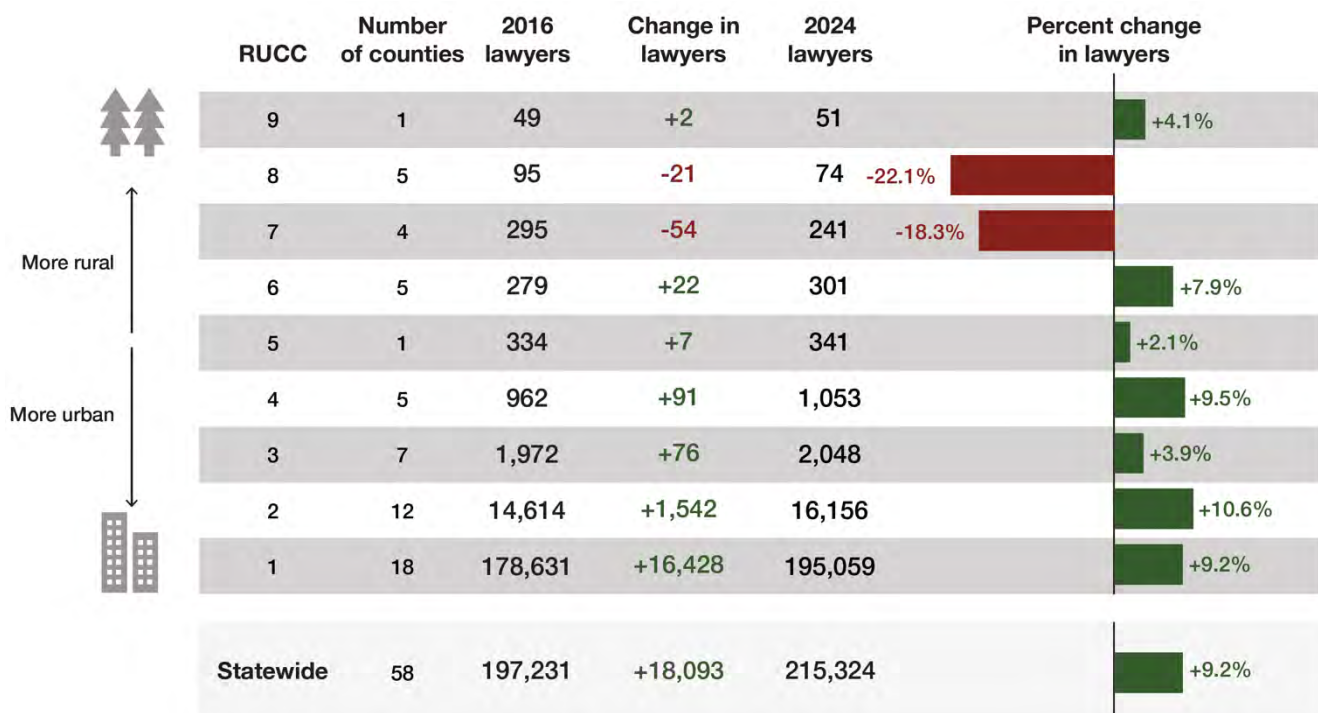
Among the twelve counties with the largest decreases in lawyer density, seven were non-metropolitan – Alpine, Trinity, Siskiyou, Mono, Lassen, Amador, and Tehama.

In contrast, among the twelve counties with the largest increase in lawyer density, only one (Nevada) was a non-metropolitan county.

### Rural counties saw aggregate losses in the numbers of lawyers between 2016 and 2024, while urban lawyer populations grew

Statewide, the number of attorneys in California increased by 9.2% between 2016 and 2024. To discover whether that growth was shared between the state’s most urban and most rural counties, the Deason Center analyzed changes in the number and density of lawyers for counties with different RUCC rankings.

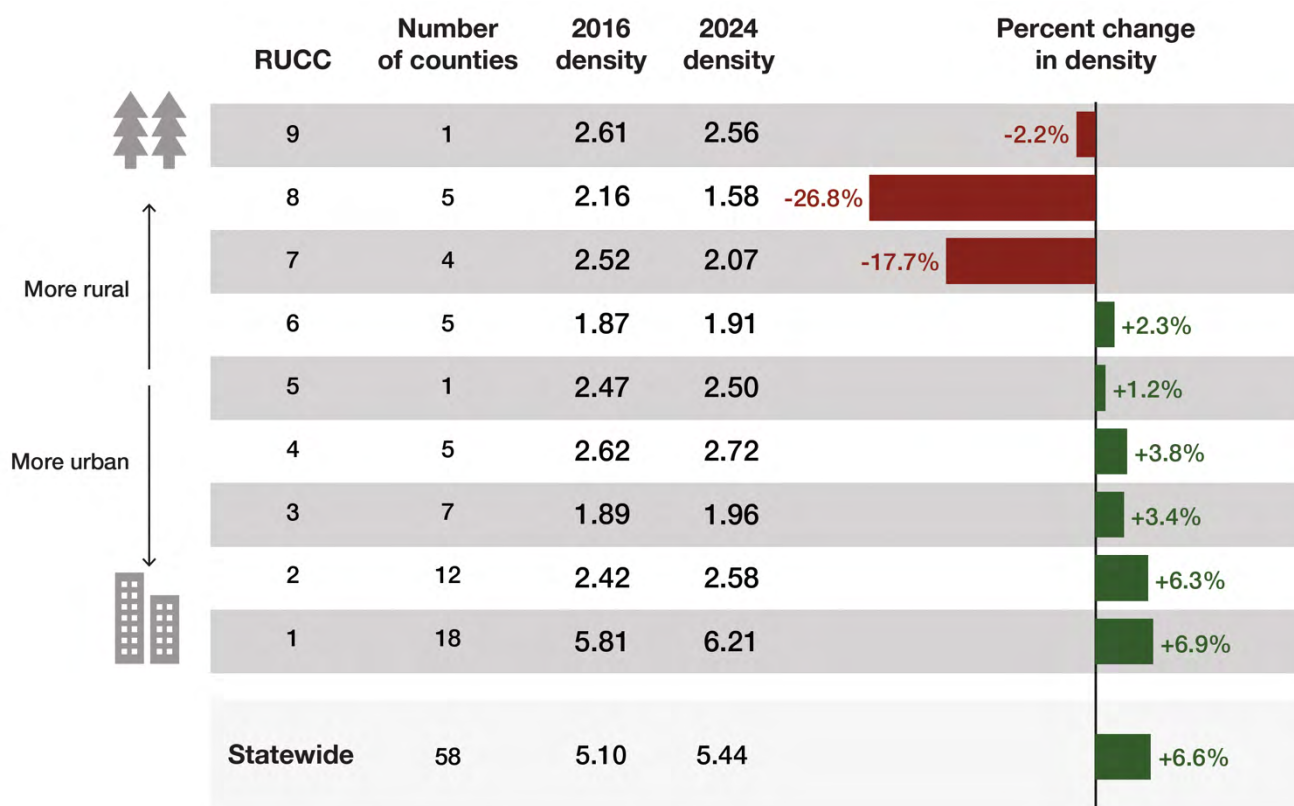
### Changes in lawyers from 2016 to 2024 by Rural-Urban Continuum Codes (RUCC)





The results of the analysis show clearly that while the number and density of lawyers in the state's most urban counties increased across the period, the opposite was often true in the state's most rural counties.

## Lawyer density changes from 2016 to 2024 by Rural-Urban Continuum Codes (RUCC)



### Counties with a RUCC ranking '1'

- The 18 counties with a RUCC ranking '1' grew by more than 16,000 lawyers between 2016 and 2024, an increase of 9.2%.
- The general population of those counties grew around 2.1%.
- As a result, attorney density in these counties increased by 6.9%, from 5.81 to 6.21 attorneys per 1,000 population.

### Counties with a RUCC ranking '2'

- The 12 counties with a RUCC ranking '2' grew by more than 1,500 lawyers between 2016 and 2024, an increase of 10.6%.
- The general population of those counties grew around 4.0%.
- As a result, attorney density in these counties increased by 6.3%, from 2.42 to 2.58 attorneys per 1,000 population.



### **Counties with a RUCC ranking '3'**

- The seven counties with a RUCC ranking '3' grew by 76 lawyers between 2016 and 2024, an increase of 3.9%.
- The general population of those counties grew around 0.44%.
- As a result, attorney density in these counties increased by 3.4%, from 1.89 to 1.96 attorneys per 1,000 population.

### **Counties with a RUCC ranking '4'**

- The five counties with a RUCC ranking '4' grew by 91 lawyers between 2016 and 2024, an increase of 9.5%.
- The general population of those counties grew by around 5.4%.
- As a result, attorney density in these counties increased by 3.8%, from 2.62 to 2.72 attorneys per 1,000 population.

### **County with a RUCC ranking '5'**

- The one county (Humboldt) with a RUCC ranking '5' grew by seven lawyers between 2016 and 2024, an increase of 2.1%.
- Its general population grew by around 0.9%.
- As a result, attorney density in Humboldt increased by 1.2%, from 2.47 to 2.50 attorneys per 1,000 population.

### **Counties with a RUCC ranking '6'**

- The five counties with a RUCC ranking '6' grew by 22 lawyers between 2016 and 2024, an increase of 7.9%.
- The general population of those counties grew by around 5.5%.
- As a result, attorney density in these counties increased by 2.3%, from 1.87 to 1.91 attorneys per 1,000 population.

### **Counties with a RUCC ranking '7'**

- The four counties with a RUCC ranking '7' shrank by 54 lawyers between 2016 and 2024, a decrease of 18.3%.
- The general population of these counties decreased by 0.8%.
- As a result, attorney density in these counties decreased by 17.7%, from 2.52 to 2.07 attorneys per 1,000 population.

### **Counties with a RUCC ranking '8'**

- The five counties with a RUCC ranking '8' shrank by 21 lawyers between 2016 and 2024, a decrease of 22.1%.
- The general population of these counties grew by 6.45%.

- As a result, attorney density in these counties decreased by 26.8%, from 2.16 to 1.58 attorneys per 1,000 population.

### County with a RUCC ranking ‘9’

- The one county (Plumas) with a RUCC ranking ‘9’ grew by two lawyers between 2016 and 2024, an increase of 4.1%.
- The general population of Plumas grew by 6.37%.
- As a result, attorney density in Plumas decreased by 2.2%, from 2.61 to 2.56 attorneys per 1,000 population.

### Among rural counties, attorney population and density decreases were more extreme in non-urban-adjacent counties

To illustrate the contrast between the attorney population patterns in California’s rural and urban areas, the Deason Center grouped California counties by RUCC classifications reflecting ‘urban adjacency’. The analysis shows that non-metropolitan counties that are not adjacent to an urban area suffered significant reductions in total lawyers and lawyer density between 2016 and 2024.

RUCC categories 4, 6, and 8 are non-metropolitan counties of decreasing urban population. However, they are all also adjacent to metropolitan areas, meaning that they are physically close to those areas, and that at least some of their local population commutes to the adjacent metropolitan areas for work.

RUCC categories 5, 7, and 9, by contrast, are non-adjacent non-metropolitan counties. While these counties have the same urban population numbers as counties coded in categories 4, 6, and 8, they are not proximate to a major urban center.

## Numbers of lawyers, by category of RUCC

Category	RUCC	Number of counties	Total lawyers 2016	Total lawyers 2024	Percent change in lawyers
Non-adjacent rural	5, 7, 9	6	678	633	-6.6%
Urban-adjacent rural	4, 6, 8	15	1,336	1,428	+6.9%
Metro	1, 2, 3	37	195,217	213,263	+9.2%
Statewide	ALL	58	197,231	215,324	+9.2%

## Lawyer density, by category of RUCC

Category	RUCC	Lawyers per 1,000 residents 2016	Lawyers per 1,000 residents 2024	Percent change in density
Non-adjacent rural	5, 7, 9	2.50	2.32 -7.2%	
Urban-adjacent rural	4, 6, 8	2.38	2.41	+1.3%
Metro	1, 2, 3	5.16	5.51	+6.7%
Statewide	ALL	5.10	5.44	+6.6%

### Non-urban-adjacent counties

- Between 2016 and 2024, the attorney population of California's non-urban-adjacent counties fell by 6.6%.
- The general population of these counties grew slightly, by 0.6%.
- As a result, attorney density in California's urban-adjacent counties decreased by 7.2%, from 2.50 to 2.32 attorneys per 1,000 people.

### Urban-adjacent counties

- Between 2016 and 2024, the attorney population of California's urban-adjacent counties grew by 6.9%.
- The general population of these counties also grew by 5.5%.
- As a result, attorney density in California's urban-adjacent counties increased by 1.3%, from 2.38 to 2.41 attorneys per 1,000 people.

### Metropolitan counties

- Between 2016 and 2024, the attorney population of California's metropolitan counties grew by 9.2%.
- The general population of these counties grew by around 2.4%.
- As a result, attorney density in California's metropolitan counties increased by 6.7%, from 5.16 to 5.51 attorneys per 1,000 people.

## 2025 State Bar of California Report on Attorney Deserts




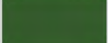
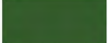
The Center reviewed a recent publication by the State Bar of California on ‘attorney deserts’.<sup>16</sup> The State Bar’s analysis is complimentary to the Deason Center’s in several key respects.






- Consistent with the Deason Center’s analysis, the State Bar’s analysis showed that rural areas experienced declines in attorney populations. The State Bar’s analysis also revealed that attorney deserts tend to occur in areas that are overwhelmingly rural, and where the population is poor.
- Comparing the State Bar’s results (using active attorneys) with the Deason Center’s results (using active and inactive attorneys) demonstrates that the population of active attorneys is growing more slowly than the population of attorneys overall, which may suggest an aging problem.<sup>17</sup>

### Among non-metropolitan counties, attorney population and density decreases were more significant in counties with the smallest urban populations

The Deason Center assessed changes in attorney population and density across RUCC groupings by urban population. The analysis showed clearly that attorney population and density decreased in counties with urban populations of less than 20,000 people, while attorney population and density increased in non-metropolitan counties with urban populations of greater than 20,000 people. The decline in attorneys and attorney density was greatest in counties with urban populations under 5,000.

### Number of lawyers, by category of RUCC

Category	Number of counties	Total lawyers 2016	Total lawyers 2024	Percent change in lawyers
RUCC 8 and 9 (fewer than 5,000 in urban areas)	6	144	125 -13.2%	
RUCC 6 and 7 (5,000 to 20,000 in urban areas)	9	574	542 -5.6%	
RUCC 4 and 5 (20,000 to 50,000 in urban areas)	6	1,296	1,394	 +7.6%
RUCC 1, 2, 3 (Metro)	37	195,217	213,263	 +9.2%
Statewide	58	197,231	215,324	 +9.2%

Category	Lawyers per 1,000 residents 2016	Lawyers per 1,000 residents 2024	Percent change in density
RUCC 8 and 9 (fewer than 5,000 in urban areas)	2.30	1.87	-18.4% 
RUCC 6 and 7 (5,000 to 20,000 in urban areas)	2.15	1.98	-8.1% 
RUCC 4 and 5 (20,000 to 50,000 in urban areas)	2.58	2.66	+3.2% 
RUCC 1, 2, 3 (Metro)	5.16	5.51	+6.7% 
Statewide	5.10	5.44	+6.6% 

### Non-metropolitan counties with urban populations under 5,000

- Between 2016 and 2024, the attorney population of California's 6 non-metropolitan counties with urban population under 5,000 fell by 13.2%.
- The general population of these counties grew by 6.4%.
- As a result, attorney density in these counties decreased by 18.4%, from 2.30 to 1.87 attorneys per 1,000 people.

### Non-metropolitan counties with urban populations between 5,000 and 20,000

- Between 2016 and 2024, the attorney population of California's nine non-metropolitan counties with urban populations between 5,000 and 20,000 shrank by 5.6%
- The general population of these counties grew by 2.7%.
- As a result, attorney density in these counties decreased by 8.1%, from 2.15 to 1.98 attorneys per 1,000 people.

## **Non-metropolitan counties with urban populations between 20,000 and 50,000**

- Between 2016 and 2024, the attorney population of California's six non-metropolitan counties with urban populations between 20,000 and 50,000 grew by 7.6%.
- The general population of these counties grew by around 4.2%.
- As a result, attorney density in these counties increased by 3.2%, from 2.58 to 2.66 attorneys per 1,000 people.

## **Metropolitan counties**

- Between 2016 and 2024, the attorney population of California's 37 metropolitan counties grew by 9.2%.
- The general population of these counties grew by around 2.4%.
- As a result, attorney density in California's metropolitan counties increased by 6.7%, from 5.16 to 5.51 attorneys per 1,000 people.

## **Newly-admitted lawyers and the location of California law schools**

Using data on the bar admission dates of each California attorney in 2024, the Deason Center was able to identify which counties had the largest number of newly-admitted attorneys. The Center defined a newly-admitted attorney as a person who had passed the bar between 2019 and 2024.

Newly-admitted attorneys are critical to the future sustainability of the legal profession. Attracting them to rural areas is particularly important in light of research suggesting that early choices about location have lasting impacts on where lawyers remain throughout their careers.<sup>18</sup>

The Deason Center's analysis showed that newly-admitted lawyers overwhelming start their careers in metropolitan counties. In fact, of the more than 30,000 newly-admitted California lawyers, fewer than 150 (0.45%) started their careers in non-metropolitan counties. Analyzing the number of newly-admitted lawyers as percentage of total lawyers in the county also showed that urban counties with large lawyer populations generally had a higher percentage of newly-admitted lawyers than rural counties with small lawyer populations.



## Lawyers admitted 2019 – 2024 by Rural-Urban Continuum Codes (RUCC)



### Metropolitan counties

In California's 18 counties with a RUCC designation 1, 14.5% of the lawyers were admitted within the last five years, according to the Center's 2024 data. That number fell to 9.4% on average for all other metropolitan counties – those in RUCC categories 2 and 3.

### Non-metropolitan counties

Not a single RUCC-defined group of non-metropolitan counties had a proportion of newly-admitted attorneys as high as the metropolitan counties. For RUCC groups 4-9, the percentage of newly-admitted lawyers ranged from 8.8% to 3.9%.

### Urban-adjacency

Among non-metropolitan counties, newly-admitted lawyers were marginally more common as a percentage of the attorney population in non-urban-adjacent counties, where they made up 7.7% of all lawyers. In urban-adjacent counties, the figure was 6.2%

## Lawyers admitted 2019 – 2024, by category of RUCC

Category	RUCC	Total lawyers 2024	Lawyers admitted 2019 – 2024	Percent admitted 2019 – 2024
Non-adjacent rural	5, 7, 9	633	49	7.7%
Urban-adjacent rural	4, 6, 8	1,428	88	6.2%
Metro	1, 2, 3	213,263	30,005	14.1%
Statewide	ALL	215,324	30,142	14.0%

### Urban population

Newly-admitted lawyers made up 6.7% of all attorneys in counties with urban populations between 20,000 and 50,000. Counties where the urban population was between 5,000 and 20,000 had a similar proportion of newly-admitted lawyers – 6.8%.

However, in counties with urban populations under 5,000, the proportion of lawyers who were newly-admitted was particularly low, at 5.6%

## Lawyers admitted 2019 – 2024, by category of RUCC

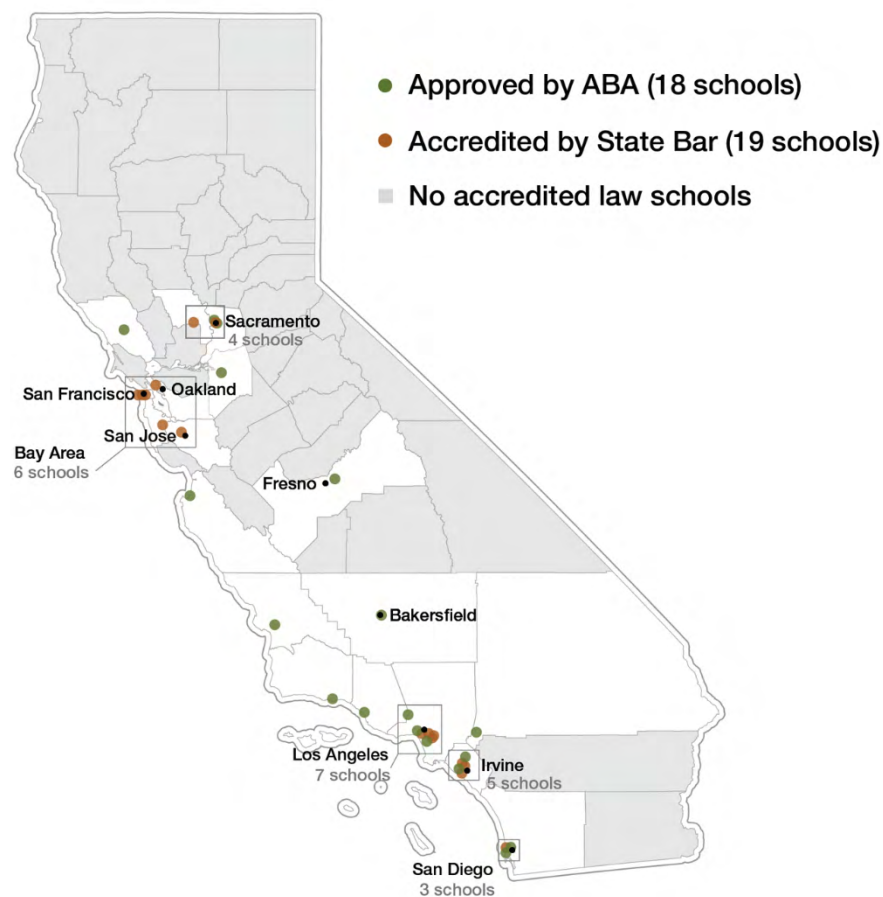
Category	Total lawyers 2024	Lawyers admitted 2019 – 2024	Percent admitted 2019 – 2024
RUCC 8 and 9 (fewer than 5,000 in urban areas)	125	7	5.6%
RUCC 6 and 7 (5,000 to 20,000 in urban areas)	542	37	6.8%
RUCC 4 and 5 (20,000 to 50,000 in urban areas)	1,394	93	6.7%
RUCC 1, 2, 3 (Metro)	213,263	30,005	14.1%
Statewide	215,324	30,142	14.0%

California has a total of 37 law schools, combining those accredited by the American Bar Association and those accredited by the State Bar of California.<sup>19</sup> These law schools are overwhelmingly located in the state's urban areas.

Twenty-five schools are divided between just five major urban areas:

- Sacramento – four law schools
- Bay Area – six law schools
- Los Angeles – seven law schools
- Irvine – five law schools
- San Diego – three law schools

### California Law Schools



The above map shows the location of California's 37 accredited law schools. The grey counties have no law schools. During law school, students often cultivate strong professional networks. Through local professional opportunities, such as internships and clinics, they may make local connections and identify post-graduation positions. As a result, the location of law schools in urban areas tends to result in newly-admitted lawyers working in urban areas.

## ENDNOTES – APPENDIX F

<sup>1</sup> California Commission on Access to Justice, *California's Attorney Deserts: Access to Justice Implications of the Rural Lawyer Shortage* (July 2019).

<sup>2</sup> These might include retired lawyers, lawyers whose position does not require legal practice, or lawyers whose practice is exclusively outside of California.

<sup>3</sup> United States Census Bureau, *Understanding and Using American Community Survey Data: What All Data Users Need to Know* (Sept 2020).

<sup>4</sup> Alpine County is one of California's least populous counties. ACS data suggested Alpine's population increased 43% from 1,184 in 2016 to 1,695 by 2023. PEP data, by contrast, estimated an increase of 7%, from 1,053 to 1,126. The total number of lawyers in Alpine County fell from 8 in 2016 to 6 in 2024. Using either data set, the conclusion is still that county population has increased while attorney numbers have fallen.

<sup>5</sup> American Bar Association, *Profile of the Legal Profession 2020* (2020).

<sup>6</sup> *Id.*

<sup>7</sup> Lawyer density in 2024 was computed similarly to the 2016 density, except that 2024 population estimates were not available from the United States Census Bureau at the time of the Center's analysis. To estimate 2024 county populations, the Center took 2016 and 2022 population estimates from the American Community Survey and extrapolated estimates of 2024 populations.

<sup>8</sup> *Rural-Urban Continuum Codes - Documentation*, Economic Research Service, last visited April 1, 2025.

<sup>9</sup> *Id.*

<sup>10</sup> Office of Management and Budget, *2020 Standards for Delineating Core Based Statistical Areas*, Federal Register 86, no. 134 (July 16, 2021): 37770–78. Technically, all 2020 population figures are 'point estimates' with margins of error. This means that a place with an estimated 50,000 population might actually have had slightly fewer or slightly more. However, the OMB and RUCC do not incorporate any consideration of these margins of error into their classifications, effectively treating the estimated populations as 'true' population figures. The Deason Center follows this convention in this narrative.

<sup>11</sup> US Census Bureau, *Urban Area Criteria for the 2020 Census—Final Criteria*, Federal Register 87, no. 57 (March 24, 2022): 16706–15.

<sup>12</sup> Office of Management and Budget, *2020 Standards for Delineating Core Based Statistical Areas*.

<sup>13</sup> The same is true of El Dorado and Placer Counties.

<sup>14</sup> Each of these counties also had populations within that range.

<sup>15</sup> Each of these counties also had populations within that range.

<sup>16</sup> The State Bar of California, *2024 California Justice Gap Study*, at Chapter 11 (2024).

<sup>17</sup> The State Bar association's methodology was similar to the methodology of the Deason Center. However, the State Bar focused on 'active' attorneys, in contrast to the Deason Center's analysis which includes both active and inactive attorneys. As a result, the statistical analysis (such as which counties have fewer than one active attorney per 1,000 residents) differs between the two analyses. The State Bar's results are more alarming, showing a starker deficit of lawyers in rural areas than the Deason Center analysis.

<sup>18</sup> M. Dawe and R. L. Nelson, *The Geography of Opportunity: Mapping Lawyer Careers* Center on the Legal Profession, Harvard Law School (2025).

<sup>19</sup> Data from State Bar of California Website.