Research Report

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# Evaluation of the California Public Defense Pilot Program

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# About This Report

This report presents findings from a statewide evaluation of the Public Defense Pilot Program, a grant program that made funding available to all counties in California to support local public defense offices (entities that provide attorneys to represent those accused of criminal offenses) in the performance of postconviction work related to several specific sections of the California Penal Code. This report details how these offices were using grant funds, how many clients were being served, and whether grantees were making progress toward the goals they established when they applied for funds. We also explore the broader lessons learned about this grant program, including challenges to using the funds, facilitators to using the funds, and how offices are planning for postconviction services after the end of the grant program. This research was sponsored by the California Board of State and Community Corrections. This report will interest California officials, county public defense providers, and other stakeholders involved in applying postconviction relief statutes in California.

## Justice Policy Program

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# Summary

## The Public Defense Pilot Program

In 2021, California established the Public Defense Pilot Program (PDPP) via the Budget Act of 2021. The PDPP was envisioned as a three-year program, with funds appropriated each year through subsequent state budget acts. It was designed specifically to support

> indigent defense providers, including public defenders, alternate defenders, and other qualifying entities that provide indigent defense in criminal matters for the purposes of workload associated with the provisions in paragraph (1) of subdivision (d) of Section 1170 of, and Sections 1170.95, 1473.7, and 3051 of, the Penal Code.[1]

These sections of the penal code allow people who have certain convictions on their records to seek various forms of postconviction relief (PCR) that could, for example, result in a new trial, revision of the original sentence, or inclusion of new information to be considered at a future parole hearing. Table S.1 provides brief descriptions of the PCR statutes relevant to the PDPP, using the numbering in the California Penal Code (P.C.) that was in effect during the most-recent years of the program. Funds were allocated for every county in the state, with available funding levels determined by the size of each county's population.

The Budget Act of 2021 also required that the California Board of State and Community Corrections contract with a research institution to independently evaluate the grant program. This evaluation would focus on understanding how these resources affected the outcomes of relevant cases. The board funded RAND to conduct this statewide evaluation.

**TABLE S.1**
**Penal Code Sections Covered by the Public Defense Pilot Program**

| Penal Code Section | Focus of PCR |
|---|---|
| 1172.1 (formerly 1170.03 and 1170[d][1]) | Recall and resentencing of a felony conviction, whether initiated by the court or recommended by the California Department of Corrections and Rehabilitation, the Board of Parole Hearings, a county sheriff, a county district attorney, or the state attorney general |
| 1172.6 (formerly 1170.95) | Recall and resentencing of a prior felony murder, felony attempted murder, or felony manslaughter conviction |
| 1473.7(a)(1) | Vacating a conviction or sentence because of a failure to explain immigration consequences |
| 1473.7(a)(2) | Vacating a conviction or sentence because of new exculpatory evidence |
| 1473.7(a)(3) | Vacating a conviction or sentence because of a California Racial Justice Act of 2020 violation |
| 3051 | Providing for a "youthful offender parole hearing" for someone who was convicted under the age of 25 and is eligible for parole or who was convicted under the age of 18 and was sentenced to life without the possibility of parole |

SOURCES: Features information from California Penal Code, Part 2 of Criminal Procedure; Title 7 of Proceedings After the Commencement of the Trial and Before Judgment; Chapter 4.5, Trial Court Sentencing; Article 1.5; Recall and Resentencing; §§ 1172.1 and 1172.6; California Penal Code, Part 2 of Criminal Procedure; Title 12 of Special Proceedings of a Criminal Nature; Chapter 1 of the Writ of Habeas Corpus; § 1473.7; and California Penal Code, Part 3 of Imprisonment and the Death Penalty; Title 1, Imprisonment of Male Prisoners in State Prisons; Chapter 8, Length of Term of Imprisonment and Paroles; Article 3, Paroles; § 3051.

[1] California Senate, Budget Act of 2021, Senate Bill 129, July 12, 2021a, § 189.

## Approach

We developed a mixed-method approach to evaluate the PDPP. Our goal was to understand how offices were using grant funds, how many clients were being served, and whether grantees were making progress toward the goals they established when they applied for funds. We were also interested in understanding broader lessons learned about this grant program, including challenges in using the funds, facilitators that made it possible to employ the funds as intended, and how offices were planning for postconviction services after the end of the grant program.

We designed semiannual progress reports to collect data from grantees on the activities being funded through the PDPP, with a focus on four categories:

- supporting personnel costs (e.g., hiring new personnel, using grant funds to cover the time of existing employees)
- training for attorneys and other provider staff on the penal code sections covered by the grant program
- investments in office supplies, the physical office space or environment, or office infrastructure to support work related to the relevant penal code sections
- providing client-focused or case-support services, such as obtaining or retaining expert witnesses, obtaining interpreter services, or providing transportation for clients.

We also collected data on the number of clients screened and represented under each penal code section covered by the grant program and on the outcomes of those cases. The reports also allowed grantees to provide details about their progress toward the goals they established in their funding applications.

To supplement the progress report data, we conducted qualitative interviews with representatives from counties that decided not to apply for grant funds at the beginning of the PDPP and with grantees at two points during the evaluation period. We also conducted a survey of grantees at the end of the evaluation period, in which we asked offices to reflect on sources of funds used to support their postconviction work, barriers and facilitators to using the grant funds, and plans for future postconviction work after the grant program concludes.

## Key Findings

- The grant program clearly enhanced county-based public defense systems' ability to provide legal counsel to people who might be eligible for the legislatively created PCR processes highlighted in the program's enabling legislation. This outcome appears to have been the legislature's primary purpose in creating the PDPP; by that measure, the program was successful. Our focus was on the PDPP's impact on connecting convicted people with public defense counsel, and our evaluation suggests that, without these grant funds, the volume of clients screened for potential services, the volume actually provided counsel, and the volume that had PCR proceedings initiated on a client's behalf would all be much lower. Moreover, there appears to be an increase in public defense offices' capacity to take on similar cases in the future as a result of training and infrastructure improvements.
- Applications for PDPP grant funds were submitted by 42 of the 58 counties in California. All applications were approved, but six of those counties did not spend any program funds during our evaluation, which ended on December 31, 2024.
- Within a given county, multiple offices might receive grant funding. For example, some counties allocated funds to both a primary public defender's office and a secondary conflict-counsel office (the latter is a law firm that represents only those clients whom the primary provider is ethically barred from rep-

resenting). In addition, counties varied in how they organized public defense: One county might have a public defender's office and a conflict-counsel office that were county departments. Another county might have a single private law firm contracted as the county's primary public defense provider, and another might use a contract panel or consortium, in which private attorneys from multiple firms could be contracted to provide public defense services on a case-by-case basis. Some counties opted not to apply, sometimes indicating that they opted out because of limited funding or capacity.

- Many offices used the funds to hire personnel or reassign personnel within their offices, especially attorneys, paralegals, legal assistants, law clerks or legal interns, and social workers or clinicians, to focus on PCR related to the PDPP.
- Funding was also frequently used for client-focused and case-support services, including case management, mitigation or sentencing support, and investigation assistance. Many grant-funded staff were also able to receive training to increase their skills related to the relevant penal code sections.
- A substantial number of clients were served in some way through the grant program. Tens of thousands of people came to the offices' attention (1) by reaching out for assistance, (2) as the result of being independently screened for potential eligibility, or (3) through identification by external entities, particularly under P.C. §§ 1172.1 and 1172.6. Thousands of clients were granted relief during the evaluation period—most commonly under P.C. § 1172.1, followed by P.C. § 1172.6, P.C. § 1473.7(a)(1), and certain P.C. § 3051 proceedings related to *People v. Franklin*.[2]
- Offices indicated that it took considerable time to develop the requisite expertise and processes to handle these postconviction cases, given the legal complexity of the issues and procedures and the need to obtain records. Because funding was allocated annually, there was some uncertainty about the ongoing availability of state financial support, and that uncertainty was a challenge. However, by and large, offices reported having made substantial progress toward their goals. These included goals related to screening and representing clients, building office capacity for this type of work, and providing reentry support to clients. The Office of the State Public Defender (OSPD) was said to be an important source of support and training throughout the grant program.
- Before the grant program, many offices were engaged to varying degrees in postconviction work related to the statutes that were explicitly named in the PDPP legislation. However, grant funds enabled them to provide such representation more systematically, they said, and with a more highly skilled workforce. Some offices received a relatively modest allocation of potential funding, given their small county populations, and some of these offices decided not to apply for funds. Other offices expressed a desire for the grant program to cover more types of postconviction remedies, enabling them to serve more clients or provide more–frequently needed or more-pressing postsentencing services. Offices also expressed uncertainty about how they would continue to engage in postconviction work under the PDPP-relevant statutes after the grant program ends.

## Recommendations

Informed by our findings, we made the following recommendations:

- **Establish a minimum grant level across all offices.** Because county funding allocations were based on county populations, there was a very wide range of grant sizes across counties, from approximately $1,500 to $12 million per year. Although it makes sense for the size of funding allocations to have some

[2] *People v. Franklin*, 370 P.3d 1053 (Cal. 2016).

relationship to a county's population, it is challenging for a small- or medium-population county to develop a meaningful work plan with a small amount of funding, particularly when the county's allocation is not sufficient to bring in additional personnel to assist with these cases.

- **Provide guidance to counties with contracted defenders' offices or consortium models.** Counties that had contracted defenders' offices or consortium models might not have always understood that they were also eligible to apply for PDPP funds. In addition, these counties might have had additional steps required before funds could be used, such as needing to establish contracts with public defense providers. It would be worthwhile to provide additional administrative and managerial support for these counties in developing grant-related agreements with their contracted attorneys or firms and setting clear expectations with those attorneys for submitting data related to PDPP funds.
- **Provide more flexibility in the type of PCR that is covered.** Offices expressed appreciation for the opportunity to provide postconviction services under the penal code sections covered by the PDPP. However, they reported that the narrow focus of the grant program could be a barrier to serving potential clients in their counties who might be eligible for more-relevant forms of legislatively created PCR. Fewer cases were represented under some penal code sections than under others (and even generally popular PDPP-relevant relief might have reduced demand in some counties because of differences in clients and their justice-system experiences), and offices expressed a desire to broaden their focus to additional types of relief that might enable them to serve more clients.
- **Allocate grant funds in full at the beginning of the grant program, or provide more guidance to grantees on budgeting in an uncertain funding climate.** The application materials for this grant program clearly indicated that funding allocations after the first year of the grant program were not guaranteed. Still, many offices likely developed their plans under the assumption that subsequent years of funding would be available (even a temporary hire for professional services is difficult to accomplish within a single year). If possible, it would be beneficial for the full multiyear appropriation to be made at the beginning of the grant program to ensure funding stability. However, if this is not feasible, another option would be for an entity—perhaps OSPD—to provide additional guidance to grantees on budgeting or establishing a scope of work in the context of funding uncertainty.
- **Continue to draw on OSPD's expertise for implementation.** Grantees noted how valuable it was to have consultation and input from OSPD as they developed their grant applications, including assistance in identifying eligible work and scoping their work plans. OSPD also developed a series of training courses focused specifically on PCR under the penal code sections covered by the PDPP, and these were among the most-common training types attended by grantees.
- **Create a forum for information-sharing across offices.** Some grantees described the value of connecting with other counties and offices that were receiving grant funds and sharing lessons learned. Although some offices seem to have found ways to connect informally, it would be worthwhile to consider developing a formal community of practice across offices, which would serve as a venue in which grantees could share strategies and other lessons learned with one another. This ultimately could help counties, especially those with limited experience in public defense grant funding, save time and resources.

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CHAPTER 1

# Introduction to the Public Defense Pilot Program and Evaluation

California is one of the few states in the United States where providing counsel at public expense for those who find themselves enmeshed in the criminal justice system is almost exclusively the responsibility of county governments. In 2021, the State of California established a novel program, the Public Defense Pilot Program (PDPP), to provide some financial support in the form of grants to counties with the intent of encouraging the provision of legal counsel to people who seek to address various consequences of a prior criminal conviction. To better understand whether such an effort has successfully met the expectations of the California legislature when it authorized the program, the California Board of State and Community Corrections (BSCC) contracted with RAND to evaluate the grants' impact on public defense in the counties receiving these funds. This report describes the results of that evaluation.

## Background

*Postconviction relief* (PCR), also referred to as *postconviction remedies*, is a loosely defined term referring to various types of legal processes that seek to address the consequences of a prior criminal conviction. When successful, efforts to obtain PCR, depending on the relief sought, can result in, for example, a reduction in the sentence for or outright release of someone who is currently incarcerated, the restoration of certain rights for those who have completed their sentences as required, the removal of an arrest and subsequent conviction from someone's official criminal history, or the holding of a new trial. Although the traditional process of seeking to overturn a conviction through the appellate courts can result in some outcomes similar to those possible through PCR, appeals generally focus on the decisions and actions of the trial court judge overseeing the original prosecution and require the defendant to have objected in a timely manner to what the trial court did or did not do. In contrast, PCR is unlikely to require that the trial court judge made mistakes in ruling on questions of law, facts, or procedure and can address issues that were never part of the trial court proceedings.

PCR is by no means a new addition to modern-day criminal procedure. Pardons and other acts of executive clemency can be thought of as forms of PCR and have been granted for thousands of years by monarchs and others with the power of the state to intervene in the criminal justice system (in the United States, such powers are in the hands of state governors and the President).[1] Other methods of seeking PCR that have evolved in Anglo-American jurisprudence include the seeking of a writ of error coram nobis to challenge the legality of a conviction on various grounds (such as a claim that the defendant received ineffective or incompetent legal representation), filing a motion for a new trial on the basis of newly discovered evidence, and the

[1] Evidence exists of pardons being granted as far back as Babylonian times, but, according to one source, acts of clemency by rulers have "likely existed for as long as there have been political units (or families)" (Paul J. Larkin, Jr., "Guiding Presidential Clemency Decision Making," *Georgetown Journal of Law and Public Policy*, Vol. 18, No. 2, 2020, p. 454). See also James P. Goodrich, "Use and Abuse of the Power to Pardon," *Journal of Criminal Law and Criminology*, Vol. 11, No. 3, 1921, p. 335.

use of the writ of habeas corpus to challenge the legality of a prisoner's conviction or the conditions of their incarceration. However, such remedies were often the product of historical judicial practices or the development of common law by appellate courts. The required bases for granting such PCR were sometimes only vaguely defined, the judges considering the requests had broad discretion when making their rulings (potentially leading to inconsistent decisionmaking), and the available remedies were not always ones that reflected current needs in the criminal justice system and the wider society. As a result, state and federal legislative branches increasingly sought to shape the nature and availability of PCR through the statutory process. In the past century, various legislatures in the United States have eliminated some types of PCR, codified the rules for seeking other forms and the standards for determining when relief is justified, and often created new ones. California is an example of a state whose legislature has repeatedly expanded the scope and variety of PCR opportunities available to people who have been convicted.

The underlying purposes behind these legislative actions have varied. For example, some modifications to the PCR landscape were intended to address inequities that had developed through evolution in the controlling law. An appellate court ruling that significantly narrowed the basis for conviction for a specific type of offense would obviously affect all future prosecutions but would have little impact on people who were already serving lengthy sentences for that same offense. Legislatively enacted PCR could allow incarcerated people to request that their sentences be revised in light of the new interpretation of the law. Other PCR changes might be intended to promote the reintegration into society of those released from incarceration. A new legislatively created pathway for having a conviction removed from someone's criminal record would enhance the ability of a recently released person to find gainful employment or return to school and, ideally, reduce the likelihood of recidivism. And still other changes might be targeted at reducing the population in overcrowded state prisons by permitting a convicted person to seek reclassification of certain offenses from felonies to misdemeanors, which could result in immediate release or at least a transfer to a county jail for the remainder of their sentence.

Regardless of the goals being sought, statutory PCR is a reflection of the will of the legislature and carries with it an expectation that the newly created avenues for relief will be used to the maximum degree possible. However, actually obtaining the benefits that the legislature is offering to those with prior convictions typically involves navigating judicial procedures that are likely to be unfamiliar to anyone without significant legal training. Although some forms of PCR make it possible to initiate the process with a relatively simple request made by the convicted person, from that point forward, complex questions of law and fact come into play, which could require repeated motion filings, hearings, consultations with experts, investigations, and evidentiary submissions. In addition, success in seeking PCR requires that the arguments made for the relief be tailored to fully address the statute's requirements and be particularly persuasive to the judge hearing the claim. Given these challenges, it is clear that, to maximize the potential success of a claim for PCR, the assistance of legal counsel will be needed.

Such assistance is readily available to those with the means to hire an attorney for the purpose of obtaining PCR. Law firms routinely advertise that they operate within this practice area and have the requisite experience and skills to both identify the most-appropriate forms of PCR for their clients and aggressively pursue such remedies.[2] But the vast majority of those charged with serious offenses in this country lack the financial resources to hire counsel for their defense,[3] and given that many who seek PCR are either incarcer-

[2] See, e.g., E. Michael Lindscheid, "Post-Conviction Relief in California: How Does It Work?" webpage, undated.

[3] See, e.g., Caroline Wolf Harlow, *Defense Counsel in Criminal Cases*, special report, Office of Justice Programs, U.S. Bureau of Justice Statistics, U.S. Department of Justice, November 2000, in which the author estimated that 82 percent of felony defendants in state court proceedings in larger counties have appointed counsel.

ated or might have only recently been released from prison or jail, their ability to pay for private representation is likely to be even more restricted.

The problem is that, unlike in the defense of a prosecution in a trial court or the first appeal from a conviction in such a prosecution, someone seeking PCR who cannot afford to hire an attorney has no absolute constitutional right to have counsel provided at public expense.[4] Some types of statutory PCR do contemplate appointment of counsel under certain conditions,[5] but others are generally silent on the question.

The situation in California reflects this ambiguity. *Public defense providers* (government agencies and private law firms whose attorneys accept court appointments to represent those facing trial or who are involved in certain types of judicial or administrative proceedings), sometimes referred to as *indigent-defense providers*, will certainly provide legal representation that is within their remit at the order of a court regardless of whether there are constitutional or statutory requirements to do so. But when there is no clear right to appointed counsel for specific categories of PCR, judges may decide not to appoint counsel, and, in such instances, providers have some discretion when considering whether to voluntarily take on new cases of those types. Although it is reasonable to assume that public defense providers would generally welcome any chance to assist those who are eligible for sentence reductions, expungement of criminal histories, a new trial, or other forms of legislatively created relief, the reality is that such providers commonly experience significant and well-documented constraints in terms of funding and available resources for mandatory appointments for people facing misdemeanor and felony prosecutions in the state's trial courts.[6] Under such conditions, California public defense providers might place a relative low priority on the acceptance of nonmandatory PCR representations, perhaps by focusing their resources only on claims believed to have the strongest chance of success, operating in a reactive mode and considering possible representations only when the potential client has contacted them (as opposed to the provider actively reaching out to convicted people who might be unaware that opportunities for relief exist), or essentially forgoing the practice altogether.

These funding constraints can be exacerbated by the historical practice in California of placing responsibility for funding public defense on local county governments. Public defense providers must seek funding from the 58 counties in the state, whether in the form of budget allocations if the provider is a government agency, contracts if the provider is a private firm or solo practitioner, or invoices for services rendered that generally adhere to prearranged caps on hourly fees, the number of billable hours, or both. With competing demands on county funding from schools, hospitals, law enforcement, firefighting, road construction and repair, and other vital services, public defense providers face significant challenges when seeking additional financial resources for the representation of convicted people who might qualify for sentence reduction or other form of relief.

Perhaps making the situation worse is the fact that the additional responsibilities that public defense providers would take on when representing new PCR clients are essentially the result of legislative enactments in the state capital that typically lack any provision to cover the additional costs of assistance of counsel at the local level. A recent change to the PCR landscape in California illustrates why there might be county-level resentment of new public defense mandates. Assembly Bill (AB) 2483 became effective on January 1, 2025, and the bill's stated purpose was to create uniform statewide standards for certain postconviction proceedings.[7] Among other features, the statute requires the judge in such proceedings to consider appointing

[4] *People v. Lewis*, 491 P.3d 309 (Cal. 2021).

[5] See, e.g., California Penal Code (P.C.), Part 2 of Criminal Procedure; Title 7 of Proceedings After the Commencement of the Trial and Before Judgment; Chapter 4.5, Trial Court Sentencing; Article 1, Initial Sentencing; § 1170.95(c).

[6] See, e.g., David Carroll, "Why the State of California Is Responsible for the Public Defense Crisis in Fresno County," Sixth Amendment Center, September 19, 2013.

[7] California Assembly, Postconviction Proceedings, AB 2483, September 29, 2024.

counsel for the person seeking the relief.[8] In an assembly floor analysis of the bill from August 2024, it was reported that the California Senate Appropriations Committee noted that there would likely be

> nonreimbursable costs to county public defender offices. By requiring a court to consider appointing counsel for each postconviction petition, this bill will likely significantly increase the number of public defenders or other indigent counsel appointed to represent postconviction petitioners. However, the Commission on State Mandates has previously determined that county public defender costs incurred for resentencing proceedings are not reimbursable by the state because the proceedings pertain to the change of a penalty for a crime.[9]

Starting in 2020, some advocates began to consider alternatives to the funding status quo for two reasons: this lack of state financial support for county-funded public defense providers when seeking legislatively enacted PCR on behalf of their clients and the relatively low priority given to nonmandatory forms of PCR as a result of resource restrictions. To encourage a more robust use of PCR, an informal collaboration between the Immigrant Legal Resource Center, the American Civil Liberties Union of California's Center for Advocacy and Policy, the California Public Defenders Association, and the San Francisco Public Defender's Office advanced the idea of creating a special grant program financed from the state's General Fund.[10] The grants would be distributed to county-level providers to support work on a narrow set of PCR types that some in the public defense community believed to be underused and in need of additional provider attention, were trending sharply upward in terms of use and resource consumption, or had just been made available through new laws and could see increased activity. The idea of PCR-related grants was shared with a member of the state assembly (who had been a public defender before being elected to office), and that member advocated for the program to be included in the state's annual budget deliberations.

The proposed program was envisioned as just the beginning of targeted state funding to counties for specific public defense purposes, money that would supplement, but not supplant, local governments' traditional financial responsibilities. This characterization as a first step to address what were regarded as unfunded legislative mandates found its way into the language used in Section 189 of the Budget Act of 2021 (Senate Bill [SB] 129), which, in July 2021, established the PDPP. Nearly $50 million in grants would be made available to qualifying public defense providers during the initial budget year, and there was an expectation (or at least a hope) that similarly sized allocations would be available during each of the next two years of the program. The PCR types of interest were identified in the budget act's language by referencing six specific sections of the California Penal Code.[11]

In actuality, the PDPP was not the first distribution of state funds to county-based public defense providers practicing in California's trial courts. The year before the PDPP was established, the state created the Indigent Defense Grant Program (IDGP), a somewhat similar General Fund–sourced grant program that offered about $10 million in grants to support the public defense systems of small to medium-sized counties. That effort also was intended to supplement local funding, but such financial support would be offered only to *public defender offices*, which are government agencies that effectively function as independent law firms, albeit with attorneys who are county employees. But not every California county uses public defender offices

[8] California Assembly, Postconviction Proceedings, Assembly Bill 2483, September 29, 2024.

[9] AB 2483, 2024, p. 4.

[10] Some of this discussion is drawn from conversations in December 2024 with Rose Cahn and Danica Rodarmel, two justice policy advocates who were closely involved in the original effort to create the grant program. Any errors in interpretation of their input are solely our responsibility.

[11] California Senate, Budget Act of 2021, SB 129, July 12, 2021a, § 189.

as its primary source of publicly funded counsel. Some counties make most of their appointments by choosing from a *panel* of individual attorneys who have agreed to represent clients at predetermined rates (typically, a panel is administered by a private or public entity that manages payments to the independent private attorneys on behalf of the county and sets the standards for panel membership). Other counties rely primarily on contracts with one or more private law firms for this purpose (we refer to such providers as *contracted defenders*). And in some instances, a county may have a contract with a *consortium* of law firms that collaborate to provide counsel as needed, with the consortium deciding which firm and which attorney in that firm would accept each new appointment. Even a county with a public defender's office may also have contractual, panel, or consortium arrangements in place to handle instances in which the primary public defender's office cannot, for ethical reasons, represent someone needing publicly funded counsel. Such backstops are often referred to as *conflict-counsel providers.* Secondary public defenders' offices that are independent of the primary public defender's office but are similarly embedded in county governments, often referred to as the *alternate defender's office*, can also serve as conflict-counsel providers.

In contrast to IDGP funds, PDPP grants would be available to *any* provider, including contracted defenders, panels, and consortia. The IDGP was also limited to counties with no more than 600,000 residents, but the PDPP had no such restrictions. And the total size of PDPP grants expected to be made available throughout its intended three program years would be about 15 times that of the IDGP, even though the activities being funded by the PDPP were far narrower in scope.[12] Although the PDPP might not be the first state-to-county public defense grant program in California, it is certainly the largest so far and the only one to make funding available to essentially every type of public defense provider in the state.[13]

## Features of the Public Defense Pilot Program

As indicated previously, the PDPP was envisioned as a three-year program, with funds appropriated each year through subsequent state budget acts. The language establishing the scope of the program in its first year was relatively brief:

> Of the amount appropriated in Schedule (1), *$49,500,000 shall be provided for the Public Defense Pilot to each county based on the county's share of the total adult population in the state* for indigent defense providers, including public defenders, alternate defenders, and other qualifying entities that provide indigent defense in criminal matters for the purposes of workload associated *with the provisions in paragraph (1) of subdivision (d) of Section 1170 of, and Sections 1170.95, 1473.7, and 3051 of, the Penal Code*.[14]

[12] IDGP funding could be used for just about any public defense–related purpose, but the PDPP was intended to supplement expenditures only for the targeted PCR categories. For a more complete description of the IDGP, see Stephanie Brooks Holliday, Nicholas M. Pace, Nastassia Reed, and Rosemary Li, *An Evaluation of California's Indigent Defense Grant Program*, RAND Corporation, RR-A3111-1, 2024.

[13] The Budget Act of 2021 also established the California County Resentencing Pilot Program, which provided funding to nine counties specifically to support prosecutor-initiated resentencing under P.C. § 1172. Some counties received grant funding from both the California County Resentencing Pilot Program and the PDPP. For more detail about this pilot, see Lois M. Davis, Louis T. Mariano, Melissa M. Labriola, Susan Turner, Andy Bogart, Matt Strawn, and Lynn A. Karoly, *Evaluation of the California County Resentencing Pilot Program: Year 3 Findings*, RAND Corporation, RR-A2116-3, 2025.

[14] Budget Act of 2021, § 189. Emphasis is ours.

Other aspects of the legislation addressed PDPP administration, the program's time span, and a requirement for an independent evaluation:

> This pilot shall end January 1, 2025. Prior to distribution of these resources for each county, the Board of State and Community Corrections shall work in consultation with the Office of the State Public Defender to identify those entities who provide public defender services on behalf of each county. No later than March 1, 2025, each of those entities who provide public defender services on behalf of a county and receive these resources shall report to the Board of State and Community Corrections on how much funding was received and how the funding was used to address the workload pursuant to this provision. The Board of State and Community Corrections shall contract with a university or research institution to complete an independent evaluation to assess how these resources provided to public defender service providers impact outcomes for the workload associated with the provisions in paragraph (1) of subdivision (d) of Section 1170 of, and Sections 1170.95, 1473.7, and 3051 of, the Penal Code. The Board of State and Community Corrections will submit this evaluation to the Joint Legislative Budget Committee by August 1, 2025. This funding is intended to supplement, and not supplant, existing funding levels for public defender offices.
>
> Of the amount appropriated in Schedule (1), $500,000 shall be available for the Board of State and Community Corrections for administrative costs and to contract with a university or research institution to complete the independent evaluation. These funds shall be available for encumbrance or expenditure until June 30, 2026.[15]

In the rest of this section, we discuss the types of PCR that are eligible for the grant program support, the available funding, and the actual take-up rate by the individual counties. It should be noted that, since the Budget Act of 2021 was passed, the legislature has renumbered some of the statutory citations in the original text; in this report, we use primarily the citations that were in use in early 2025.

## Penal Code Sections Covered by the Public Defense Pilot Program

Interestingly, the Budget Act of 2021 does not mention *postconviction relief* or *postconviction remedies*, but the statutes cited in the legislation (see Table 1.1) describe procedures that would be initiated only after a defendant has been found guilty by a trial verdict or has entered a guilty plea. The table provides an overview of the key aspects of each statute that are relevant to PCR.

### P.C. § 1172.1: Recall and Resentencing Initiated by a Court, the California Department of Corrections and Rehabilitation, a Sheriff, or a Prosecutor

Amended in 2018 by AB 2942, this statute permits a judge, "in the interest of justice," to "recall" a defendant's prior sentence and then issue a new sentence as long as it is not severer than the old one.[16] Examples of instances in which a judge might do this include addressing postconviction changes in law that provide greater discretion to the court when considering certain enhancements or when an incarcerated person has demonstrated exemplary behavior for many years. The discretion afforded to judges to make such decisions is extremely broad, but there is a catch: Although the processes for obtaining most forms of PCR are initiated by either the person who was convicted or their lawyer, P.C. § 1172.1 is notable because the consideration of the recall can begin only with the judge independently concluding that a new sentence might be warranted

[15] Budget Act of 2021, § 189.

[16] California Assembly, Criminal Procedure: Recall of Sentencing, AB 2942, September 30, 2018b.

**TABLE 1.1**
**Penal Code Sections Covered by the Public Defense Pilot Program**

| Penal Code Section | Focus of PCR |
|---|---|
| 1172.1 (formerly 1170.03 and 1170[d][1]) | Recall and resentencing of a felony conviction, whether initiated by the court or recommended by CDCR, the BPH, a county sheriff, a county DA, or the state attorney general |
| 1172.6 (formerly 1170.95) | Recall and resentencing of a prior felony murder, felony attempted murder, or felony manslaughter conviction |
| 1473.7(a)(1) | Vacating a conviction or sentence because of a failure to explain immigration consequences |
| 1473.7(a)(2) | Vacating a conviction or sentence because of new exculpatory evidence |
| 1473.7(a)(3) | Vacating a conviction or sentence because of an RJA violation |
| 3051 | Providing for a "youthful offender parole hearing" for someone who was convicted under the age of 25 who is eligible for parole or who was convicted under the age of 18 who was sentenced to life without the possibility of parole |

SOURCES: Features information from California Penal Code, Part 2 of Criminal Procedure; Title 7 of Proceedings After the Commencement of the Trial and Before Judgment; Chapter 4.5, Trial Court Sentencing; Article 1.5; Recall and Resentencing; §§ 1172.1 and 1172.6; California Penal Code, Part 2 of Criminal Procedure; Title 12 of Special Proceedings of a Criminal Nature; Chapter 1 of the Writ of Habeas Corpus; § 1473.7; and California Penal Code, Part 3 of Imprisonment and the Death Penalty; Title 1, Imprisonment of Male Prisoners in State Prisons; Chapter 8, Length of Term of Imprisonment and Paroles; Article 3, Paroles; § 3051.

NOTE: BPH = Board of Parole Hearings; CDCR = California Department of Corrections and Rehabilitation; DA = district attorney; RJA = California Racial Justice Act of 2020 (California Assembly, AB 2542, September 30, 2020).

or after the judge has received a recall request from one of the parties, listed below, who are not generally thought of as advocates for the defendant:

- CDCR
- the BPH when the defendant is in state prison
- the county correctional administrator if the defendant is in county jail (the administrator is typically the county's sheriff)
- the DA where the defendant was originally sentenced
- the state attorney general if the California Department of Justice originally prosecuted the case.

The convicted person cannot formally petition the court to consider a sentence recall, which means that the only way to nudge the process along is to make a request of the DA, one of the other authorized criminal justice agencies, or a judge. If a judge decides to consider a recall, P.C. § 1172.1 requires appointment of counsel, but only if the decision to consider follows a request from one of the criminal justice agencies just listed.

### P.C. § 1172.6: Felony Murder, Felony Attempted Murder, or Felony Manslaughter Resentencing

Before 2019, prosecutors in California could argue that, if a life was taken while two or more defendants committed a certain type of felony (such as a carjacking), the death was a "natural and probable consequence" of that felony.[17] As a result, a participant could be charged with murder (or attempted murder or manslaughter, depending on the circumstances) even if that participant in the felony did not actually cause the death or even know that it occurred. The passages of SB 1437 in 2018 and SB 775 in 2021 changed the rules for felony murder, felony attempted murder, and felony manslaughter, limiting convictions under the doctrine to instances in which the participant in the felony actually killed the victim, helped commit the felony with the intent to kill, or was a major participant in the felony and acted with reckless indifference to human life. The

[17] See, e.g., *People v. Chiu*, 59 Cal. 4th 155, 158 (2014).

new law included a process (which was eventually codified as P.C. § 1172.6) by which those convicted under the prior rule could petition the court to have their convictions vacated and to be resentenced under the amended rules. Once a factually sufficient petition is received in which the petitioner requests the appointment of counsel, counsel is appointed. The process described in the statute is very formal, in some ways paralleling the adjudicatory process that led to the original conviction. The court receives briefings from the petitioner and the prosecution to determine whether the petitioner is entitled to a full evidentiary hearing. If so decided, there is a heavy emphasis at that hearing on the presentation of evidence (both from the original trial and from newly obtained information), and the prosecution has the burden of proof beyond a reasonable doubt to show that the petitioner is ineligible for resentencing.

### P.C. § 1473.7(a): Vacating a Conviction or Sentence

Initially enacted in 2017, P.C. § 1473.7(a) describes a process for someone who is no longer in custody (and is serving neither parole nor probation) to seek the vacation of a conviction or sentence under any one of three theories, which we describe in this section.

#### P.C. § 1473.7(a)(1): Failure to Explain Immigration Consequences

The first theory, and the likeliest basis to be used during the grant period, is codified at P.C. § 1473.7(a)(1) and involves both of these allegations:

- Some sort of prejudicial error damaged the person's ability to meaningfully understand or know the immigration consequences of their conviction or sentence.
- The error is "currently causing or has the potential to cause removal or the denial of an application for an immigration benefit, lawful status, or naturalization."[18]

Although presumptions in the statute permit a judge to rule in favor of an applicant, it is very possible that a full-blown adversarial hearing would be required to prove prejudicial error or ineffective assistance of counsel.

#### P.C. § 1473.7(a)(2): New Exculpatory Evidence

The second basis for a P.C. § 1473.7(a) vacation of a conviction or sentence involves someone who is no longer in custody presenting newly discovered evidence of actual innocence to a judge. The process is somewhat similar to that used for P.C. § 1473.7(a)(1). In practice, such claims are rarely made, at least successfully.

#### P.C. § 1473.7(a)(3): Racial Justice Act Violations

Violations of the RJA form the third basis for a P.C. § 1473.7(a) vacation of a conviction or sentence. RJA violations can involve conduct related to a defendant's race, ethnicity, or national origin. Such violations could include situations in which a judge, attorney, police officer, expert witness, or juror exhibited bias or animus toward the defendant or used racially discriminatory language during a legal proceeding. An RJA violation can also arise if evidence establishes that the prosecution more frequently sought or obtained convictions for more-serious offenses or that the court imposed longer or severer sentences on people sharing the defendant's race, ethnicity, or national origin. At the start of the PDPP, an RJA violation could be used as the basis for a motion to vacate an allegedly invalid conviction under P.C. § 1473.7(a)(3) only if the person had been sentenced on or after January 1, 2021. In subsequent years of the program, retroactive application of the RJA independently of when sentencing took place was rolled out for specific populations, such as people sentenced to death, those facing possible immigration consequences (such as deportation), or those committed

[18] P.C. 1473.7(e)(1). See also *Padilla v. Kentucky*, 559 U.S. 356 (2010).

to the Division of Juvenile Justice. By 2026, anyone with a felony conviction or who were a committed juvenile will be able to seek PCR under P.C. § 1473.7(a)(3) based on an RJA violation.

### P.C. § 3051: Activities Related to Youth Offender Parole Hearings

Hearings to determine suitability for parole in California are not traditionally matters in which county-funded public defense providers are involved. An incarcerated person has a right to have an attorney at public expense represent them at a hearing; accordingly, the BPH appoints counsel drawn from a special panel and pays for their services if the incarcerated person meets certain financial eligibility requirements.

This long-standing practice of state- rather than county-appointed representation for parole suitability seemed to be at odds with including P.C. § 3051 on the list of PCR statutes in the PDPP enabling legislation. P.C. § 3051 addresses issues related to youth offender parole hearings (YOPHs), a special type of parole suitability hearing that is available to incarcerated people who were under the age of 26 at the time of their "controlling" offense (i.e., the offense that had the greatest influence on the length of the sentence). The YOPH is a reflection of how society views juvenile crime in light of *Miller v. Alabama*, a 2012 U.S. Supreme Court opinion holding that the sentencing of juveniles should take into consideration the "hallmark features" of youth,[19] particularly "recklessness," "impulsivity,"[20] immaturity, family environment, age, potential for rehabilitation, and exposure to "negative influences and outside pressures."[21] A belief that a person's brain is fully mature only once they reach their twenties suggests that such "hallmark" considerations should also be of concern in the parole process. A YOPH considers these factors during the proceedings, drawing heavily from the record in the underlying conviction; under current law, even most juveniles who received life sentences without the possibility of parole would nevertheless be given a meaningful opportunity for release after serving 25 years.

A problem arose for people in California who were sentenced before the *Miller* decision but were still in prison after the U.S. Supreme Court ruling. The record in the sentencing court would not necessarily have included evidence related to the hallmark features at the heart of *Miller*. As a result, those making parole decisions at future hearings might be doing so without properly considering important information. In theory, the state-supplied counsel representing a client at a YOPH could conduct the type of investigation necessary to gather evidence about the client's life, family, schooling, health, and other aspects at the time of the offense, but the proceeding triggering the counsel's appointment might not take place until decades after the original conviction. Witnesses might disappear or die, records could vanish, and memories can fade after such a lengthy period. A 2016 California Supreme Court case (*People v. Franklin*) suggested an alternative approach.[22] Counsel for an incarcerated "youthful offender" who was sentenced pre-*Miller* could take immediate steps to enhance the existing trial record so that mitigating evidence would be available to the BPH at a future YOPH. This process, commonly referred to as a *Franklin hearing* but more accurately characterized as a *Franklin proceeding* (no hearing is conducted in the classic sense of the word), provides an opportunity to gather and submit evidence of youth-related factors to the sentencing court at the present time in anticipation of a suitability hearing that might be years away.

A *Franklin* hearing begins with a motion in the original trial court that asserts that the judge failed to consider youth-related mitigating evidence at the sentencing hearing. Counsel would be provided at public expense if not already obtained. Documentation collected might include such items as education and medi-

[19] *Miller v. Alabama*, 567 U.S. 460 at 477 (2012).

[20] *Miller*, 567 U.S. at 471, 472.

[21] *Miller*, 567 U.S. at 490.

[22] *People v. Franklin*, 370 P.3d 1053 (Cal. 2016).

cal records, the client's *C-file* (the commonly used shorthand for the central file obtained from CDCR, which provides a detailed road map of a person's experiences during incarceration), a comprehensive psychosocial life history, and a mitigation statement that discusses how the evidence addresses the factors discussed in *Miller*.

Discussions with knowledgeable practitioners at the outset of this evaluation indicated that the primary connection that county-based public defense providers would have with the YOPHs referred to in the PDPP enabling legislation would be as appointed counsel in such *Franklin* proceedings. Indeed, early reports from PDPP grantees indicated that, to the extent that these providers had anything to do with YOPHs at all, it was in the area of *Franklin* proceedings.

But as discussed later in this report, two trends have emerged since the start of the PDPP:

- One appeared to be a decreasing pool of youthful offenders who were sentenced pre-*Miller* and therefore were most in need of *Franklin* proceedings.
- The other was county-funded public defense providers becoming increasingly interested in taking a more proactive role in the core YOPH process. One avenue for doing so involved the creation of "*Franklin* packets" that would *not* be made a part of the underlying trial record as contemplated by a routine *Franklin* proceeding but instead would be submitted directly to the BPH just before an impending YOPH, even if the original sentencing was post-*Miller*. The public defense providers taking this approach argued that they knew their former clients better than a temporary state-appointed parole attorney could and that, because they would be submitted just before the hearing itself, the materials would be "on the top of the pile" when the board began its review of the record. Other providers indicated that speaking with these defendants and preparing them for what they might encounter at an impending YOPH was the best way they could contribute to the process. Another way we heard about it in the later years of the evaluation involved direct contact with the parole attorney, including consultation and collaboration, although the county-funded defender would not appear at the hearing itself.

Given that county-funded public defense providers seemed to have two related but distinct approaches to parole suitability, in the report that follows, we have attempted to distinguish efforts involving traditional *Franklin* proceedings from those that focus on the YOPH.

## Funding Allocation

PDPP funds were allocated for every county in the state, with funding levels determined by the size of each county's population. For cohort I (i.e., the first year of funding), the funding allocations ranged from $1,528 (for Alpine County, with a projected 2021 adult population of 950 people) to $12,720,246 (for Los Angeles County, with a projected 2021 adult population of 7,910,391 people).[23] A county could apply for funds in each of the three years of the grant program (cohorts I, II, and III), with funds from each year available for use through March 1, 2025. To receive funds, a county was required to submit an application to the BSCC, outlining which of the PDPP-related penal code sections would be addressed, describing current county public defense needs, explaining why those needs could not be met with existing resources, and providing a project work plan outlining specific goals, objectives, and timelines for use of the grant funds.

The Budget Act of 2021 appropriated funds for fiscal year (FY) 2021–2022. Although future appropriations were not guaranteed at the time that the PDPP was established, the state anticipated that a comparable appropriation would be made in each of the subsequent two fiscal years (FYs 2022–2023 and 2023–2024). In

[23] BSCC, State of California, *Public Defense Pilot Program: Application Instructions Packet*, October 4, 2021.

actuality, the funds available for grants decreased by $100,000 in FY 2022–2023, although the overall appropriation remained the same; in FY 2023–2024, the amount available for grants and the total appropriation decreased further (see Table 1.2). With each annual appropriation, a new funding allocation was made available to each county. If a county did not apply in the first or second year of the PDPP, they were still eligible to apply in subsequent years. Counties were also required to apply each year to access the funds allocated for that year. Annual allocations, by county, are summarized in Table 1.3.

Not all counties applied for the funds. In the first year of the grant program, 37 of the 58 eligible counties applied for funds. During the second year, five additional counties applied for funds. There were no new grantees during the third year of the grant program. Not all counties that applied for funds did so in each year of the grant program; however, counties had until the end of the grant program to spend funds, even if

**TABLE 1.2**
**Public Defense Pilot Program Annual Appropriations**

| | Dollars Available | |
|---|---|---|
| Fiscal Year | For Grants | For Administration and Evaluation |
| 2021–2022 (cohort I) | 49,500,000 | 500,000 |
| 2022–2023 (cohort II) | 49,400,000 | 600,000 |
| 2023–2024 (cohort III) | 39,400,000 | 600,000 |

SOURCE: Adapted from BSCC, State of California, *Public Defense Pilot Program: Request for Applications*, November 17, 2023.

**TABLE 1.3**
**Annual County-Level Allocations**

| | Dollars Allocated | | |
|---|---|---|---|
| County | FY 2021–2022 | FY 2022–2023 | FY 2023–2024 |
| Alameda | 2,107,280.30 | 2,136,333.95 | 1,685,500.39 |
| Alpine | 1,527.64 | 1,549.07 | 1,291.62 |
| Amador | 51,613.34 | 51,392.86 | 45,069.51 |
| Butte | 287,130.47 | 287,188.58 | 218,230.56 |
| Calaveras | 60,029.84 | 58,675.08 | 49,358.80 |
| Colusa | 26,478.03 | 26,920.67 | 21,392.82 |
| Contra Costa | 1,468,663.88 | 1,470,073.07 | 1,177,162.05 |
| Del Norte | 33,866.98 | 33,771.36 | 27,254.80 |
| El Dorado | 250,991.33 | 245,158.13 | 201,673.48 |
| Fresno | 1,204,165.00 | 1,185,405.69 | 967,609.41 |
| Glenn | 35,544.17 | 34,751.39 | 28,491.51 |
| Humboldt | 170,896.33 | 168,822.04 | 141,633.96 |
| Imperial | 224,535.81 | 220,554.75 | 163,008.48 |
| Inyo | 23,144.56 | 22,889.92 | 19,994.00 |
| Kern | 1,074,823.70 | 1,071,656.34 | 861,025.73 |
| Kings | 181,937.15 | 172,064.03 | 143,197.51 |

**Table 1.3—Continued**

| | Dollars Allocated | | |
|---|---|---|---|
| County | FY 2021–2022 | FY 2022–2023 | FY 2023–2024 |
| Lake | 81,403.94 | 79,873.66 | 70,090.12 |
| Lassen | 41,140.16 | 38,845.37 | 30,998.93 |
| Los Angeles | 12,720,245.54 | 12,740,780.83 | 9,887,652.16 |
| Madera | 192,048.53 | 193,310.04 | 153,031.09 |
| Marin | 339,811.56 | 335,396.35 | 270,682.46 |
| Mariposa | 22,958.02 | 23,451.06 | 18,642.24 |
| Mendocino | 110,811.82 | 110,684.40 | 91,964.03 |
| Merced | 335,058.18 | 330,790.23 | 276,484.30 |
| Modoc | 12,148.76 | 12,114.38 | 9,572.12 |
| Mono | 17,513.19 | 17,763.75 | 14,011.75 |
| Monterey | 525,757.56 | 529,993.07 | 417,160.00 |
| Napa | 180,423.99 | 178,802.50 | 143,895.61 |
| Nevada | 132,269.54 | 131,309.20 | 110,858.58 |
| Orange | 4,004,654.76 | 3,984,665.26 | 3,208,878.65 |
| Placer | 512,523.37 | 519,312.37 | 432,709.15 |
| Plumas | 26,310.79 | 25,188.24 | 21,154.89 |
| Riverside | 3,042,889.32 | 3,034,091.08 | 2,463,459.65 |
| Sacramento | 1,911,525.24 | 1,917,694.99 | 1,571,024.48 |
| San Benito | 76,994.69 | 76,988.91 | 67,382.68 |
| San Bernardino | 2,633,005.70 | 2,603,224.43 | 2,142,592.18 |
| San Diego | 4,088,758.61 | 4,053,493.09 | 3,304,963.32 |
| San Francisco | 1,194,950.91 | 1,201,979.19 | 900,250.26 |
| San Joaquin | 932,788.51 | 927,168.96 | 776,513.37 |
| San Luis Obispo | 371,536.63 | 364,183.81 | 302,286.95 |
| San Mateo | 975,173.30 | 983,661.11 | 746,811.29 |
| Santa Barbara | 563,623.75 | 558,717.30 | 453,256.14 |
| Santa Clara | 2,445,538.49 | 2,478,321.76 | 1,913,212.87 |
| Santa Cruz | 354,415.80 | 345,617.07 | 284,371.30 |
| Shasta | 223,554.90 | 219,585.79 | 186,077.27 |
| Sierra | 4,285.43 | 4,176.17 | 3,606.87 |
| Siskiyou | 57,037.27 | 55,094.82 | 46,724.57 |
| Solano | 556,697.91 | 554,226.57 | 453,033.90 |
| Sonoma | 653,326.79 | 656,601.30 | 507,425.84 |
| Stanislaus | 674,631.75 | 668,567.10 | 531,448.96 |

**Table 1.3—Continued**

| County | Dollars Allocated | | |
|---|---|---|---|
| | FY 2021–2022 | FY 2022–2023 | FY 2023–2024 |
| Sutter | 121,241.59 | 120,019.93 | 98,599.93 |
| Tehama | 79,509.67 | 78,068.52 | 65,262.22 |
| Trinity | 17,990.78 | 17,196.29 | 17,812.10 |
| Tulare | 553,647.45 | 546,414.82 | 442,770.21 |
| Tuolumne | 70,313.27 | 68,568.59 | 57,971.35 |
| Ventura | 1,057,617.64 | 1,055,629.76 | 836,308.42 |
| Yolo | 289,129.27 | 279,715.09 | 235,144.54 |
| Yuba | 92,107.07 | 91,505.93 | 79,008.59 |

SOURCES: Features data from BSCC, 2021; BSCC, State of California, *Public Defense Pilot Program: Application Instruction Packet*, October 24, 2022; and BSCC, 2023.

they applied for funds only during the first or second year. In addition, because not all counties applied for funds in the third year, the remaining unallocated funds were then divided among the grantees that did apply for cohort III funds, meaning that participating cohort III counties would have received more funds than what Table 1.3 lists as initially available.

Table 1.4 identifies the 42 counties that applied for funding for any of the three years of the PDPP. Counties that did not apply for funding for at least one cohort year are not reflected in this table. Although all counties seeking PDPP funding for any cohort year had their applications approved, it is possible that contractual delays, intracounty administration issues, or grantee challenges prevented some offices from actually receiving funds for that year as anticipated or from spending those funds if received. Indeed, six counties listed in Table 1.4 reported to us that they never spent any approved PDPP funds at any time from the start of cohort I through December 31, 2024, when we ended our data collection efforts (it is possible that some grantees within those six counties spent or will spend PDPP funds during 2025 or 2026).

In addition, because funding was allocated annually for this grant program, there were certain periods of uncertainty during which it was unclear whether funds would be available for the subsequent year. For example, in both calendar years 2023 and 2024, there was a chance that the subsequent fiscal year of funding would be cut by tens of millions of dollars (or eliminated entirely) because of the fiscal challenges related to the proposed state budget.[24] Ultimately, funding was restored to $50 million for the second year of the grant program and $40 million for the third year. However, such budget uncertainties led to delays in grant-funded work in certain offices. When the grant program was reinstated, offices were given until December 31, 2026, to complete grant-funded work.

[24] City and County of San Francisco, *Resolution Urging Governor Gavin Newsom and the California State Legislature to Retain the Full State Funding of the Public Defense Pilot Program for Three Years*, Resolution 097-24, amended in board March 5, 2024; Natalie Hanson, "Public Defenders Slam Newsom for Slashing Budget, Prioritizing Theft Prosecution," Courthouse News Service, January 17, 2023; Legislative Affairs and Intergovernmental Relations, County of Los Angeles, California, "Sacramento—Pursuits of County Advocacy Position on Fiscal Year (FY) 2024–25 State Budget Proposals Related to Justice, Social Services, and Child Welfare," undated; Mackenzie Mays, "Public Defenders, Foster Kids, Climate: Programs Created During California's Boom May Stall Amid Deficit," *Los Angeles Times*, April 18, 2024.

**TABLE 1.4**

## Counties Applying for Grant Funding Across Public Defense Pilot Program Years

| County | FY 2021–2022 | FY 2022–2023 | FY 2023–2024 |
|---|---|---|---|
| Alameda | x | x | x |
| Amador | | x | |
| Butte | x | x | x |
| Contra Costa | x | x | x |
| El Dorado | x | x | x |
| Fresno | x | x | x |
| Glenn | x | x | |
| Imperial | x | | |
| Kern | x | x | x |
| Kings | | x | |
| Lake | x | x | x |
| Los Angeles | x | x | x |
| Madera | | x | |
| Marin | x | x | x |
| Mendocino | x | x | x |
| Merced | x | | |
| Monterey | x | x | x |
| Nevada | x | x | x |
| Orange | x | x | x |
| Placer | x | x | x |
| Riverside | x | x | |
| Sacramento | x | x | x |
| San Benito | | x | x |
| San Bernardino | x | x | x |
| San Diego | x | x | x |
| San Francisco | x | x | x |
| San Joaquin | x | x | x |
| San Luis Obispo | | x | x |
| San Mateo | x | x | x |
| Santa Barbara | x | x | x |
| Santa Clara | x | x | x |
| Santa Cruz | x | x | x |
| Shasta | x | x | x |

**Table 1.4—Continued**

| County | FY 2021–2022 | FY 2022–2023 | FY 2023–2024 |
|---|---|---|---|
| Siskiyou | x | x | x |
| Solano | x | x | x |
| Sonoma | x | x | x |
| Stanislaus | x | x | x |
| Tehama | x | x | |
| Tulare | x | x | x |
| Ventura | x | x | x |
| Yolo | x | x | x |
| Yuba | x | x | x |

SOURCE: Grantee invoicing data provided by the BSCC.

## Current Evaluation

In addition to establishing the PDPP, the Budget Act of 2021 required that the BSCC

> contract with a university or research institution to complete an independent evaluation to assess how these resources provided to public defender service providers impact outcomes for the workload associated with the provisions in paragraph (1) of subdivision (d) of Section 1170 of, and Sections 1170.95, 1473.7, and 3051 of, the Penal Code.[25]

Pursuant to these terms, RAND was contracted to conduct the statewide evaluation of the PDPP.

We developed a mixed-method approach to evaluate the PDPP, which included collection of semiannual progress reports with both quantitative and qualitative data from grantees; interviews with grantees and counties that declined to apply for funding; and surveys of grantees. Our methods are described in Chapter 2. In Chapter 3, we discuss how offices used their grant funds, organized around the most-common categories of expenditures proposed by counties. In Chapter 4, we discuss the outcomes of the grant funding (i.e., clients served across each of the key penal code sections), and describe the progress that grantees made toward their goals. Chapter 5 describes the lessons that were learned about implementing the PDPP, including barriers and facilitators to implementation and opportunities for improvement. Chapter 6 describes grantees' plans for continuing postconviction work after the conclusion of the grant program, and Chapter 7 presents a summary of our findings and recommendations for future grant programs.

[25] Budget Act of 2021, § 189.

CHAPTER 2

# Methods

In this chapter, we describe the approach used for this mixed-method evaluation.

## Defining the Evaluation Period, the Grant Period, and Grantees

In this chapter and throughout the report, we refer to the *evaluation period*. This is intended to describe the period during which grantees were using grant funds to support their postconviction work. The earliest date that counties could begin work was March 1, 2022, but only if they had applied for cohort I funds. However, some counties did not begin their work immediately: Funds needed to be approved by county boards of supervisors and allocated to offices, and this process could take weeks to months to finalize. Therefore, the official start date or beginning of the project for grant-funded work varied from office to office. For offices that did not apply for funding for cohort I, the earliest possible start date was not until March 1, 2023 (and could be much later). Our data collection instruments were designed to capture data from each grantee's specific start date. In addition, although grantees are able to continue spending grant funds through 2026, the legislation establishing the grant program specified March 1, 2025, as the official end date of the grant program (by *grant period end*, we mean the point at which grantees are no longer able to spend any remaining PDPP funds which, as mentioned, will occur at the end of 2026). It was intended that grant-funded services would be provided until January 2, 2025, which would then provide counties two months to submit their final reports for evaluation purposes by March 1, 2025. The legislation also required that the statewide evaluation be presented to the legislature by August 1, 2025. Therefore, in our evaluation, we considered only services provided by counties through the end of 2024; references to the *evaluation period* in our report are to the time between an office's start date and December 31, 2024. The key takeaway here is that many grantees continued to spend grant funds after 2024 (and possibly will continue to spend funds through 2026), and those activities were not observed for our evaluation.

As described previously, grants for the PDPP were made at the county level. In many counties, a single primary provider of public defense services (usually, but not always a public defender's office) was the sole recipient of PDPP funding. In other locations, multiple provider organizations received grant funding. For example, some counties allocated funds to both a primary provider (usually a public defender's office) and a conflict-counsel provider that might be an alternate defender's office, a panel administrator, a consortium of law firms, or a contracted defender. A small number of counties allocated funds to three separate providers. There were also important differences in the types of providers receiving funding, primarily in the relationship between a grantee and the attorneys who performed PCR services, which, in turn, affected the depth and quality of data we collected for our evaluation (for example, a public defender's office would be able to closely track the activities of the attorneys who are salaried employees of that office, while a panel administrator receiving a grant might have only cursory information about what the independent attorneys on the panel do in individual cases). Our data collection instruments were tailored to accommodate these variations across counties, as described in more detail in the next section. When we refer to *grantees* or *offices* (terms we use

interchangeably), we are referring to the specific providers within counties that were allocated grant funding, not to the counties themselves.

Table 2.1 lists the 49 offices that were part of our evaluation because they were listed in their county's successful application to the BSCC for PDPP funding and participated in at least one aspect of our data col-

**TABLE 2.1**
**Offices Participating in Our Evaluation**

| County | Office |
|---|---|
| Alameda | • Alameda County Public Defenders |
| Amador | • Fitzgerald, Alvarez and Ciummo Amador County Public Defender |
| Butte | • Butte County Public Defender's Consortium |
| Contra Costa | • Contra Costa Alternate Defender Office<br>• Contra Costa Public Defenders |
| El Dorado | • El Dorado County Public Defender's Office |
| Fresno | • Fresno County Public Defender's Office |
| Glenn | • Geoff A. Dulebohn, Esq., Glenn County Public Defender |
| Imperial | • Imperial County Public Defender's Office |
| Kern | • Kern County Public Defender's Office |
| Lake | • Lake Indigent Defense |
| Los Angeles | • Law Offices of the Los Angeles County Public Defender<br>• Los Angeles County Independent Defense Counsel Office (panel was originally administered by the Los Angeles County Bar Association Independent Defense Program)<br>• Los Angeles County Office of the Alternate Public Defender |
| Marin | • Office of the Marin County Public Defender |
| Mendocino | • County of Mendocino Office of the Public Defender<br>• Mendocino County Alternate Defender's Office |
| Monterey | • Monterey County Office of the Public Defender |
| Nevada | • Nevada County Public Defender's Office |
| Orange | • Offices of the Orange County Public Defender<br>• Orange County Alternate Defender's Office<br>• Orange County Associate Defender's Office |
| Placer | • Koukol and Associates, Inc., Placer County Primary Public Defender |
| Riverside | • Law Offices of the Public Defender, County of Riverside |
| Sacramento | • Sacramento County Public Defender's Office |
| San Bernardino | • Law Offices of the Public Defender, San Bernardino County |
| San Diego | • San Diego County Office of the Public Defender |
| San Francisco | • Bar Association of San Francisco, Indigent Defense Administration<br>• San Francisco Public Defender's Office |
| San Joaquin | • San Joaquin County Court Assigned Counsel Program<br>• San Joaquin County Public Defender's Office |
| San Luis Obispo | • San Luis Obispo Defenders, a Professional Law Corporation |
| San Mateo | • San Mateo County Bar Association, Private Defender Program |

**Table 2.1—Continued**

| County | Office |
|---|---|
| Santa Barbara | • Santa Barbara County Office of the Public Defender |
| Santa Clara | • Santa Clara County Alternate Defender Office<br>• Santa Clara County Independent Defense Counsel Office<br>• Santa Clara County Public Defender's Office |
| Santa Cruz | • Santa Cruz County Office of the Public Defender |
| Shasta | • Office of the Shasta County Public Defender |
| Siskiyou | • Siskiyou County Public Defender's Office |
| Solano | • Solano County Alternate Public Defender<br>• Solano County Public Defender's Office |
| Sonoma | • Sonoma County Public Defender's Office |
| Stanislaus | • Office of Stanislaus County Public Defender |
| Tehama | • Tehama County Contracted Indigent Defenders |
| Tulare | • Tulare County Public Defender |
| Ventura | • Ventura County Public Defender's Office |
| Yolo | • Yolo County Public Defender's Office |
| Yuba | • Law Office of Brian J. Davis, Office of the Yuba County Public Defender |

lection program. Another seven offices not listed in Table 2.1 were in counties that had been approved for funding but that, when we periodically inquired about their activities, told us either that they had not yet received any grant funds or that they had received but never spend the money. To be precise, we received at least some information from 47 separate sources because some reports from the Contra Costa Alternate Defender Office and Contra Costa Public Defenders were combined, as was true for some reports from the San Joaquin County Public Defender's Office and the San Joaquin County Court Assigned Counsel Program.

## Grantee Baseline and Progress Reports

We designed a baseline report and progress report templates for grantees to submit every six months throughout the course of the evaluation (referred to collectively as *progress reports*). Completion of these reports was required through counties' agreements with the BSCC, but the content of the progress reports was developed by our team to ensure that the data could be used for purposes of the evaluation. To develop the format for these progress reports, we began by reviewing counties' submitted funding applications. As we reviewed each application, our goal was to understand

- the types of activities that funds were being used to support
- the specific goals established by each county
- what office or offices within the county were receiving funds.

After conducting an initial review of the applications, we identified four primary ways in which counties proposed to use grant funds:

- supporting personnel costs (e.g., hiring new personnel, using grant funds to cover the time of existing employees)
- training for attorneys and staff on the penal code sections covered by the grant program
- investing in office supplies, the physical office space or environment, or office infrastructure to support work related to the penal code sections covered by the grant program
- providing client-focused or case-support services, such as obtaining or retaining expert witnesses, obtaining interpreter services, or providing transportation for clients.

This latter category included services provided internally (e.g., using personnel employed by the office to conduct assessments or develop mitigation reports) and externally (e.g., services provided by retaining external experts or paying for services provided outside the grantee office).

Informed by our review of the grantee applications, we developed an evaluation database that included each grantee office, the goals established by the office or county, and the specific categories for which grant funds were planned to be used. To validate this information, we then reached out to each grantee office to confirm that we had correctly identified its goals and categories of activities.

For the baseline report, we asked offices to report on activities related to the key statutes covered by the PDPP in the 12 months prior to receiving grant funds. We asked how each office provided services related to the key statutes, if at all, during the 12 months preceding its start date. We then asked each office to report on the estimated number of cases it had during the 12-month baseline period related to each statute; the number of personnel working there; and any expenditures for training, office infrastructure, and client-focused or case-support services related to the key statutes. Because many offices had not been systematically tracking data on these activities before the grant program began, they had the option to enter "unknown" for these items.

For the semiannual progress reports, we developed a narrative template and a quantitative template:

- For the quantitative template, there were separate sections: one capturing outputs and another capturing outcomes.
  - *Output* was defined as the most immediate results of an office's grant funding. The output section addressed such areas as personnel (i.e., people who were hired or whose salaries were being supported with grant funds); training; office supplies, environment, expenses, and infrastructure; and client-focused or case-support services. The output portion of the template was tailored to the specific activities of a given grantee—that is, if an office used funds only for personnel and training, it was asked to report on only those two categories of outputs. Grantees reported on activities that occurred during each reporting period using PDPP funds and on activities that were funded through other sources. This was designed to serve as a point of comparison to understand how PDPP funds might be offsetting other expenditures within each office or perhaps allowing unique activities not supported by other sources of funds. To ensure comparability, when we asked offices to report on non–PDPP-funded activities, we still asked them to report only on PCR activities relevant to the key statutes covered by the grant program.
  - *Outcome* was defined as the number of clients being served related to each key statute covered by the grant program and the current statuses of those cases (e.g., how many clients had been screened for eligibility, how many clients had been represented, how many of those requests had been granted versus denied).

- The narrative template was designed to capture more-qualitative data about grantee activities during each reporting period. Each narrative template had three sections:
  - The first section focused on progress toward grantee goals. Progress reports were tailored to the specific goals that each grantee established in its application. Each grantee provided details about progress toward each goal, challenges experienced, and how those challenges were addressed.
  - The next section gathered detail about each PDPP-funded activity during the report period, focusing on the same four categories as the output section of the quantitative progress report (personnel; training; office supplies, environment, expenses, and infrastructure; and client-focused or case-support services). Grantees provided more detail about the activities funded by the grant program and any outcomes they had observed as a result of those funds (e.g., what outcomes had been observed as a result of the PDPP-funded personnel). Like the quantitative templates, the narrative templates asked each grantee office only about the specific categories of activities relevant to that office.
  - The final section of the progress report focused on progress and accomplishments and asked about any project modifications or other information relevant to the grant program.

As noted already, some counties had multiple offices that received grant funding. In most cases, we produced separate sets of progress report templates for each office within a county that was providing grant-funded services. However, in two counties (Contra Costa and San Joaquin), the county public defender's office or an administrative contact within the county served as the sole point of contact for reporting, and that entity submitted combined reports that covered all offices providing services in that county.

We developed two alternative versions of the progress report templates. One anticipated that the reporting entity was either a public defender's office or a contracted defender's office in which the attorneys providing PCR services were employees of the entity. Most grantees received this version of the templates. The second version was adapted for grantees that employed a panel or consortium model for delivering services; we recognized that it would be challenging to request detailed progress report data from each individual law firm or solo practitioner who provided services using grant funds. This version of the templates was adapted to be completed by the panel or consortium administrator—in many cases, a county employee, but, in some cases, another organization. We also developed accompanying clarifying guidance on how to interpret sections of the progress reports when applied to a panel or consortium model.

Because each grantee was required to reapply for funds each year, it also had the opportunity annually to update its information on grant-funded activities and goals. After the applications were submitted for the second year of funding, our team reviewed them to determine whether there had been any changes. Some counties identified new goals, and progress report templates were updated accordingly to collect data on progress toward those new goals. Also, a small number of new grantees applied for funds during the second year, and progress report templates were developed for those counties.

We collected up to six progress reports from each grantee (depending on when the grantee first received funding). The progress reports covered the following periods:

- beginning of the project to June 30, 2022
- July 1, 2022–December 31, 2022
- January 1, 2023–June 30, 2023
- July 1, 2023–December 31, 2023
- January 1, 2024–June 30, 2024
- July 1, 2024–December 31, 2024.

Not all of the 49 offices (representing 38 counties) participating in our evaluation submitted both a baseline report and all six semiannual progress reports. Of the 47 separate reporting entities (as described previ-

ously, two offices in Contra Costa County and two offices in San Joaquin County generally combined their submissions into county-level reports), 40 submitted baseline reports (33 counties) and 45 submitted at least one semiannual progress report (36 counties).

To support counties in their efforts to provide data, we provided multiple technical assistance opportunities:

- First, we hosted a two-hour orientation related to data collection and evaluation for grantee counties.
- We also developed a detailed data dictionary to ensure consistency in reporting across grantees.
- Finally, in the two to three weeks leading up to each progress report submission date, our team held virtual office hours for grantees. Representatives from each grantee office could sign up for a time to meet directly with a member of the evaluation team and discuss any questions.

These methods were all supplemented with ad hoc consultation provided by telephone and email throughout the course of the evaluation. Members of our team carefully reviewed each progress report submission for content and completeness and requested clarifications or additions from offices as needed. Our team did not specify which member of an office was responsible for completing the progress reports; anecdotally, it appeared to vary based on the office and could have included attorneys, paralegals, or administrative staff, among other roles. In some offices, it may have been a collaborative effort across different roles.

## Analysis

To analyze the quantitative progress report data, we processed the submitted spreadsheets using a statistical software suite to yield summary information about staff levels, training, expenditures, and services. Some offices needed time to put tracking systems in place to complete the progress reports and therefore sometimes provided estimates instead of precise numbers (e.g., "about 100 cases" or "at least 50 clients"). In other situations, an office might have been unable to provide a requested count at all. Therefore, the quantitative estimates in this report are likely a lower bound of grant-funded activity throughout the entire PDPP, although it is also possible that an office overestimated when reporting its progress data.[1]

We used Dedoose to code the narrative progress report data. For the section focused on progress toward project goals, we began by developing higher-order categories to represent the goals; we wanted to draw conclusions about progress toward goals beyond just what was observed at the individual office level. Two members of the research team began by independently developing a proposed set of categories. These were then discussed with the research team and refined. The goal categories identified appear in Table 2.2, with sample goals for each. Many of the goals specifically referenced one or more of the penal code sections covered by the grant program, so an additional code was applied to each goal to indicate the penal code section or sections of focus. After this, we used an inductive, open qualitative coding process to understand progress made toward each goal, challenges encountered, and how those challenges were addressed.

A similar inductive coding process was used to code data related to the other sections of the progress report as well (i.e., grant-funded activities and outcomes, accomplishments). After coding was completed, we reviewed the child codes and relevant excerpts to identify common themes.

To assess whether progress report responses differed by county size, we also categorized counties by FY 2021–2022 funding amounts into small (less than $100,000), medium ($100,000–$700,000), and large (more than $700,000) (because funding amount was directly proportional to county size). Across all codes, we observed a consistent pattern: Small counties tended to provide a narrower range of responses and reported limited grant-funded activities in more reporting periods than other counties; more themes emerged for

[1] Note that portions of this paragraph are adapted from Holliday et al. (2024), which used a similar method for analyzing progress report data for the IDGP.

**TABLE 2.2**
**Categories of Grantee Goals**

| Goal Category | Example of Goals |
|---|---|
| Client representations | • "Representation by counsel of each qualifying inmate throughout course of petition"<br>• "Representation of incarcerated indigent defendants who qualify for resentencing pursuant to Penal code section 1172.6 (formerly 1170.95)." |
| Client screening | • "Screen CDCR inmates sentenced by [NAME] County to determine their eligibility for type of petition, if any, and representation" |
| Client services | • "Conduct a forensic psychological and criminogenic assessment and evaluation for each inmate based on qualifying criteria PC 1170 (d)(1)"<br>• "Maintain a Reentry Support Team (RST) using paralegal and the mitigation specialist to provide comprehensive reentry support and resources to resentencing clients under all the grant topics." |
| Grant compliance | • "Administration of grant and compliance with grant reporting requirements" |
| Personnel | • "Expansion of the number of attorneys both knowledgeable and experienced in postconviction work to provide excellent services to clients" |
| Productivity | • "Increase attorney-productivity" |
| Reduce criminal justice involvement | • "Substantially reduce the number of incarcerated individuals whose cases originated in [NAME] County" |
| RJA data | • "Create a Racial Justice Database for purposes of litigating 1473.7 matters" |
| Sustainability | • "Build a replicable model to maintain service to the eligible populations" |
| Technology/data | • "Provide remote client visitation equipment."<br>• "Input Scanned Archived Files into Case Management System" |
| Training | • "Pursue post-sentencing training for office personnel"<br>• "Train staff in the new statutes and case law which enhances our ability to represent (and identify) eligible clients" |

SOURCE: Our analysis of grantee-provided information.

medium and large counties, although the overall themes were consistent across counties. Given the consistency of the pattern across all codes, we do not comment further on the county-size analysis in the findings when reporting on grant-funded activities. Instead, we focus on only the overall themes. However, some themes, which varied by county size, were specific to progress toward goals, and we highlight those in the text when relevant.

## Grantee Interviews

We conducted interviews at three stages during the evaluation:

- The first round of interviews took place in October and November 2022 and focused specifically on counties that opted not to apply for the grant funds. We used a purposive sampling method to select 18 counties to invite to participate in interviews. When selecting the sample, we included counties with a range of funding amounts, including counties that had been allocated more than $100,000 per year; those that were allocated $50,000 to $100,000; and those that were allocated less than $50,000. In total, seven counties agreed to participate in these interviews. Most interviewees held administrative roles in the county; others were public defenders, contracted defenders, or county counsel. Interview questions focused on how public defense was organized in each county, whether the county offered PCR programs, awareness of the PDPP grant program, factors that led to the county's decision not to apply for

grant funds, and changes that could be made to the grant program that might lead the county to apply in the future.

- The second set of interviews took place in December 2023 to early February 2024. We began by stratifying grantees by type of office, focusing on county public defender's offices, county conflict-counsel offices, and offices with consortium or panel models. We then randomly selected five of each office type, although manual replacements were made when selected offices had not yet started to spend grant funds. In total, we invited 13 people representing 15 offices to participate in an interview, and 11 people participated; representatives' roles included public defender, alternate public defender, and director of court programs. The interviewer asked why each office or county decided to apply for grant funds, the key statutes on which offices were focused with their work, how grant-funded plans were developed, communication with the BSCC, barriers and facilitators to implementation, benefits experienced as a result of the grant program, and whether there were recommended changes to the grant program.
- Our final interviews took place in December 2024 through February 2025. We again randomly sampled from the same three types of grantee offices but oversampled for county public defender offices because these were the most prevalent type of office. In total, we invited people from 15 offices to participate in an interview, and 11 participated. County interviewees held roles as attorneys in grantee offices or various administrative titles, such as grant manager or administrative service officer. Interviewers asked about any unanticipated changes to the grant-funded work, areas of PCR for which interviewees would like to see grant funding available, how the uncertainty about the availability of funds had affected the grantee, grant-funded accomplishments, challenges and opportunities for improvement for the grant program, and plans for sustaining the work beyond the grant period.

### Analysis

To analyze data, we developed two codebooks based largely on the questions in the interview guides—one for the interviews with offices that had not applied for grant funds and one for the two rounds of interviews with offices that had. Each round of interviews had two coders, who coded two transcripts independently and then compared them to reach a consensus. The rest of the transcripts were coded individually. For the second round of interviews with offices that had applied for grant funds, four codes were added to address the topics that were covered as part of the exit interviews. Once all transcripts were coded, excerpts were reviewed and summarized by topic to determine themes.

## Grantee Survey

Toward the end of the evaluation period, we developed a survey to systematically collect data from grantees about their experiences with the grant program. Our intention with this survey was to supplement the more in-depth data collected through the grantee interviews. For each of the penal code sections covered by the grant program, we included questions about whether offices had used other sources of funding (besides the PDPP) to support the work, whether they would have worked on those cases without the grant program, and whether they planned to continue to work on activities related to each statute section after the PDPP grant program ends. We also included questions asking respondents to identify their three biggest barriers and three biggest facilitators in accomplishing the goals their offices established for the grant program. Finally, grantees were asked whether there were other postconviction remedies or procedures that they wish had been supported by PDPP funding and whether there were any other mandates *not* related to PCR that the legislature had imposed that went beyond defending clients at the trial stage.

Surveys were administered using SelectSurvey, and all grantee offices were invited to participate. In total, 42 offices responded to the survey. Analyses were largely descriptive.

CHAPTER 3

# How Did Offices Use the Grant Funds?

In this chapter, we describe how grantees used PDPP funds. We organize this chapter around the four categories of grant-funded activities identified previously: personnel; training; office supplies, environment, expenses, and infrastructure; and client-focused or case-support services. Within each of these sections, we begin by providing information from the baseline progress reports on the office investments in postconviction work in the 12 months leading up to each grantee's start date. We then present a series of tables based on the semiannual quantitative progress reports that describe the grant-funded efforts related to each category, as well as any activities funded through other sources relevant to the same key penal code sections. We also present qualitative descriptions of the outcomes observed as a result of these grant-funded activities, based on the narrative progress reports.

## Personnel

For the baseline reports collected from grantees, we asked how offices had handled work related to the penal code sections covered by the PDPP in the 12 months prior to when they first received grant funds. Many offices reported that postconviction cases were split among existing attorneys in the office and were in addition to those attorneys' regular caseloads. These cases were sometimes assigned by taking into account the demands of each attorney's current caseload and other times assigned on a rotating basis. Other offices assigned cases to specific attorneys or units based on the penal code section. For example, cases relevant to P.C. § 1473.7(a)(1) were often assigned to offices' immigration attorneys, whereas § 3051 cases might be assigned to a juvenile-system attorney. A smaller number of offices had a single attorney, such as a head deputy, who tended to handle most of the postconviction cases because the volume of such cases was fairly limited. Counties with panel or consortium models used similar approaches—for example, some used their standard assignment process (e.g., assigning attorneys based alphabetically on the client's name). Many offices reported that they accepted these postconviction cases when contacted by a potential client or when assigned as counsel by the court, but most offices were not proactively seeking postconviction clients. A small number of offices had developed dedicated postconviction teams prior to the start of the grant program, and one panel noted that it had recently started a postconviction subpanel of attorneys. However, this more-centralized approach tended to be the exception.

According to our review of the applications, during the grant program, grantees proposed two primary ways to use funds to support personnel. Some offices hired new personnel to cover postconviction work, whereas others used grant funds to support some or all of the salaries of existing staff members within the office. Therefore, for the semiannual progress reports, we requested data on both new personnel hired using grant funds and personnel who were reassigned from within the office into a PDPP-supported position (even if that person did not work full time on PDPP-related efforts).

According to the progress reports, many offices hired full-time staff during the evaluation period (see Table 3.1). (Note that, if an office hired someone into a role but that person left the role and a new person was

**TABLE 3.1**
**Public Defense Pilot Program Grant–Funded Hiring During the Evaluation Period**

| Personnel Category | Number of Offices Reporting Hires | Number of Permanent Staff | | Number of Temporary Staff | | Total Hires, by Category |
|---|---|---|---|---|---|---|
| | | Full Time | Part Time | Full Time | Part Time | |
| Attorneys | 26 | 36 | 11 | 20 | 18 | 85 |
| Social workers and clinicians | 13 | 21 | 4 | 18 | 2 | 45 |
| Sentencing and mitigation specialists | 6 | 12 | 1 | 2 | 2 | 17 |
| Paralegals, legal assistants, law clerks, and legal interns | 23 | 46 | 4 | 33 | 9 | 92 |
| Investigators | 4 | 6 | 1 | 0 | 1 | 8 |
| Interpreters | 1 | 0 | 0 | 0 | 1 | 1 |
| Data analysts | 2 | 0 | 2 | 0 | 0 | 2 |
| IT technical positions | 0 | 0 | 0 | 0 | 0 | 0 |
| Administrative assistants | 11 | 22 | 3 | 3 | 0 | 28 |
| Other personnel | 7 | 11 | 4 | 0 | 3 | 18 |
| Total, by type | 37 | 154 | 30 | 76 | 36 | 296 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

NOTE: IT = information technology. The total number of offices reporting hires is not the sum of the numbers in the column because an office may hire multiple types of personnel and therefore be counted in multiple rows. The data in this table can be interpreted in combination with the data in Tables 3.4 and 3.5 to understand how much turnover there was in grant-funded roles.

hired, those would be counted as two separate hires in this table—that is, the table captures unique individuals, rather than unique roles.[1]) Offices most commonly reported hiring attorneys, followed by paralegals, legal assistants, law clerks, and legal interns. Some social workers or clinicians were hired using grant funds, as were sentencing and mitigation specialists. This likely is directly influenced by the types of expertise needed to prepare petitions for PCR under the key statutes, which might require forensic evaluations or mitigation reports. Other personnel hired included a reentry specialist and a case manager supervisor.

The columns in Table 3.1 for permanent, temporary, and total hires reflect personnel actions across all six reporting periods rather than simply counting unique individuals. For example, a person who was hired as a part-time temporary attorney in the first period and who subsequently transitioned to full-time permanent status in the fourth period would be counted twice in Table 3.1. Similarly, if an office hired someone as a social worker working exclusively on YOPH matters in one period and that person was later replaced in that same position by a new hire, the table would show the two actions as two hires. A similar approach for counting personnel actions was taken for subsequent tables in this section for internal reassignments to PDPP-funded positions, departures from the office of those serving in PDPP-funded positions, and internal reassignments from PDPP-funded positions. In addition, the column "Number of Offices Reporting Hires" describes the count of reporting entities that provided information to us about hiring someone for any role (such as administrative assistant or investigator) at any point during the six reporting periods. The total row at the bottom of this column represents the number of offices reporting that they had ever made a PDPP-funded hire in any personnel category in our evaluation. That total count of 37 should be considered in light of the fact that at least some information was provided to us by 45 reporting entities.

[1] The data in this table can be interpreted in combination with the data in Tables 3.4 and 3.5 to understand how much turnover there was in grant-funded roles.

Table 3.1 presents an opportunity to discuss a limitation in our approach that involves incomplete information reported by participating offices. As described previously, we did not receive all six semiannual progress reports from each office. In many such instances, any gap in submission was both understandable and not of concern. Some offices that were awarded PDPP funding were unable to spend (or chose to defer spending of) any of those funds on grant-related purposes for one or more reporting periods. To reduce evaluation-related burden on participants, we did not require such offices to submit progress reports for periods without PDPP-related activities. Even had we insisted on report submissions for those inactive periods, the counts in Table 3.1 and other tables in Chapters 3 and 4 reporting personnel activities, trainings, investments, individuals served, motions granted, and other measures would nevertheless remain unchanged from what are presented in this report. There were, however, a very small number of instances in which a reporting entity failed to provide a report for a semiannual period in which there were PDPP-related activities. Generally, these gaps were confined to offices in counties with relatively small populations, so we do not believe that the tables in Chapter 3 or 4 would have reflected meaningfully different results from what we now present had those handful of expected reports been received. A more significant issue involves reports in which the submitter indicated that one or more specific counts in that report (such as the number of PDPP-funded hirings of permanent full-time data analysts or the number of cases in which an office filed a motion to vacate a prior conviction or sentence under P.C. § 1473.7[a][2]) could not be provided, typically because the information requested had never been collected. Occasionally, a submitter would mark all cells in a reporting table (such as one for training for office personnel that was supported by funding sources other than PDPP grants) as unknown. The key ramification of these reporting gaps is that the numbers reported in the Chapter 3 and 4 tables should all be considered undercounts compared with what we might have learned with complete information for every period.

We also asked offices to report the number of staff they hired using non-PDPP funds (such as money from a county's General Fund, a grant from another program, or any source other than PDPP) during the evaluation period, to provide a point of comparison for the volume of hiring that was occurring outside of PDPP funding (see Table 3.2). We found that there was a somewhat similar level of hiring during the same period; for example, for all offices, 85 total attorneys were reported hired with grant funds and 75 with non-PDPP funds. The non–PDPP-funded attorneys were likelier than grant-funded attorneys to be hired into full-time, permanent roles. Certain roles, such as investigators, were also likelier to be supported with non-PDPP funds than with PDPP funds. The other personnel hired using non-PDPP funding included staff assistants and office assistants, a case manager, and a client advocate.

As noted, some offices reported using funding to reassign staff internally to work specifically on PCR covered by the grant program (Table 3.3). From the progress report data, we found that this was a more common use of grant funds than hiring new personnel, particularly when it came to assigning attorneys to work on PDPP-related cases. Administrative and support staff were also among the more-common types of personnel who were reassigned within offices.

As described previously, the progress reports captured personnel-related actions rather than unique roles or people—meaning that, if one attorney was hired, then left the office, and a new person was hired, that would be counted as two grant-funded attorney hires. Therefore, we were also interested in getting a sense of the level of turnover that occurred among personnel in PDPP-funded positions during the evaluation period. In Table 3.4, we present data on the number of grant-funded personnel who departed from the offices. We found that there was a moderate degree of turnover in certain roles: During the evaluation period, 43 grant-funded attorneys shifted out of their positions, as did 33 paralegals, legal assistants, law clerks, or legal interns. However, turnover reported among other grant-funded personnel was limited.

We were also interested in the numbers and categories of personnel who shifted from PDPP-funded roles into fully non–PDPP-funded roles (Table 3.5). Like with departures, reassignments to non–PDPP-funded

**TABLE 3.2**

## Staff Hired Using Non–Public Defense Pilot Program Funding During the Evaluation Period

| Personnel Category | Number of Offices Reporting Hires | Number of Permanent Staff | | Number of Temporary Staff | | Total Hires, by Category |
|---|---|---|---|---|---|---|
| | | Full Time | Part Time | Full Time | Part Time | |
| Attorneys | 24 | 61 | 8 | 4 | 2 | 75 |
| Social workers and clinicians | 7 | 15 | 0 | 0 | 1 | 16 |
| Sentencing and mitigation specialists | 4 | 2 | 4 | 0 | 1 | 7 |
| Paralegals, legal assistants, law clerks, and legal interns | 18 | 21 | 7 | 9 | 2 | 39 |
| Investigators | 10 | 22 | 2 | 1 | 0 | 25 |
| Interpreters | 2 | 1 | 0 | 0 | 2 | 3 |
| Data analysts | 2 | 1 | 1 | 0 | 0 | 2 |
| IT technical positions | 2 | 1 | 0 | 0 | 1 | 2 |
| Administrative assistants | 10 | 21 | 6 | 1 | 2 | 30 |
| Other personnel | 8 | 9 | 8 | 3 | 5 | 25 |
| Total, by type | 29 | 154 | 36 | 18 | 16 | 224 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

NOTE:-The total number of offices reporting hires is not the sum of the numbers in the column because an office may hire multiple types of personnel and therefore be counted in multiple rows.

**TABLE 3.3**

## Staff Reassigned to Public Defense Pilot Program Grant–Funded Positions During the Evaluation Period

| Personnel Category | Number of Offices Reporting Reassignments | Number of Permanent Staff | | Number of Temporary Staff | | Total Hires, by Category |
|---|---|---|---|---|---|---|
| | | Full Time | Part Time | Full Time | Part Time | |
| Attorneys | 25 | 114 | 32 | 5 | 4 | 155 |
| Social workers and clinicians | 9 | 14 | 6 | 0 | 0 | 20 |
| Sentencing and mitigation specialists | 1 | 0 | 1 | 0 | 0 | 1 |
| Paralegals, legal assistants, law clerks, and legal interns | 16 | 76 | 19 | 2 | 2 | 99 |
| Investigators | 7 | 20 | 2 | 0 | 0 | 22 |
| Interpreters | 1 | 1 | 0 | 0 | 0 | 1 |
| Data analysts | 1 | 0 | 2 | 0 | 0 | 2 |
| IT technical positions | 3 | 10 | 3 | 0 | 0 | 13 |
| Administrative assistants | 10 | 23 | 12 | 1 | 0 | 36 |
| Other personnel | 2 | 0 | 1 | 0 | 1 | 2 |
| Total, by type | 30 | 258 | 78 | 8 | 7 | 351 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

NOTE: The total number of offices reporting reassignments is not the sum of the numbers in the column because an office may reassign multiple types of personnel and therefore be counted in multiple rows.

**TABLE 3.4**

**Departures of Public Defense Pilot Program Grant–Funded Personnel During the Evaluation Period**

| Personnel Category | Number of Offices Reporting Departures | Number of Permanent Staff | | Number of Temporary Staff | | Total Hires, by Category |
|---|---|---|---|---|---|---|
| | | Full Time | Part Time | Full Time | Part Time | |
| Attorneys | 18 | 21 | 3 | 3 | 16 | 43 |
| Social workers and clinicians | 5 | 4 | 1 | 1 | 0 | 6 |
| Sentencing and mitigation specialists | 1 | 0 | 0 | 0 | 1 | 1 |
| Paralegals, legal assistants, law clerks, and legal interns | 14 | 19 | 3 | 8 | 3 | 33 |
| Investigators | 3 | 3 | 0 | 0 | 0 | 3 |
| Interpreters | 0 | 0 | 0 | 0 | 0 | 0 |
| Data analysts | 0 | 0 | 0 | 0 | 0 | 0 |
| IT technical positions | 0 | 0 | 0 | 0 | 0 | 0 |
| Administrative assistants | 2 | 0 | 1 | 2 | 0 | 3 |
| Other personnel | 3 | 1 | 0 | 0 | 2 | 3 |
| Total, by type | 26 | 48 | 8 | 14 | 22 | 92 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

NOTE: The total number of offices reporting departures is not the sum of the numbers in the column because an office may experience departures of multiple types of personnel and therefore be counted in multiple rows.

positions were most likely among attorneys and paralegals, legal assistants, law clerks, and legal interns. Reassignments reported among other grant-funded positions were uncommon.

## Activities of Grant-Funded Personnel

Offices reported activities across the full spectrum of staff—attorneys, paralegals, psychiatric social workers, appointed experts, and administrators. In addition to providing data on the usual tasks performed by legal staff, many progress reports highlighted the use of grant funds to research or train on the penal code sections covered by the grant program and the development of new processes and systems to streamline the flow of grant-related cases. Some grantees said that the hiring of new staff helped them introduce data collection and analysis systems, and a few reported community-facing or systemwide activities, such as attending justice partner meetings or participating in statewide discussions on relevant topic areas.

Throughout the evaluation period, grantees reported numerous outcomes resulting from the increase in personnel, whether externally or internally hired. Most notably, many offices reported increased specialization within attorney and legal support staff, such as paralegals, allowing them to become experts at handling cases falling under the penal code sections covered by the PDPP. Attorneys reported that they experienced reduced workloads, allowing them to dedicate more time to individual cases. Shifting workloads was said to have resulted in faster and more-efficient handling of cases and increased communication with clients to prepare clients for hearings and develop robust histories and rapport. Some grantees reported that certain cases or critical tasks, such as the hiring of experts or performing the large amount of document collection

**TABLE 3.5**

## Reassignments of Public Defense Pilot Program Grant-Funded Personnel During the Evaluation Period

| Personnel Category | Number of Offices Reporting Reassignments | Number of Permanent Staff | | Number of Temporary Staff | | Total Hires, by Category |
|---|---|---|---|---|---|---|
| | | Full Time | Part Time | Full Time | Part Time | |
| Attorneys | 12 | 31 | 2 | 1 | 1 | 35 |
| Social workers and clinicians | 3 | 3 | 0 | 0 | 0 | 3 |
| Sentencing and mitigation specialists | 0 | 0 | 0 | 0 | 0 | 0 |
| Paralegals, legal assistants, law clerks, and legal interns | 10 | 15 | 2 | 2 | 0 | 19 |
| Investigators | 2 | 2 | 0 | 1 | 0 | 3 |
| Interpreters | 0 | 0 | 0 | 0 | 0 | 0 |
| Data analysts | 1 | 1 | 0 | 0 | 0 | 1 |
| IT technical positions | 0 | 0 | 0 | 0 | 0 | 0 |
| Administrative assistants | 2 | 2 | 0 | 1 | 0 | 3 |
| Other personnel | 2 | 1 | 0 | 0 | 1 | 2 |
| Total, by type | 18 | 55 | 4 | 5 | 2 | 66 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

NOTE: The total number of offices reporting reassignments is not the sum of the numbers in the column because an office may reassign multiple types of personnel and therefore be counted in multiple rows.

needed to file *Franklin* briefs, would have been significantly delayed or not done at all without grant funds to increase staffing. As one grantee reported,

> The addition of grant-funded attorneys to represent clients in these postconviction matters has been invaluable. Prior to adding our PDPP attorneys, we simply did not have the bandwidth to adequately represent deserving clients who were eligible for relief. However, due to this funding, both our in-custody and out-of-custody clients have now benefited from excellent representation resulting in sentence reductions, immigration relief, cleared records, and support during the parole process. Our office now has the resources to successfully pursue relief for these clients solely due to our additional attorneys on staff.

Many offices reported hiring paralegal or support staff who developed or improved necessary processes, such as screening and case assignment systems that significantly increased efficiency. Attorneys and other staff have also been able to train and advise trial attorneys and others on specialized postconviction matters. Offices described increases in petitions reviewed, filed, and granted; in some instances, offices were able to work through backlogs in cases awaiting review for PCR. Grantees shared that increased postconviction work had resulted in large increases in the numbers of clients released or being resentenced to drastically reduced sentences. One public defense provider shared an example of its success:

> As a result of the efforts of PDPP grant–funded personnel, several cases were identified for postconviction relief, some of which have [resulted] or imminently will result in the elimination of life sentences. The panel saw an increase in the number of qualified attorneys available to handle postconviction matters. This increased the speed at which these matters could be handled and reduced incarceration time for the clients served. Contract attorneys had many successes in obtaining postconviction relief using personnel provided resources and personnel generated mitigation and re-entry reports, which were well received.

# Training

## Volume of Training in the Baseline and Evaluation Periods

We asked offices that used grant funds on training to report on three measures:

- How many staff attended training?
- How many training sessions did staff attend (e.g., if three staff members each attended two training sessions, the office would report that six sessions were attended in total)?
- How many hours of training did staff receive (e.g., if three staff members each attended two two-hour training sessions, the office would report 12 hours of training)?

In the tables that cover all six reporting periods, the staff numbers, sessions attended, and training hours reflect totals from all semiannual reports. As a result, the same staff member might be counted as many as six times if that person participated in training sessions in each of the reporting periods.

Table 3.6 presents the number of training sessions reported during the baseline period. Across offices, attorneys were the most common type of personnel attending training. Although other types of staff, such as paralegals, social workers or clinicians, and investigators, had some opportunities for training, attorneys participated in a cumulative 8,357 hours of training during the baseline period. We received baseline reports from 40 reporting entities.

**TABLE 3.6**
**Training Reported for Office Personnel During the Baseline Period**

| Personnel Category | Number of Offices Reporting Training | Number of Staff Attending Training | Training Sessions Attended | Hours of Training Received |
|---|---|---|---|---|
| Attorneys | | | | |
| Internal | 21 | 378 | 889 | 8,357.0 |
| External, for panels | 1 | 50 | 150 | 675.0 |
| Social workers and clinicians | 5 | 36 | 165 | 474.5 |
| Sentencing and mitigation specialists | 1 | 2 | 5 | 5.0 |
| Paralegals, legal assistants, law clerks, and legal interns | 5 | 90 | 301 | 424.5 |
| Investigators | 5 | 27 | 107 | 253.0 |
| Interpreters | 0 | 0 | 0 | 0.0 |
| Data analysts | 1 | 1 | 20 | 69.0 |
| IT technical positions | 2 | 9 | 83 | 180.0 |
| Administrative assistants | 9 | 16 | 47 | 124.5 |
| Other personnel | 2 | 8 | 24 | 77.0 |
| 12-month totals | 22 | 617 | 1,791 | 10,639.5 |

SOURCE: Our analysis of grantee-submitted baseline reports.

NOTE: The total number of offices reporting training is not the sum of the numbers in the column because an office may train multiple types of personnel and therefore be counted in multiple rows.

During the evaluation period, PDPP funds were reported to have supported more than 2,400 hours of training for attorneys across offices, which included attorneys who were employed by county or contracted public defense offices and attorneys who were part of consortium or panel models (Table 3.7). Funds also supported nearly 600 hours of training for paralegals, legal assistants, law clerks, and legal interns; more than 400 hours for investigators; and more than 300 hours for social workers and clinicians. In total, about 3,900 hours of training were supported with PDPP funds—approximately 650 hours of training, on average, in each six-month period. Note that we counted both training that had registration fees or associated travel costs and free training for which PDPP funds were used to support the time of participating staff. Also, information presented for staff members within a personnel category represent unique individuals only within each reporting period. For example, a social worker who received training in period 1 and period 6 would be counted twice in the column "Number of Staff Attending Training."

Offices reported having spent other, non-PDPP funds on training as well (Table 3.8). The PDPP funded more hours of training than other funds did (3,902 hours, compared with 2,346 hours). Most of this training was provided to attorneys—approximately 1,900 hours across both internal and external attorneys. However, it was much less likely for training to be reported for paralegals, legal assistants, law clerks, or legal interns (589 hours using PDPP grant funds, compared with 35 hours with non-PDPP funds) or for social workers or clinicians (307 hours using PDPP grant funds, compared with 72 hours with non-PDPP funds). Therefore, it appears that the grant program enabled additional training and professional development opportunities that might not otherwise have been available to certain staff within these offices.

**TABLE 3.7**

**Public Defense Pilot Program–Funded Training Reported for Office Personnel During the Evaluation Period**

| Personnel Category | Number of Offices Reporting Training | Number of Staff Attending Training | Training Sessions Attended | Hours of Training Received |
|---|---|---|---|---|
| Attorneys | | | | |
| Internal | 23 | 199 | 502 | 1,699.9 |
| External, for panels | 3 | 319 | 516 | 742.0 |
| Social workers and clinicians | 11 | 46 | 132 | 307.3 |
| Sentencing and mitigation specialists | 2 | 5 | 51 | 79.0 |
| Paralegals, legal assistants, law clerks, and legal interns | 18 | 76 | 237 | 588.9 |
| Investigators | 9 | 32 | 85 | 418.8 |
| Interpreters | 0 | 0 | 0 | 0.0 |
| Data analysts | 0 | 0 | 0 | 0.0 |
| IT technical positions | 0 | 0 | 0 | 0.0 |
| Administrative assistants | 4 | 19 | 30 | 60.5 |
| Other personnel | 2 | 2 | 4 | 6.0 |
| Total, by type | 25 | 698 | 1,557 | 3,902.3 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

NOTE: The total number of offices reporting training is not the sum of the numbers in the column because an office may train multiple types of personnel and therefore be counted in multiple rows.

**TABLE 3.8**

**Non–Public Defense Pilot Program–Funded Training Reported for Office Personnel During the Evaluation Period**

| Personnel Category | Number of Offices Reporting Training | Number of Staff Attending Training | Training Sessions Attended | Hours of Training Received |
|---|---|---|---|---|
| Attorneys | | | | |
| Internal | 15 | 297 | 370 | 1,660.0 |
| External, for panels | 1 | 199 | 248 | 288.5 |
| Social workers and clinicians | 6 | 17 | 33 | 72.0 |
| Sentencing and mitigation specialists | 3 | 7 | 9 | 19.8 |
| Paralegals, legal assistants, law clerks, and legal interns | 4 | 16 | 49 | 35.0 |
| Investigators | 7 | 20 | 56 | 244.5 |
| Interpreters | 0 | 0 | 0 | 0.0 |
| Data analysts | 0 | 0 | 0 | 0.0 |
| IT technical positions | 0 | 0 | 0 | 0.0 |
| Administrative assistants | 2 | 6 | 8 | 24.0 |
| Other personnel | 1 | 1 | 2 | 2.0 |
| Total, by type | 18 | 563 | 775 | 2,345.8 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

NOTE: The total number of offices reporting training is not the sum of the numbers in the column because an office may train multiple types of personnel and therefore be counted in multiple rows.

In the progress reports, offices described the types of training they attended using the PDPP funds. The funds enabled staff to attend some conferences and regional meetings, including the Capital Case Defense Seminar, Defense Investigator Training Academy, and a preconference seminar at the American Immigration Lawyers Association, hosted by the National Immigration Project. Many offices described training specifically focused on aspects of the penal code sections covered by the grant program, such as the RJA; preparing mitigation reports; and the intersection of the criminal and immigration systems. Others were on broader topics with relevance to the grant program, such as juvenile brain development, or to the postrelease needs that clients might have, such as navigating behavioral health or housing issues.

Most offices that reported participating in training also indicated that their staff had attended training offered by the Office of the State Public Defender's (OSPD's) Indigent Defense Improvement Division. Some of these courses were very directly focused on aspects of the penal code. For example, they provided training and roundtables on such topics as RJA claims in juvenile cases, AB 600/P.C. § 1172.1 cases,[2] strategies for litigating evidentiary hearings in § 1172.6 cases, and petitions to recall sentences under *People v. Heard*.[3]

[2] California Assembly, Criminal Procedure: Resentencing, AB 600, October 8, 2023.

[3] *People v. Heard*, 83 Cal. App. 5th 608 (Cal. Ct. App. 2022).

### Training Outcomes

Offices were asked to describe outcomes they observed as a result of the grant-funded training their personnel attended. The primary outcome described by offices was a perceived increase in staff technical knowledge, especially on postconviction topics. These included how to prepare motions for the specific penal codes covered by the grant, the types of investigations that can assist with these cases, and specific arguments that could be used in litigation. Many grantees referenced training that included specific case examples, which helped deepen their understanding and inspire new strategies. As one grantee said,

> Roundtables and report backs have been incredibly helpful in understanding how other courts and jurisdictions are handling these cases. It has given us ideas to present to our court as we advocate for better processes in our county. In a similar fashion, several of the RJA seminars included case examples and stories from other counties about the intersection of RJA claims and 1172.1 resentencing relief, providing new ideas for our unit moving forward.

Grantees reported that training led to some staff becoming subject-matter experts and that overall increased knowledge and skill development led directly to improved practices, such as the more efficient use of limited resources, improved issue identification, streamlined pleadings, and better arguments. Training also served as continuing education, reinforcing previous lessons learned and allowing staff to stay abreast of new legal developments, case law, and best practices.

Grantees also reported myriad outcomes in addition to the increased technical knowledge. Most notably, offices reported benefiting from networking via training opportunities. They said that, by meeting other postconviction practitioners, they were able to extend resource- and knowledge-sharing and collaborate when useful. Some offices noted the helpfulness of the OSPD SharePoint and listserv to help attorneys prepare cases and stay informed of new legal developments.

Following training, offices reported that their staff demonstrated increased confidence and interest in tasks that improved their representations. As one office reported, "Participation in trainings has boosted staff confidence in their abilities to effectively address the needs of clients and navigate complex legal issues. This increased confidence translates into better service delivery and outcomes for clients." Others said that attending training helped them see how complex these postconviction cases can be, which helped them realize that they needed additional expertise in their offices. Many staff expressed positive feedback and gratitude for the training opportunities.

## Office Supplies, Environment, Expenses, and Infrastructure

### Investments in Office Infrastructure During the Baseline and Evaluation Periods

Many offices indicated that they planned to use PDPP funds to improve their infrastructure, including the physical office space, availability of supplies and equipment, availability of legal research tools, and availability of software, communication devices, and other technology. We asked offices whether they had spent funding in each of ten potential categories related to office infrastructure during the baseline period (Table 3.9).

Offices most commonly reported using funds to purchase legal books or other publications, legal research subscriptions, and computing devices and other technological supports for personnel use. Many offices also said that they had made physical changes or improvements to their spaces. It was somewhat less common for offices to report having purchased technology for use by clients or invested in upgrading wireless or internet services.

During the grant program, the most–commonly reported grant-funded expenditures were cell phones and computing devices, other technological supports, legal research subscriptions, and physical changes and

**TABLE 3.9**
**Offices Reporting Expenditures for Infrastructure, Supplies, Equipment, Computing, Communication, or Improvements During the Baseline Period**

| Type of Expenditure | Offices Reporting |
|---|---|
| Installed, expanded, or upgraded wireless or other internet services | 14 |
| Made physical changes or improvements to office space | 24 |
| Purchased legal research subscriptions | 29 |
| Purchased legal books or other publications | 30 |
| Purchased additional software or computing supports (e.g., evidence.com, cloud storage, licenses) | 21 |
| Purchased or upgraded a CMS or additional licenses | 19 |
| Purchased cell phones, laptops, or other computing devices for personnel use | 31 |
| Purchased additional technological supports (e.g., printers, scanners) for personnel use | 25 |
| Purchased communication devices, computing equipment, tablets, or other mobile computing devices for use by clients (e.g., to enable them to attend virtual appointments while in jail) | 11 |
| Other purchases, expenses, or reimbursements not described above | 12 |

SOURCE: Our analysis of grantee-submitted baseline reports.
NOTE: CMS = case management system.

improvements to the office space (Table 3.10). However, we found that more offices also reported using non-PDPP funding for these types of improvements to the office infrastructure during the evaluation period. For many categories, more offices reported using non-PDPP funds than reported using grant funds to make improvements. PDPP funds were said to be used somewhat more often for other purchases—a category that included monthly cell phone costs, purchase of CDCR records, accounts to communicate with clients via the CDCR system, postage and printing costs, and membership fees (e.g., to the California Appellate Defense Counsel).

## Outcomes Associated with Infrastructure Investments

In their narrative progress reports, grantees reported positive outcomes from investments in office supplies, physical office space, and office infrastructure. They noted that purchases of portable technology, such as iPads, laptops, and cell phones, allowed grant-funded staff to access digital CMSs and have more tools directly accessible when working with clients. Portable devices also allowed staff to work remotely in other situations—for example, accessing key documents when working off-site or having increased communication with staff who worked only part time. Staff cell phones allowed more-efficient communication with clients. Some grantees purchased or were able to install new tools on staff devices, such as software to scan microfiche and microfilm rolls, Zoom licenses, and specialized legal software. One office said that it transitioned to a cloud-based virtual desktop system, which allows more-secure, reliable remote access. Grantees reported purchases of other computer equipment, such as monitors, scanners, and printers; together, the new equipment was said to have resulted in increased productivity and improved organization. Like personnel improvements, office supplies purchased with grant funds supported daily office work and allowed attorneys to devote more time to casework. As one office noted, these enhancements ultimately translated into increased case litigation or motion filings.

Grantees also reported a mix of investments in physical office space using grant funds, including updating workstations, painting offices, and refurbishing office furniture. These office improvements helped accommodate more staff and ensure a safe and efficient workspace. Some grantees said that they purchased

**TABLE 3.10**
**Offices Reporting Expenditures for Infrastructure, Supplies, Equipment, Computing, Communication, or Improvements During the Evaluation Period**

| | Offices Reporting | |
|---|---|---|
| Activity Category | PDPP Funded | Non-PDPP Funded |
| Installed, expanded, or upgraded wireless or other internet services | 3 | 4 |
| Made physical changes or improvements to office space | 8 | 12 |
| Purchased legal research subscriptions | 9 | 14 |
| Purchased legal books or other publications | 6 | 11 |
| Purchased additional software or computing supports (e.g., evidence.com, cloud storage, licenses) | 8 | 10 |
| Purchased or upgraded a CMS or additional licenses | 6 | 6 |
| Purchased cell phones, laptops, or other computing devices for personnel use | 11 | 11 |
| Purchased additional technological supports (e.g., printers, scanners) for personnel use | 9 | 8 |
| Purchased communication devices, computing equipment, tablets, or other mobile computing devices for use by clients (e.g., to enable them to attend virtual appointments while in jail) | 2 | 2 |
| Other purchases, expenses, or reimbursements not described above | 16 | 9 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

office furniture, such as desks, chairs, and stand-up inserts for workstations. These investments in the physical office environment could have broader benefits as well; as one office stated, "Arranging [the] office space to allow grant funded employees to be in the same space has fostered cooperation and sharing of expertise."

## Client-Focused or Case-Support Services

We were interested in understanding the client-focused and case-support services provided using PDPP grant funds, such as obtaining or retaining expert witnesses or interpreter services, as well as paying for or providing client services (e.g., behavioral health treatment) or other client needs (e.g., transportation). We were interested both in clients for whom a given service was provided using internal resources or staff (e.g., using internal assessment, mitigation, or interpreter personnel) and in clients for whom a given service was provided using external resources (e.g., retaining an external expert or support from an external immigration resource center). For clients who had services provided for multiple cases, offices were asked to report the information at the client level rather than at the case level.

In the baseline report template, to provide a more direct point of comparison for activity during the evaluation period, we asked specifically about funds spent on client-focused or case-support services in support of activities related to the penal code sections covered by the PDPP (Table 3.11). Across offices, the most–commonly reported client-focused or case-support services in the baseline period were immigration support services (defined as such activities as retaining external immigration counsel or engaging outside entities [e.g., the Immigrant Legal Resource Center]), which were provided largely using internal resources. Investigator and case management services were the next most common, but the number of clients served was fairly modest, particularly taking into consideration that these are cumulative totals across offices.

**TABLE 3.11**

## Expenditures Reported for Client-Focused and Case-Support Services During the Baseline Period

| Activity Category | Number of Offices Providing Services | Clients or Cases with Services Provided | |
|---|---|---|---|
| | | Internally | Externally |
| Psychological or psychiatric assessment | 15 | 102 | 90 |
| Mitigation or sentencing expert or support | 14 | 144 | 74 |
| Case management (e.g., development of a reentry support plan), clinical services, or reentry support services | 14 | 253 | 48 |
| Provision of direct client needs (e.g., transportation, clothing, hygiene products, groceries, hotel stay) | 3 | 177 | 75 |
| Other expert witness services not covered above | 7 | 0 | 83 |
| Immigration support services | 7 | 726 | 20 |
| Investigation assistance | 20 | 272 | 78 |
| Interpreter services | 12 | 42 | 38 |
| Transcriptions | 8 | 17 | 10 |
| Conflict-counsel fees/expenses | 4 | N/A | 134 |
| Other client-focused or case-support services | 7 | 67 | 20 |

SOURCE: Our analysis of grantee-submitted baseline reports.

NOTE: N/A = not applicable.

During the evaluation period, a substantial number of clients were given client-focused or case-support services (Table 3.12). The most–commonly reported grant-funded activities were case management, clinical services, and reentry support services, which were provided largely with internal resources or personnel, followed by investigation assistance and mitigation or sentencing expert or support. Some grant-funded services were likelier to be provided by external than by internal resources or personnel, such as psychological or psychiatric assessments, resources to address direct client needs (e.g., transportation, clothing), transcription, and other expert witness services. The number of clients receiving many of these categories of services increased substantially from the baseline period. For example, in the baseline period, 253 clients had been provided internal case management services. During the evaluation period, 3,098 clients received these services—an average of 1,033 clients reported per year.

Also, many services were provided with non-PDPP funds, and the most–commonly reported services were similar to those reported as grant funded—case management, clinical services, or reentry support services; investigation assistance; and mitigation or sentencing expert or support (Table 3.12). This likely indicates that these are the most-common needs to prepare motions for PCR under these key statutes. Certain services—specifically, interpreter services and resources to address direct client needs—were likelier to be funded with non-PDPP funds than with grant funds.

Offices reported that many clients received "other" supports using grant funding. Some of these other supports included assistance applying for social security benefits, coaching to prepare clients to face parole boards, retaining data consultants, purchasing workbooks for clients, and funding research attorneys. Many also reported the paralegal support needed to facilitate these services.

**TABLE 3.12**

**Expenditures Reported for Client-Focused and Case-Support Services During the Evaluation Period**

| | PDPP Funded | | | Non-PDPP Funded | | |
|---|---|---|---|---|---|---|
| | Number of Offices Providing Services | Clients or Cases with Services Provided | | Number of Offices Providing Services | Clients or Cases with Services Provided | |
| Activity Category | | Internally | Externally | | Internally | Externally |
| Psychological or psychiatric assessment | 26 | 243 | 389 | 21 | 93 | 292 |
| Mitigation or sentencing expert or support | 28 | 1,202 | 437 | 20 | 897 | 560 |
| Case management (e.g., development of a reentry support plan), clinical services, or reentry support services | 26 | 3,098 | 471 | 18 | 1,016 | 302 |
| Provision of direct client needs (e.g., transportation, clothing, hygiene products, groceries, hotel stay) | 11 | 292 | 347 | 7 | 311 | 144 |
| Other expert witness services not covered above | 18 | 34 | 119 | 11 | 7 | 111 |
| Immigration support services | 12 | 323 | 36 | 14 | 212 | 18 |
| Investigation assistance | 23 | 1,248 | 316 | 23 | 1,259 | 347 |
| Interpreter services | 18 | 223 | 110 | 15 | 573 | 191 |
| Transcriptions | 17 | 73 | 113 | 14 | 17 | 87 |
| Conflict fees or expenses | 5 | N/A | 198 | 4 | 0 | 4 |
| Other client-focused or case-support services | 19 | 2,045 | 253 | 10 | 458 | 85 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

## Outcomes of Client-Focused and Case-Support Services

The primary outcome that offices reported observing as a result of the PDPP-funded client-focused and case-support services was the ability to secure expert services, such as psychologists, immigration consultants, and mitigation specialists. The need for experts varied widely and included experts in gangs, firearms, media, racial justice. The list was tailored to the individual case. Grantees considered these services to be necessary and something to which they might not have had access before. As one grantee explained, "The ability to engage a mitigation specialist for a re-sentencing hearing has been invaluable. Doing so outside of the grant would likely have been difficult given the resources of a small county."

PDPP grant funding has also allowed grantees to hire additional types of staff, particularly social workers, to produce social histories and reentry plans. Grantees noted that, by having these services in-house (not just via court appointment), they have greater flexibility to serve clients directly and more immediately. Many gave specific examples of expert services directly resulting in reduced sentences or release. As one county reported,

> The court indicated that a positive assessment could sway [its] decision on whether to resentence a client serving 61 to life to a determinate sentence. We did hire the expert to prepare the report and it was successful, the client is now at home after 30 years of incarceration.

Grantees also reported that client-focused and case-support services funded through the PDPP have increased work quality and resulted in the implementation of systems that improve the overall efficiency of the offices. Some offices reported additional types of client services funded by the grant, such as rehabilitative programming and books for clients, housing for clients in particular circumstances, and material supports, such as transportation, groceries, clothing and technology (e.g., cell phones, laptops) to recently released clients to help prevent recidivism.

Overall, grantees reported that the PDPP-funded client-focused and case-support services helped support steps toward resentencing and improved client outcomes. As a result of grant-funded activities, offices have reduced client sentences, secured releases, and helped clients successfully transition from detention to communities.

CHAPTER 4

# What Did Grant Funds Enable Offices to Accomplish?

Per statute, the purpose of the PDPP was to address counties' workload related to the "provisions in paragraph (1) of subdivision (d) of Section 1170 of, and Sections 1170.95, 1473.7, and 3051 of, the Penal Code."[1] Therefore, through the quarterly progress reports, grantees provided information about the number of clients served in ways related to each penal code section. We used qualitative interviews to gain additional details about offices' approaches to this work. We were also interested in understanding progress made toward the goals that offices established at the beginning of the grant program—not only what they were able to accomplish but also what challenges they encountered along the way. In this chapter, we summarize findings related to clients served and progress toward goals established by grantees.

## Clients Served, by Penal Code Section

In this section, we summarize the number of people served in ways related to each penal code section covered by the PDPP, according to the semiannual progress reports. We also provide details of the experiences that offices had related to the penal code sections, based on the qualitative interviews.

### Summary of Activity Across Relevant Penal Code Sections

Each reporting period, we began by asking grantees to provide a summary of the number of people served in any way through the grant funds related to each penal code section. We instructed grantees to summarize their

> best estimate for the number of individuals for whom your office has been involved in some way in activities related to these subject areas (an "individual" can include, for example, a current client, a former client, someone informally asking for advice, or a name on a list you have been given for the purposes of reviewing their criminal history).

We clarified that this could include a wide variety of activities, including reviewing case files for former clients to determine whether they were eligible for relief under one of these statutes, fielding questions from those interested in whether they were eligible (or whether family members made the inquiries), obtaining a list of past clients from CDCR who were convicted of certain offenses (such as felony murder), and filing peti-

[1] Budget Act of 2021, § 189.

tions or motions on behalf of a current client. This was our way of getting an initial, high-level estimate of the volume of services being provided related to each penal code section.[2]

We first requested these data for the baseline period (i.e., 12 months leading up to each office's start date) (see Table 4.1).

In Table 4.2, we present the summary, by penal code, for the evaluation period. As shown in the table, the largest numbers of people served per reporting period were observed for P.C. §§ 1172.1 and 1172.6. By contrast, individual contacts related to §§ 1473.7(a)(3) and 1473.7(a)(2) were relatively uncommon.

A comparison of the data in Tables 4.1 and 4.2 shows the significant increase in volume reported for several of the penal code sections during the grant program from the baseline period. Particularly notable increases were observed for P.C. §§ 1172.1, 1172.6, and 1473.7(a)(1). In addition, although the total number of people served under § 1473.7(a)(3) was modest during the evaluation period, it does reflect a significant increase from the baseline period.

After the summary table, grantees were provided a series of tables, one for each penal code section.

**TABLE 4.1**
**Number of People Whom Offices Reported as Having Served During the Baseline Period**

| Penal Code Section | People Served | Six-Month Average |
|---|---|---|
| 1172.1 | 1,024 | 512 |
| 1172.6 | 1,958 | 979 |
| 1473.7(a)(1) | 1,177 | 589 |
| 1473.7(a)(2) | 21 | 11 |
| 1473.7(a)(3) | 12 | 6 |
| 3051 YOPH | 2,902 | 1,451 |
| 3051 *Franklin* | 2,702 | 1,351 |

SOURCE: Our analysis of grantee-submitted baseline reports.

**TABLE 4.2**
**Number of People Whom Offices Reported as Having Served During the Evaluation Period**

| Penal Code Section | Total Across Reporting Periods | Average per Reporting Period |
|---|---|---|
| 1172.1 | 23,362 | 3,894 |
| 1172.6 | 18,546 | 3,091 |
| 1473.7(a)(1) | 8,926 | 1,488 |
| 1473.7(a)(2) | 64 | 11 |
| 1473.7(a)(3) | 1,514 | 252 |
| 3051 YOPH | 7,032 | 1,172 |
| 3051 *Franklin* | 10,667 | 1,778 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

[2] Note that we did not request detailed information about the status of cases by penal code section; many offices did not have the infrastructure in place to provide that level of data.

## P.C. § 1172.1 (Formerly 1170.03 and 1170[d][1]): Recall Sentence and Resentencing

For P.C. § 1172.1, the progress reporting template included sections related to how offices identified people who might be eligible for § 1172.1 proceedings and, when known, their case outcomes.

In total, 41 offices reported activity related to P.C. § 1172.1. Across the reporting periods and across offices, more than 16,000 potential clients had reportedly reached out to grantees about their potential eligibility, and grantees reported screening more than 18,000 (Table 4.3). In more than 10,000 cases, the court or another agency notified the office about the person seeking resentencing.

By the end of the evaluation period, a total of 1,318 proceedings had reportedly resulted in successful recall or resentencing, with 334 denials. On average, in any given reporting period, about 541 cases were in progress.

During qualitative interviews, grantees indicated that they often received lists from CDCR of recommended clients. One office specified that many of the clients on its list had life sentences. In other instances, a client might reach out to a county for resentencing relief; in these instances, the DA notifies the public defender's office, but there are barriers to getting the DA to agree to proceed and will often do so only with a priority case.

During the exit interviews, interviewees from two offices mentioned that AB 600 legislation changed the pace of recall and resentencing work. Passed in 2023, the bill led to changes in the demand for postconviction services overall. One interviewee said that grant funding enabled their office to take on more § 1172.1 cases, especially given the passage of AB 600 and the associated increased workload, and that the office would be using the grant extension to address these cases.

**TABLE 4.3**
**Summary of Activity Reported Related to P.C. § 1172.1 During the Evaluation Period**

| Activity | Total Across Reporting Periods | Average per Reporting Period |
|---|---|---|
| Identification of people who might be eligible for relief | | |
| Number of instances in which someone contacted an agency or office about their potential eligibility | 16,622 | 2,770 |
| Number of people whom agencies or offices screened (perhaps by reviewing old client files or having identified them previously but being unable to assist with relief prior to the grant funding) to independently identify people who might be eligible for § 1172.1 proceedings | 18,008 | 3,001 |
| Number of instances in which an agency or office was notified by the court, an agency, or other external party about someone being recommended for recall or resentencing under P.C. § 1172.1 and in which such notice was the first time the agency or office became aware of this person's potential eligibility | 10,818 | 1,803 |
| Case outcomes | | |
| Number of § 1172.1 proceedings in which an office represented the party of interest in which the request for recall and resentencing was granted, with or without a hearing | 1,318 | 220 |
| Number of § 1172.1 proceedings in which an office represented the party of interest in which the request for recall and resentencing was denied | 334 | 56 |
| Number of in-progress or as-yet-unresolved § 1172.1 proceedings in which an office was representing the party of interest | 3,244 | 541 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

## P.C. § 1172.6 (Formerly § 1170.95): Prior Felony Murder, Felony Attempted Murder, or Felony Manslaughter Resentencing

For P.C. § 1172.6, the progress report table included sections related to how offices identified cases that might be eligible for proceedings, how counties came to represent clients (i.e., because the office was involved with filing the petition for resentencing or because the client was appointed counsel after the petition had been filed), and, when known, the case outcomes.

In total, 45 offices reported activity related to P.C. § 1172.6. Across the reporting periods and across offices, about 5,600 people were reportedly referred by a state agency or other outside process or party or self-referred (Table 4.4). Another 3,400 were identified by a grantee; in about 4,200 instances, the agency or office was appointed as counsel.

In total, more than 6,000 representations were reported, and most of these were cases in which the grantees were appointed as counsel only after a petition for resentencing was filed. During the evaluation period, a total of 594 cases were reported to have resulted in resentencing being granted, and 2,133 resentencing petitions were denied. On average, about 1,770 cases were active but unresolved during a given reporting period.

Grantees reported in interviews that, to begin with, they had more petitions filed under this statute than under other PDPP-relevant penal code sections, given that people in prison have an incentive to file even if they might not be eligible. As time went on, petitions tapered off as those petitions that were initially filed were addressed and the number of potential cases decreased.

**TABLE 4.4**
**Summary of Activity Reported Related to P.C. § 1172.6 During the Evaluation Period**

| Activity | Total Across Reporting Periods | Average per Reporting Period |
|---|---|---|
| Identification of people who might be eligible for relief | | |
| Number of people identified to an agency or office as being potentially eligible for relief under § 1172.6 and such notice was provided by a state agency, other outside process or party, or the potentially eligible person | 5,673 | 946 |
| Number of people whom an agency or office independently identified as potentially eligible for resentencing under § 1172.6 (perhaps by reviewing old client files or having identified them previously but being unable to assist with relief prior to the grant funding) | 3,443 | 574 |
| Number of instances in which an agency or office was appointed as counsel to represent someone in a proceeding for resentencing under § 1172.6 and such appointment was the first time the agency or office became aware of the person's potential eligibility | 4,241 | 707 |
| Representation | | |
| Number of instances in which an agency or office was involved in some way with the filing of a petition for resentencing (or motion to vacate) under § 1172.6 | 1,002 | 167 |
| Number of instances in which an agency or office was appointed as counsel only after a petition for resentencing (or motion to vacate) under § 1172.6 was filed | 5,096 | 849 |
| Case outcomes | | |
| Number of clients whom an agency or office represented whose petition for resentencing (or motion to vacate) under § 1172.6 was granted | 594 | 99 |
| Number of clients whom an agency or office represented whose petition for resentencing (or motion to vacate) under § 1172.6 was denied | 2,133 | 356 |
| Number of in-progress or as-yet-unresolved § 1172.6 proceedings in which an agency or office was representing the party of interest | 10,617 | 1,770 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

PCR under P.C. § 1172.6 was said to be a time- and labor-intensive resentencing process that required specialization. Some interviewees said that, because of the specialized knowledge requirement, their offices had created special units, recruited more attorneys to work on PCR, or dedicated a single attorney to this type of relief. Interviewees noted that these cases require more work from the attorney and less from social workers because they require litigation preparations and renegotiating the recall or resentencing for the clients. One interviewee reported that their office takes a couple of months to receive data it has requested from CDCR and that, when the records come in, the attorney has to review thousands of records, which is time-consuming.

## P.C. § 1473.7(a)(1): Vacating a Conviction or Sentence for Failure to Explain Immigration Consequences

For P.C. § 1473.7(a)(1), the progress report table included sections related to how offices identified cases that might be eligible for proceedings, how counties came to represent clients (i.e., because the office was involved with filing the petition for resentencing or because it was appointed by the court or independently chose to represent a client), and, when known, case outcomes.

In total, 31 offices reported activity related to P.C. § 1473.7(a)(1). More than 6,200 people were either identified to the office as possibly eligible or identified by the office independently through a review of files (Table 4.5). Nearly 700 motions to vacate were filed, and offices were appointed as counsel for another

**TABLE 4.5**
**Summary of Activity Reported Related to P.C. § 1473.7(a)(1) During the Evaluation Period**

| Activity | Total Across Reporting Periods | Average per Reporting Period |
|---|---|---|
| Identification of people who might be eligible for relief | | |
| Number of cases in which an agency or office was notified of a client who might be eligible for relief under § 1473.7(a)(1) by a client, state agency, or other outside process or party | 1,795 | 299 |
| Number of cases in which an agency or office independently identified potentially eligible people through a review of files screened for eligibility to have a conviction or sentence vacated under § 1473.7(a)(1) | 4,316 | 719 |
| Number of cases in which an agency or office was appointed as counsel for someone without prior review of the file and the agency or office reviewed the case for eligibility to have a conviction or sentence vacated under § 1473.7(a)(1) | 144 | 24 |
| Representation | | |
| Number of cases in which an agency or office filed a motion to vacate a prior conviction or sentence under § 1473.7(a)(1) | 694 | 116 |
| Number of cases in which an agency or office was appointed as counsel by the court or independently chose to represent a client on a motion | 1,202 | 200 |
| Case outcomes | | |
| Number of instances in which a motion to vacate a conviction or sentence under § 1473.7(a)(1) was granted | 551 | 92 |
| Number of instances in which a motion to vacate a conviction or sentence under § 1473.7(a)(1) was denied | 31 | 5 |
| Number of in-progress or as-yet-unresolved § 1473.7(a)(1) proceedings in which an office was representing the party of interest | 1,891 | 315 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

1,200 cases. In total, 551 motions were granted and 31 were denied; on average, during any given reporting period, 315 cases were still in progress.

In interviews, we heard that fewer offices provided services related to this section than to other sections but that those that did so experienced less demand than anticipated. One interviewee cited the existence of private immigration-focused attorneys taking on the cases as a reason for the lower demand on public defense providers.

## P.C. § 1473.7(a)(2): Vacating a Conviction or Sentence Because of New Exculpatory Evidence

For P.C. § 1473.7(a)(2), the progress report table included sections related to how offices identified cases that might be eligible for proceedings, how counties came to represent clients (i.e., because the office was involved with filing the petition for resentencing or because it was appointed by the court or independently chose to represent a client), and, when known, case outcomes.

In total, 11 offices reported activity related to P.C. § 1473.7(a)(2). Fewer clients were provided services under this penal code section (Table 4.6) than under other forms of PDPP-covered PCR. In total, only 52 people were brought to the grantees' attention, and most of those were instances in which a client, state agency, or other outside entity notified the office. Offices represented a total of 22 people across reporting periods, with motions to vacate granted in two cases and motions denied in five cases.

**TABLE 4.6**
**Summary of Activity Reported Related to P.C. § 1473.7(a)(2) During the Evaluation Period**

| Activity | Total Across Reporting Periods | Average per Reporting Period |
|---|---|---|
| Identification of people who might be eligible for relief | | |
| Number of cases in which an agency or office was notified of a client who might be eligible for relief under § 1473.7(a)(2) by a client, state agency, or other outside process or party | 35 | 6 |
| Number of cases in which an agency or office independently identified potentially eligible people through a review of files screened for eligibility to have a conviction or sentence vacated under § 1473.7(a)(2) | 12 | 2 |
| Number of cases in which an agency or office was appointed as counsel for someone without prior review of the file and the agency or office reviewed the case for eligibility to have a conviction or sentence vacated under § 1473.7(a)(2) | 5 | 1 |
| Representation | | |
| Number of cases in which an agency or office filed a motion to vacate a prior conviction or sentence under § 1473.7(a)(2) | 5 | 1 |
| Number of cases in which an agency or office was appointed as counsel by the court or independently chose to represent a client on a motion | 17 | 3 |
| Case outcomes | | |
| Number of instances in which a motion to vacate a conviction or sentence under § 1473.7(a)(2) was granted | 2 | 0.3 |
| Number of instances in which a motion to vacate a conviction or sentence under § 1473.7(a)(2) was denied | 5 | 1 |
| Number of in-progress or as-yet-unresolved § 1473.7(a)(2) proceedings in which an office was representing the party of interest | 35 | 6 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

Our interviewees reported that demand for relief under P.C. § 1473.7(a)(2) was lower than expected, although, in some cases, the grant funds were used to hire an expert. This reporting is consistent with our quantitative findings.

## P.C. § 1473.7(a)(3): Vacating a Conviction or Sentence for California Racial Justice Act Violations

For P.C. § 1473.7(a)(3), the progress report table included sections related to how offices identified cases that might be eligible for proceedings, how counties came to represent clients (i.e., because the office was involved with filing the petition for resentencing or because it was appointed by the court or independently chose to represent a client), and, when known, case outcomes.

In total, 24 offices reported activity related to P.C. § 1473.7(a)(3). Nearly 1,500 people were brought to grantees' attention, and as was true for many forms of PDPP-covered PCR, most of these were instances in which a client, state agency, or other outside party notified the office (Table 4.7). Offices went on to represent 162 clients. By the end of the evaluation period, only one motion to vacate was reportedly successful and six were denied.

In qualitative interviews, one grantee representative mentioned that resentencing under the RJA had been the most labor-intensive of the postconviction remedies covered by the PDPP, noting that hardly any case law was helpful. Other barriers that offices had encountered include DA offices not providing all the data needed and the lengthy process of reviewing police reports. Interviewees said, however, that the PDPP has enabled

**TABLE 4.7**

**Summary of Activity Reported Related to P.C. § 1473.7(a)(3) During the Evaluation Period**

| Activity | Total Across Reporting Periods | Average per Reporting Period |
|---|---|---|
| Identification of people who might be eligible for relief | | |
| Number of cases in which an agency or office was notified of a client who might be eligible for relief under § 1473.7(a)(3) by a client, state agency, or other outside process or party | 1,122 | 187 |
| Number of cases in which an agency or office independently identified potentially eligible people through a review of files screened for eligibility to have a conviction or sentence vacated under § 1473.7(a)(3) | 255 | 43 |
| Number of cases in which an agency or office was appointed as counsel for someone without prior review of the file and the agency or office reviewed the case for eligibility to have a conviction or sentence vacated under § 1473.7(a)(3) | 115 | 19 |
| Representation | | |
| Number of cases in which an agency or office filed a motion to vacate a prior conviction or sentence under § 1473.7(a)(3) | 32 | 5 |
| Number of cases in which an agency or office was appointed as counsel by the court or independently chose to represent a client on a motion | 130 | 22 |
| Case outcomes | | |
| Number of instances in which a motion to vacate a conviction or sentence under § 1473.7(a)(3) was granted | 1 | 0.2 |
| Number of instances in which a motion to vacate a conviction or sentence under § 1473.7(a)(3) was denied | 6 | 1 |
| Number of in-progress or as-yet-unresolved § 1473.7(a)(3) proceedings in which an office was representing the party of interest | 339 | 57 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

grantees to work on these cases in a way that they could not previously. For example, interviewees described how clients could petition from prison and that, prior to the PDPP, their office often had to reject these petition cases but was now able to take some of them. Interviewees said that there are still challenges to these representations, though, such as finding experts willing to testify about racial disparities.

## P.C. § 3051: Youth Offender Parole Hearings and *Franklin* Hearings

For P.C. § 3051 YOPHs, the progress report table included sections related to how offices identified cases that might be eligible for proceedings, how counties came to assist clients in these matters (e.g., instances in which their office filed a motion or submitted materials in support of a YOPH), and, when known, hearing outcomes.

Thirty-one offices reported activity related to P.C. § 3051 YOPHs. About 5,000 people were brought to the offices' attention as juvenile offenders who might be eligible for a YOPH in the subsequent 12 months (Table 4.8). In 754 cases, an office filed a motion or submitted materials in support of a YOPH (it is likely that nearly all of these involved the submission of materials); in another 256 cases, an office was appointed as counsel or independently chose to represent the person (and here again, it is likely that nearly all were simply instances in which the office chose to assist the person in some way in a pending YOPH rather than actually being appointed as counsel).

During the evaluation period, grantees reported that there were 119 instances in "which a Youth Offender Parole Hearing is held for a client your office represented at the hearing." We believe that grantees interpreted this question in a variety of ways, especially in light of the fact that this is a proceeding that typically has no county-funded public defense counsel present. It is certainly conceivable that, at least for some hearings,

**TABLE 4.8**

**Summary of Activity Reported Related to P.C. § 3051 Youth Offender Parole Hearings During the Evaluation Period**

| Activity | Total Across Reporting Periods | Average per Reporting Period |
|---|---|---|
| Identification of people who might be eligible for relief | | |
| Number of instances in which an agency or office was notified of someone who might be eligible for a YOPH under § 3051 in the next 12 months, by a state agency, other outside process or party, a former client, or any other person | 3,455 | 576 |
| Number of people whom an agency or office independently identified (perhaps through a review of files) who might be eligible for a YOPH under § 3051 in the next 12 months | 1,594 | 266 |
| Representation | | |
| Number of instances in which an agency or office filed a motion or submitted materials in support of a YOPH under § 3051 | 754 | 126 |
| Number of instances in which an agency or office was appointed as counsel by the court or independently chose to represent someone at a YOPH under § 3051 | 256 | 43 |
| Case outcomes | | |
| Number of instances in which a YOPH was held for a client the agency or office represented at the hearing | 119 | 20 |
| Number of instances in which a client was granted parole following a YOPH | 132 | 22 |
| Number of instances in which a client was denied parole following a YOPH | 227 | 38 |
| Number of in-progress or as-yet-unresolved YOPH proceedings in which an office was representing the party of interest | 2,463 | 411 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

counsel provided by the grantee was indeed in the same room or perhaps was participating remotely. But it is likelier that some grantees were simply reporting the fact that one of their clients had a YOPH, even if a grantee attorney did not make an appearance. We suspect that most offices that had an interest in or a formal representation relationship with someone who had a YOPH during the evaluation period did not answer this question in the affirmative if the grantee attorney was not actually in attendance. Thus, the 119 count is almost certainly inflated in terms of actual attendance and is likely to significantly undercount all YOPH hearings during the evaluation period in which the subject of the hearing was a grantee's client. We are much less concerned about other YOPH outcome questions because they were not predicated on whether a grantee's attorney was physically or virtually present at the hearing. Across the six reporting periods, grantees indicated that 132 clients were granted parole and that, for 227, parole was denied. Many additional cases were in progress during the evaluation period, with an average of 411 cases in progress during each reporting period. But it should be kept in mind that the scope of a grantee's relationship with a client and what exactly the office did in support of YOPH proceedings were likely to vary greatly from office to office and from client to client in terms of outcomes.

For *Franklin* hearings, the progress report table included sections related to how offices identified cases that might be eligible for proceedings, how counties came to represent clients (i.e., instances in which an office filed a motion for a *Franklin* hearing or instances in which it was appointed by the court or independently chose to represent a client), and, when known, case outcomes.

In this category, 41 offices reported activity. The number of people identified as those possibly in need of *Franklin* hearings was similar to the number for YOPHs—approximately 5,500 in total across the reporting periods (Table 4.9). In 3,217 cases, offices represented clients, with about 30 percent of those being instances in which an office filed a motion for a *Franklin* hearing and the other 70 percent of cases being instances in which an office was appointed as counsel by the court or independently chose to represent a client. During the evaluation period, in 607 cases, a *Franklin* motion was granted or relevant materials were made part of

**TABLE 4.9**

**Summary of Activity Reported Related to P.C. § 3051 *Franklin* Hearings During the Evaluation Period**

| Activity | Total Across Reporting Periods | Average per Reporting Period |
|---|---|---|
| Identification of people who might be eligible for relief | | |
| Number of instances in which an agency or office was notified by a state agency, other outside process or party, a former client, or any other person of someone's potential need to seek a *Franklin* hearing | 3,670 | 612 |
| Number of cases in which an agency or office independently identified someone (perhaps through a review of old case files) potentially in need of a *Franklin* hearing | 1,862 | 310 |
| Representation | | |
| Number of instances in which an agency or office filed a motion for a *Franklin* hearing | 953 | 159 |
| Number of instances in which an agency or office was appointed as counsel by the court or independently chose to represent a client in a *Franklin* hearing | 2,264 | 377 |
| Case outcomes | | |
| Number of cases in which a *Franklin* motion was granted or relevant materials were made part of the client's C-file or entered into the court record | 607 | 101 |
| Number of in-progress or as-yet-unresolved *Franklin* proceedings in which an office was representing the party of interest | 8,172 | 1,362 |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

a client's C-file or entered into the court record. However, a substantial number of cases were reportedly in progress—approximately 1,362 per reporting period, on average.

Both with grantees that prioritized traditional *Franklin* proceedings and with grantees that prioritized the parole hearings themselves, certain themes emerged from our interviews. It appeared that counties began by working through a backlog of YOPH cases. Grant funds were helpful to offices in these cases because they allowed counsel to communicate how developmental patterns affected criminality during the client's youth and provided the means for the client to advocate for themselves during the parole hearing (e.g., detailing the client's history coherently).

There were many challenges related to *Franklin* hearings and the preparation of packets containing mitigation information for future hearings. For example, obtaining a client's C-file from CDCR can take an extensive amount of time. Some interviewees recalled a DA's office delaying work through procedural methods or fighting the validity of records. One interviewee said that their office focused on cases that were 12 to 18 months away from their parole hearings because the office did not have the capacity to generate mitigation packets for cases ten years out. Interviewees also expressed concern about whether these cases were a priority for the courts and whether parole boards actually consider the mitigating evidence provided.

## Progress Toward Grantee Goals

Whereas the quantitative progress reports focused on outcomes related to the key penal code sections covered by the PDPP, the narrative progress reports were a mechanism for collecting information from grantees about progress toward the goals established in their grant applications. Our evaluation was not designed to

**TABLE 4.10**
**Number of Counties Reporting Having Set Goals Within Each Goal Category**

| Goal | Counties Reporting That Goal |
|---|---|
| Client-related goals | |
| Client representation | 39 |
| Client services | 16 |
| Client screening | 14 |
| Reduction of criminal justice involvement | 1 |
| Personnel-related goals | |
| Personnel | 7 |
| Productivity | 2 |
| Training | 6 |
| Technology- and data-related goals | |
| Technology and data | 8 |
| RJA data | 2 |
| Other goals | |
| Grant compliance | 1 |
| Sustainability | 3 |

SOURCE: Our analysis of county PDPP grant applications.

assess individual grantee progress toward goals; instead, we were interested in understanding the common types of goals set by offices and the patterns of progress across all grantees. Table 4.10 describes the number of unique counties that established goals within each category.

In this section, we summarize progress made toward each type of goal. Generally, descriptions of progress remained constant across different statutes. In most cases, there were not differences in progress between statutes. If there was something unique to a specific statute, we discuss that in the text.

## Client-Related Goals

### Client Representation

Most offices reported progress in working toward or engaging in client representation from the beginning of the evaluation period. Progress during this time frame included creating specialized units and hiring or training attorneys and support staff to do postconviction work for many offices. For example, one office reported that its specialized postconviction unit led to improved case handling:

> § 1172.1 and postconviction § 3051 cases are assigned to this unit. Previously, the cases were assigned to felony panel trial lawyers who handled them in addition to their regular caseloads. The creation of the unit has allowed clients to obtain relief much quicker and has allowed the Alternate Defender's Office to address these cases in a more efficient and effective manner.

Fewer offices at the beginning of the evaluation period reported that they were actively litigating cases than reported doing so later in the evaluation period. However, many had begun to make progress by screening clients by themselves or using referrals or appointments from CDCR, DAs, and the courts. Some also developed standardized processes for client intake and representation. Offices occasionally described progress they made that was specific to a particular penal code section; for example, two offices reported that they had begun § 1473.7 client representation by hiring Spanish-speaking staff, and another office, focusing on § 1473.7(a)(3), had hired and trained attorneys for RJA work. The offices that reported no progress during this period said that they were constrained by staffing, funding, and the number of eligible clients.

As the evaluation period continued, most offices reported having established postconviction units or had attorneys working on postconviction cases. Consequently, grantees focused more heavily on perfecting processes or retaining staff in their units. Progress reports tended to emphasize the representation itself rather than the factors (such as obtaining resources or training) that facilitate postconviction work. For example, offices described their efforts related to screening and outreach for potential clients, obtaining records, building reports, submitting petitions, and attending hearings. Some offices indicated challenges, such as difficulty hiring personnel into certain positions; other offices that were able to hire needed staff did not always report workloads being reduced to the extent desired. Still, these offices continued to report progress using PDPP grant funds.

Toward the middle of the evaluation period, the pace of postconviction work began to differ more from office to office. Some offices reported increasing the pace of postconviction work, whereas others reported a slowing of cases. Some in the latter group had addressed the initial tranche of clients eligible for relief and began to look elsewhere for clients to represent. It is also important to note that, although offices reported that they had increased the number of clients they were representing, many offices had cases that did not result in release or resentencing.

Toward the end of the reporting periods, offices reported greater changes in client representation progress across different statutes because of new legislation and changes to the potential client population. First,

legislative changes, such as AB 600,[3] expanded eligibility for forms of relief; other client pools expanded as potential clients reached a point in incarceration at which they became eligible for PCR (e.g., 15 years of incarceration). Other offices shifted their focuses to different statutes; for example, one office saw that § 3051 cases were less likely to be successful in its county and subsequently switched its focus to other case types. Additionally, many offices attempted to devote large amounts of resources to concluding cases before the originally announced end of the grant period; some were beginning other grants for postconviction work that continued progress throughout the reporting period. Offices that did not make progress cited a lack of demand for representation.

## Client Services

Client service provision was the second-most common goal reported among grantees, with 16 counties setting goals related to client services (e.g., conducting forensic psychological assessments, providing reentry services postrelease).

At the beginning of the grant period, most offices reported being able to make progress on client services goals, such as completing assessments for § 3051 and § 1172.1 clients. Some offices focused on setting up their offices and postconviction units. In the case of panel-based organizations, grantees compiled resources, such as lists of potential experts or reentry services in preparation for future cases assigned to panel attorneys.

Some offices said that they were able to make progress on their goals but found that high workloads or staffing shortages slowed progress. Offices also increased their reentry service offerings, such as one office expanding its reentry support unit. However, the uncertainty about the availability of funding during cohort III of the grant program became an obstacle; some offices stopped providing reentry services. By the final reporting period, many offices reported little remaining progress toward their client service–related goals, meaning that no experts were hired, the office was no longer working toward the goal, the cases were resolved, or no assessments were conducted.

## Client Screening

Client screening was the third-most commonly established goal among grantees; 14 counties set goals for screening for potential clients. Offices described their efforts to establish the processes and infrastructure needed to support screening efforts. For example, these offices were hiring staff, determining how they could leverage their CMSs to facilitate screening, or developing packets to use for outreach directly with incarcerated people.

Many grantees reported that they relied on lists provided by CDCR, DAs, or courts to make progress in screening. However, others received a fair number of client-initiated requests for relief that required screening or conducted their own outreach to potentially eligible clients. When offices faced challenges that slowed or constrained their ability to screen for potential clients, they sometimes shifted their focus to screening for specific statutes or cases, depending on case demand or urgency. Offices also noted that progress made in client screening did not necessarily equate to taking on a larger number of cases. For some offices, high progress in screening, sometimes working through hundreds of potentially eligible clients, could lead to only a few new clients, depending on the eligibility of people available. The most significant distinction affecting progress toward the end of the evaluation period was changes in postconviction law (e.g., AB 600) providing more paths for relief, thereby increasing the projected workload required for screening.

[3] California Assembly, Criminal Procedure: Resentencing, AB 600, October 8, 2023.

### Reduction of Criminal Justice Involvement

Although many counties focused on establishing goals related to screening and representing clients, one county set a goal specific to reducing overall criminal justice involvement for its residents as a result of its grant-funded work. During the evaluation period, this county described success in reducing criminal justice involvement for its clients via resentencing or releases granted. This county also reported making reentry plans for clients; in some cases, these helped facilitate reductions in criminal justice involvement during and following reduced or resentenced case outcomes. The county noted that reentry plans were particularly important for reducing criminal justice involvement among § 1172.1 cases because the DA, courts, and CDCR must sign off on these cases and that reentry plans increased the chances of motions being granted. Some staff, such as social workers or those in legal support, played a key role in building and compiling resources for reentry plans that either constituted or facilitated progress. Overall, even with high workloads and organizational changes, which sometimes slowed progress, this county reported a net reduction in criminal justice involvement.

## Personnel-Related Goals

### Personnel

Seven counties established personnel-related goals, such as expanding the number of attorneys in their offices or improving morale among staff. Progress toward this goal consisted largely of hiring and retaining attorneys or temporary support staff (e.g., paralegals) for postconviction work. Offices specifically sought to hire personnel with expertise in postconviction work or to provide specialized training on postconviction work as needed. Offices also reported improvements in morale and culture—for example, by organizing regular meetings.

### Productivity

Two counties had productivity-related goals. One of these offices was unable to progress toward its goal because of delays in receiving and processing the grant funds, which ultimately prevented it from using the grant funds during the evaluation period. A second office added its productivity-related goal later in the grant program and noted that it was able to make progress by establishing a postconviction unit and creating processes to make postconviction work more efficient.

### Training

Six counties established goals related to training. Although some offices either consistently hosted or had staff attend training throughout the reporting periods, others did so more sporadically. Entities outside the grantee offices hosted certain training courses, and funds helped pay for personnel to attend those courses. Other courses were internal and run by staff members working on or who had worked on PCR. These offices could tap into PCR-related institutional knowledge gained by doing the work, providing a space for staff who had gained expertise in PCR to relay that to others. Some offices also compiled lists of resources, such as available mitigation experts or training libraries, to be provided to panel attorneys.

Toward the end of the evaluation period, offices began to tap into a wider variety of training methods, such as resource libraries or Continuing Education of the Bar books. This progress led to increases in staff members' postconviction-specific knowledge, including for recently onboarded staff. By the end of the evaluation period, most offices were able to provide consistent training, internally and externally; consult with internal and external attorneys to obtain postconviction expertise; or purchase resources to facilitate postconviction work: "We continue to train staff in the new statutes and case law which enhances our ability to represent (and identify) eligible clients. Training is ongoing."

Offices that were not able to provide training faced a few obstacles. At the beginning of the evaluation period, some offices were only newly operational and lacked the institutional capacity to provide training. Another reported that it was able to provide training using only non-PDPP grant funds. Additionally, some offices said that they had encountered difficulties finding relevant training or were planning to but had not yet made steps toward purchasing specific resources. However, they were generally able to address these obstacles.

## Technology- and Data-Related Goals

### Technology and Data

Eight counties established goals related to technology or data—for example, obtaining new remote visiting equipment or scanning files into their CMSs. Many offices that established technology or data-related goals reported achieving these goals throughout the reporting periods. Hiring data consultants or tapping into in-house, technology-related expertise among existing staff facilitated progress toward this goal. By the end of the evaluation period, offices had acquired or updated their CMSs to include postconviction-specific data, created standard operating procedures for data input, and had centralized locations in their systems for cases and data. This technology included remote visitation equipment or databases with scanned hard copies of records for reference in postconviction cases.

### Racial Justice Act Data

Two counties had goals related explicitly to RJA data, including collecting data for RJA cases and collecting and inputting RJA-related data into their own racial justice databases. At the beginning of the evaluation period, progress was related mainly to training and staffing for RJA data–related goals—for example, hiring a data consultant. Progress differed between these two offices. For example, the office whose goal related to data collection was able to begin work relatively early, obtaining RJA data from law enforcement, CDCR, and DAs. The office also shared these data with other offices and OSPD. By the middle of the evaluation period, this grantee was using its collected data for litigation. By contrast, the other office aiming to establish an RJA database made slower progress during the beginning and middle of the evaluation period. Initially, this office focused on RJA training for attorneys and hiring data consultants to help construct the database. However, by the end of the reporting periods, the office had hired data experts to create and input initial data. The office was then able to begin using the RJA database for postconviction litigation toward the end of the evaluation period.

## Other Goals

### Grant Compliance

One county had one goal related to grant compliance. The associated office reported progress on this goal throughout all reporting periods. For example, the office anticipated being prepared for audits and hired additional staff to help fulfill reporting requirements. Toward the end of the reporting periods, this office focused on changing its reporting processes, incorporating new technology to centralize and standardize reporting. Digital reporting standardization enabled grant administration to become a collaborative effort between postconviction staff and the larger organization through the end of the evaluation period.

### Sustainability

Three counties had four goals related to the sustainability of PCR efforts. During the beginning of the grant program, one office's progress toward sustainable postconviction work was mainly in the form of building organizational and infrastructure foundations to enable postconviction work (e.g., updating technology,

building relationships with community-based organizations [CBOs]). Progress continued through the middle of the reporting periods as this office began accruing specialized panel attorneys to carry out postconviction work. Another office made progress on its goal by organizing a letter-writing campaign to decisionmakers to continue grant funding during the period of funding uncertainty. Progress continued into the end of the reporting periods: Offices said that they had developed qualified staff, standardized PCR processes and case management, and strong relationships with CBOs. One office attempted to continue progress by amplifying success stories to those with decisionmaking power.

## Challenges to Accomplishing Office-Specific Goals

Although grantees made substantial progress toward their goals during the evaluation period, certain challenges were encountered along the way. In this section, we describe the themes that emerged related to these challenges, summarized here:

- limited access to potential clients
  - client outreach and screening challenges
  - challenges related to communication with clients
- lack of client supports
- coordination with external entities
- funding challenges
  - insufficient funding
  - grant funding delays
  - cohort III funding uncertainty
  - lack of postgrant funding
- grant administration
- nature of postconviction work
- obtaining records
- case management
- organizational processes and factors
- technology
- staffing
- workload.

### Limited Access to Potential Clients

Maintaining consistent access to potential clients, whether for screening, representation, or service provision purposes, was a common challenge among grantees. One challenge reported by some offices was in finding eligible clients to represent, a concern that appeared to affect counties regardless of size.

A more significant issue was that, when a grantee took on a client or was in the process of screening that client, it might encounter difficulties in being able to communicate with that client. Difficulties accessing existing clients frequently overlapped with challenges caused by external entities, particularly external justice-system actors (e.g., CDCR postpones calls without notice) (described more below). This was not always perceived as malicious; some offices understood that these actors sometimes experienced backlogs and staffing shortages. Many offices increased communication with those external actors prohibiting or impeding access to clients or went to court to overcome access impediments.

### Client Outreach and Screening Challenges

Some offices had trouble finding potential clients for postconviction work. One office found that potential clients might find the office's outreach packet complicated and choose not to respond. This office said that it therefore did not receive as high a volume of client responses as expected. Similarly, some offices found that potential clients did not self-identify to be screened for relief eligibility, meaning that offices were unaware of these clients who might benefit from representation. Some county DAs or CDCR did not give public defenders' offices recommendations for potential clients, placing more of the onus of screening on offices or clients. Staffing could also hinder efforts to conduct outreach and screen for potential clients because offices generally found the outreach and screening processes to be labor-intensive. In addition to reporting difficulties finding clients to screen, some offices said that they could not find potential clients for specific statutes.

Offices tended to pursue similar strategies to expand outreach and screening when they faced insufficient demand for cases. Many offices mass-publicized their services to make information about PCR more accessible and widespread, thereby encouraging potential clients to self-identify. For example, one office advertised its services via Telemundo; others set up community events to expand outreach, including toward hard-to-reach client populations. Some offices also expanded outreach to other justice-system partners, such as presenting postconviction work to their county bar associations to recruit new staff or publicizing postconviction work to attorneys with transition-age youth clients. The office that reported that its initial outreach process was complicated for clients simplified the packets sent during the screening process. Offices with insufficient staff to conduct outreach expanded staff recruitment efforts.

### Challenges Related to Communication with Clients

Many offices indicated that, when they required contact with a client, it was difficult to establish or maintain the level of contact necessary to screen or represent their clients. Some offices cited difficulties in communicating with clients caused by attorney factors. For example, some attorneys were more engaged with clients than others or were frequently in court with less time to devote to postconviction clients. With both clients and their family members, quality communication and trust in staff were needed to be able to establish the relationships with clients necessary to build solid social history and mitigation reports. In some cases, grantees had trouble connecting with or encouraging them to share sensitive, personal information. Finally, in many cases, grantees struggled to establish communication with clients because of external entities (e.g., CDCR). Many offices also struggled to understand prison access procedures, which varied widely across prisons:

> CDCR is sometimes slow to respond to requests for visits/calls. Each institution has a different process. Even if an attorney is on the CDCR gate clearance list, some institutions have requested additional paperwork and approvals for client contact (e.g., a confidential phone call).

In other cases, external entities would make it impossible or difficult for public defenders to meet with clients; some offices reported the inability to set up confidential calls with clients or client meetings being canceled at the last minute. Some offices viewed external actors' impediments as being deliberately uncooperative. However, grantees acknowledged that, in some cases, external entities were experiencing organizational change or high workloads that precluded quick compliance with public defender requests.

Offices generally reported that they had attempted to increase communication with clients by solidifying relationships with external entities, changing the scale or means of client communication processes to overcome any barriers, and creating new internal procedures to communicate with (often incarcerated) clients. Grantees worked with those entities to streamline entry processes (e.g., implement new communication software) or to better understand and obtain clearance processes. Offices also said that they relied on new technologies to facilitate more-reliable communication with clients. This technology included the GettingOut

app or remote meeting software. Some offices said that they corresponded with clients via letters. Although these strategies could increase communication with clients, the methods were not always wholly effective. For example, the technology used by offices to communicate with clients in prison was not always confidential. Additionally, in cases in which client or family trust was integral to gathering information for cases, social workers and attorneys reportedly made consistent efforts to build trust and rapport with involved stakeholders to obtain the client history details needed for social and mitigation reports.

## Lack of Client Supports

Some offices mentioned a lack of reentry support for clients upon parole or release. Having insufficient reentry support can be especially difficult for clients who have been imprisoned for a long time and require additional support during the transition, clients who lack family support to facilitate reentry, and clients with mental illness, who can face additional challenges upon release. In addition, reentry support within a community can be limited—for example, there could be a shortage of options for reentry housing. Offices said that they pursued increased communication with CBOs and relied on social workers to build networks or assist released clients. Some social workers even said that they used their own money to help support clients when county regulations prohibited providing these types of services using public funds or when public funding was not immediately available. Other offices hired reentry specialists using grant funds or tapped into non-PDPP grants to provide the resources and staff necessary to conduct client support efforts.

## Difficulty Coordinating with External Entities

As described previously, external entities, such as CDCR and DA offices, sometimes played a role in the challenges that offices encountered. For example, grantees noted that CDCR case backlogs sometimes impeded the timely delivery of relevant records. Offices also reported pushback from DAs, courts, and the governor's office that hampered progress on client-focused goals. Many grantees said that they perceived DAs and the courts as hesitant to grant relief; one grantee indicated that political sensitivities were the reason: "The District Attorney's Office's consistent opposition in these cases has made it time-consuming. The opposition makes it expensive to handle these cases and requires a significant amount of complex litigation."

Some offices indicated that DA efforts to advance cases slowed or stopped entirely or that motions and petitions were denied without alerting the public defender's office. For instance, one office reported, "The DA processing time for 1172.1 applications remains glacial. Our efforts have made little impact, frustratingly. We have requested [that] the DAO [DA's office] set internal deadlines, to no avail."

External justice-system partners' support for postconviction work can also vary by case type. In one county, RJA cases were viewed as politically sensitive, and DAs and judges were reportedly less likely to move on these cases. Some offices said that they saw less support for § 1172.1 cases than for other cases; one had a change in the DA, and the new DA was reportedly less willing than the previous one to take action on § 1172.1 cases.

In other cases, offices reported challenges in understanding and adapting to external regulations. For example, many offices reported that CDCR access rules varied widely between prisons. In other cases, DA review processes or requirements for documentation could be opaque and lead to delays in case processing or to petitions not being granted. Offices said that they had to dedicate resources to understanding and adapting to these processes. Additionally, some external entities reportedly would not adhere to standard processes (e.g., alerting counsel upon denials).

In many cases, offices reported using increased communication with those outside entities to work through the challenges. Grantees also reported engaging in concerted efforts to build rapport and trust with external actors to facilitate a smoother litigation process. In some cases, this took the form of building joint

processes or hosting frequent meetings to better understand those offices' views on postconviction work, expectations, or processes. In other cases, grantees said that they would maintain or increase the magnitude of pressure applied to external entities to move processes along. Offices also used external entities' existing processes, such as pursuing statewide gate clearances with CDCR. Grantees said that they focused on refining internal processes, such as standardizing payment systems to reduce friction associated with interacting with external actors or to comply with external regulations and standards.

## Funding Challenges

### Insufficient Funding

Having insufficient funding was mentioned as a challenge throughout the evaluation period. This was often reported in relation to higher workloads or staffing shortages, with some offices indicating that their grant-funded efforts were insufficient to meet demand for certain activities, such as client screening or building mitigation reports. Some offices said that their allocated funding made it difficult to hire additional staff to fully conduct operations related to PCR.

### Grant Funding Delays

Small and medium-sized offices in particular reported that they experienced funding delays throughout many reporting periods—most frequently at the beginning of their respective grant periods. Generally, funding delays were reported as involving the BSCC. Offices usually resolved these gaps within the reporting period by increasing communication with the BSCC about how and when they could obtain funds. One office said that it was able to fill the funding gap by borrowing money from the county so that postconviction work was not stalled. Another grantee experienced funding delays as a result of county procedures, but the office was able to obtain the funds with frequent communication with the county office, which then relayed the issue to the BSCC.

### Cohort III Funding Uncertainty

Cohort III funding uncertainty was mentioned as a challenge toward the middle and end of the evaluation period, especially around the time that grantees were beginning to think about cohort III funding. These tended to be medium-sized and larger offices. Offices reported that this uncertainty had tangible effects on progress toward goals. For example, one office faced difficulties achieving its technology and data–related goal because staffing was more difficult given the uncertainty about funding. Another grantee reported that, when AB 600 passed, it had been concerned about a lack of funding because the grantee anticipated an increase in demand for § 1172.1 litigation.

Common strategies to address the funding uncertainty included changing or decreasing the pace and volume of work. For example, offices would not take on new cases, or they would prioritize cases they viewed as likelier to be successful. Some offices created contingency plans to continue postconviction work if funding was not renewed, or they prepared materials to be able to start work again as soon as funding came in. Other grantees became involved with the legislature, lobbying for continued funding. Other offices had no specific strategy to address this challenge but just tried to continue the work the best they could: "Effective and fair use of resources is difficult when there is so much uncertainty with grant funding. We are doing our best."

One office reported that, when cohort III funding was reinstated, the office increased the pace of work to make up for lost time.

### Lack of Postgrant Funding

Some offices reported a lack of postgrant funding as a challenge toward the end of the evaluation period. Uncertainty about the continuation of funds beyond the grant period made it difficult to attract and hire staff for grant-funded postconviction operations. Other offices said that they anticipated difficulties resolving certain cases following the grant. Strategies described to combat postgrant funding-related challenges included using operational budgets to cover postconviction cases, decreasing discretionary postconviction representation that could divert resources from mandatory representation, or amplifying PCR success stories to obtain postgrant funding from decisionmakers.

## Challenges in Grant Administration

Most challenges in grant administration were present at the beginning of the evaluation period. These challenges included keeping track of deadlines, sometimes specifically among attorneys, and establishing new processes for reporting relevant metrics, such as hours worked on postconviction and billing. One office said that reporting requirements from the BSCC were time-consuming and misaligned with how the office would have tracked data.

Offices especially focused on establishing optimal practices for certain activities, such as tracking deadlines that were relevant to grant administration, pursuing grant administration training, communicating with the county, communicating with the BSCC about reporting requirements, and having more-thorough planning for grant administration.

## Nature and Complexity of Postconviction Work

Postconviction work was relatively new for grantees. Although some offices reported having experience with postconviction work, many offices and their staff had experience with only more-traditional public defense work, especially trial-level litigation. However, postconviction law was reported as very different from work that grantees were used to and posed a steep learning curve. Consequently, staff had to engage in concerted efforts to learn postconviction law and procedures throughout the reporting periods. First, staff reportedly struggled to learn postconviction litigation as a new concept, especially early in the grant program. New staff who joined postconviction work were also responsible for learning that work while onboarding, meaning that the challenge persisted across offices throughout the evaluation period. Second, postconviction law was actively changing throughout the evaluation period, but particularly toward the end of reporting. New court decisions and legislation (e.g., AB 600) affected postconviction eligibility and litigation, meaning that many grantees were adapting to major substantive changes in postconviction work while representing clients. One office commented that changing postconviction work and higher workloads could adversely affect client representation: "New laws, new procedures, lots of new people eligible for relief. This trifecta can sometimes delay/impede access to clients and justice, case progress and outcomes including necessary litigation and releases of individuals from CDCR when releases are ordered."

Some statute-specific challenges persisted throughout the entire duration of the grant. Some offices described RJA work as particularly complex; as one grantee described, "Applying RJA to post-conviction work is challenging, complex and can be intimidating for attorneys. Utilize the trainings to de-mystify some of the perceptions of the complexities and provide user friendly resources."

Others said that § 1172.1 cases were particularly complex, especially because AB 600 expanded eligibility for relief, increasing workloads and leading to processing delays. Finally, § 1473.7(a)(1) cases required an understanding of both immigration and postconviction court proceedings; finding staff with relevant expertise or coordinating different offices for § 1473.7(a)(1) cases proved to be a challenge for many offices. In addition, offices had current clients who became eligible for multiple forms of relief while the offices were actively

representing those clients, which increased the perceived effort associated with these individual cases. To learn from and adapt to these changes, offices tended to pursue training, increased staffing (including staffing of those already possessing the relevant expertise), and encouraged specialization of attorneys and units.

The complex nature of postconviction work also posed unique challenges for the provision of client services. At the beginning of the evaluation period, some offices mentioned difficulties in building high-quality social history reports; developing social history reports specific to postconviction was a relatively new practice without clear expectations. Offices experiencing this challenge met with other justice-system partners to understand requirements and set expectations for social history reports; they also hired staff experts to update and create the reports. At the beginning of the grant, one office had to ensure that attorneys and social workers understood best practices for reentry under a new area of law. This office developed new processes for reentry and pursued training from external actors.

## Difficulty Obtaining Records

Frequently, offices reported difficulties obtaining records and data to carry out postconviction work. Generally, obtaining and combing through records and data were referenced as labor-, resource-, and time-intensive tasks. First, offices said that they frequently experienced trouble obtaining records from other actors. Record access could be impeded by delays at CDCR (e.g., high C-file demand, backlogs, payment processes, bureaucratic issues, discovery issues), prior counsel (e.g., private attorneys with original trial records), DAs, and law enforcement. In some cases, these records were required to identify conflicts of interest when screening clients. Payment for records also proved difficult for some offices because payment processes were nonstandard. Some records and data were reportedly not available in the optimal format. For example, many offices reported having trouble processing hard copies of records, especially if they had a large volume of records or if their records were old. Offices said that they had to dedicate extra time and effort into examining or digitizing these files.

In other cases, records and data were reportedly not available. For example, for § 3051 cases, psychosocial history was not always collected or compiled at the time of the original trial. Grantees built these records for the cases from scratch, relying on client, family, or witness testimony. In some cases, however, clients and family were hesitant to provide testimony; in other cases, witnesses had passed away. This meant that the comprehensiveness of reports varied from client to client. Other grantees discovered that records had been destroyed, particularly by private counsel who set timelines for records to be destroyed following a case.

To address challenges in obtaining records and data, offices often increased communication with external actors who held the information. This could include more-frequent communication with DAs, CDCR, or the courts. Some offices signed data-sharing agreements with CDCR or agreed on standardized payment processes. Some offices said that, in cases in which they had a particularly difficult time obtaining records, they found the need to pursue legal action, such as subpoenaing records or taking their issues to the courts. Many offices standardized and improved internal processes to collect, organize, and input records; one office said that it used another county's public defender's office's process as a building block for its own. Offices also dedicated attorneys and legal support staff solely to obtaining and analyzing records and data.

## Challenges in Case Management

Less frequently, offices encountered challenges with case management. These challenges included assigning staff to cases, adhering to standard operating procedures, keeping track of important tasks, and ensuring that records were input and organized in a manner that was comprehensive and accurate. For example, some offices said that attorneys who had necessary records did not input all necessary pieces of data in their case management software. Grantees who experienced case management challenges said that they tended to

refine their processes to ensure effective case management. Offices also looked to technology to solidify their case management techniques. These offices purchased new CMSs, updated existing systems, or changed processes (e.g., case identification numbers or new intake processes). Some also increased communication with external entities, as needed, to ensure that those actors were adequately tracking and managing cases.

## Need for New and Revised Organizational Processes and Factors

Offices reported challenges at the beginning of the grant period related to the organization-level aspects of postconviction work. Many offices were expanding current postconviction operations, establishing postconviction units, or opening entirely new offices. These offices had to work on staffing and establishing postconviction processes while balancing the need for sufficient capacity in other areas of work, such as more-traditional public defense activities. Challenges related to the initial setup of offices and units tapered off as the reporting periods continued. However, multiple offices experienced organizational-level rearrangements of postconviction work during the evaluation period. For example, one county shut down its postconviction unit for unspecified reasons. Another grantee reassigned postconviction work to different departments and units. These broad organizational changes could slow the pace of screening and litigation or prevent new postconviction work from being taken on. These offices tended to pursue changes in staff, such as hiring new staff, or pursuing a broader candidate pool, such as retired public defenders. Offices also said that they increased communication with justice-system actors to establish new processes.

Many grantees operated in counties with multiple defender offices, panel attorneys, or contractors. Offices sometimes had trouble communicating between entities involved in postconviction work, such as establishing consistent lines of communication with contractors to ensure that timelines were met. Additionally, identifying and addressing conflicts of interest could pose challenges in counties both with and without offices dedicated to conflict counsel. Sometimes, these county offices had different billing, hiring, or case assignment procedures. Offices without conflict counsel had to contract with private providers, and these providers sometimes lacked knowledge of or desire to provide PCR. Grantees often needed processes to better communicate with collaborating offices or to provide access to training resources.

Some grantees also reported impediments resulting from bureaucratic processes and procedures. These impediments could include county-level bureaucratic challenges, such as county hiring prohibitions or long hiring processes that made staffing for postconviction work difficult. Another office said that it was unable to acquire updated technology because of county restrictions. County procedures also restricted spending on reentry services that one office would have liked to pursue. Many offices had to wait out the challenge because of organizational factors beyond their control. Another strategy to address organizational challenges was to increase communication with county-level bureaucracy and apply pressure on these actors to expedite stalled processes.

## Technology-Related Challenges

Some offices faced technology-related challenges. Some offices had insufficient technology, such as systems without enough capacity to store postconviction-relevant data within existing fields and case types. Having insufficient technology could impede staff efforts to obtain and organize records (e.g., paperless case management or locating files in systems) and to analyze data. Data and technology limitations were also cited specifically in conjunction with RJA: Not all counties were tracking or analyzing race-related claims prior to the grant period.

Offices generally used in-house resources or contracted with outside vendors to replace or update their technology. For example, some offices added such features as case dashboards and data validation upon input to ensure consistency and easy accessibility of information.

## Staffing Difficulties

Staffing was one of the most–frequently reported challenges. Issues with staffing included a lack of expertise related to postconviction generally, unfamiliarity with specific tasks or statutes, the inability to recruit qualified candidates, staff turnover, and insufficient staffing for the workload at hand: "Attrition and high caseloads have made it difficult to devote resources to this work. We're constantly hiring, training, recruiting."

Staffing shortages were present throughout a variety of positions, though most frequently among attorneys, legal support staff (e.g., paralegals), social workers, and experts. Offices also experienced shortages of administrative staff and investigators as a result of turnover or inadequate hiring caused by, for example, candidate shortages. Offices reported that in the event that they needed to hire new staff, they frequently experienced difficulties finding qualified candidates interested in postconviction work in their respective hiring markets. Grant-funded positions often had certain features (e.g., term limited, requiring special expertise, part time) that made positions difficult to fill or unattractive to potential candidates. Grantees with panel models aimed to find local attorneys with relevant postconviction experience and provide additional resources to their attorneys. However, they indicated that they sometimes found it challenging to identify attorneys with the right expertise or interest.

Furthermore, postconviction work was reported as labor-intensive, constantly evolving, and complicated. Therefore, finding qualified staff who did not require training could be challenging because postconviction experience could be difficult to find among potential candidates. This challenge also applied to grantees relying on panel attorneys to complete work. Overall, offices reported that staffing challenges led to slower case handling, higher perceived workloads, increased stress on staff, and less-frequent client communication.

Some offices experienced staffing challenges concentrated in specific areas of work. Regarding statutes, offices mentioned that § 1172.6 work and RJA statistical claims were particularly labor-intensive and complicated. For these statutes, workloads could be particularly high because of screening and representation workloads, which outpaced staff capacity. Certain activities were also reported as facing staffing challenges, especially work requiring social workers or mitigation experts who were building biosocial and social history reports. Mitigation experts in particular were mentioned as being in short supply across California. When new legislation (e.g., AB 600) expanded eligibility for PCR in certain statutes, some offices did not have enough staff to account for higher screening and representation workloads.

Offices tended to use similar strategies to alleviate all staffing challenges. Commonly, offices attempted to hire more staff (if they could afford to do so). Grantees sometimes increased recruitment efforts to attract new candidates to positions. For example, some offices contacted law school professors for candidate recommendations, emailed statewide mailing lists to advertise positions, hired unpaid interns, or brought retired public defenders to work on PCR part time. Grantees also recruited internally, providing training to existing staff, or pulled and trained attorneys from different departments. However, in some cases, reassigning staff to postconviction work from other defender activities could lower a grantee's capacity to do other public defense work (e.g., trial representation), particularly if those positions were not backfilled. Grantees reported a steep learning curve for staff new to postconviction work. To free up extra funds, some offices would modify their budgets or use other grants to fund postconviction positions.

## Workload Issues

Workload-related challenges were also common.[4] Some small offices reported challenges associated with an insufficient amount of work, whereas medium-sized and large offices reported experiencing high workloads.

[4] Findings related to workload are based on staff member reports of the PCR workload rather than on data collected specifically on attorney workloads.

High workloads were frequently reported in conjunction with staffing shortages, complex conviction work, and obtaining records. Workload challenges generally extended case timelines and, less frequently, hindered communication with clients. In some cases, workloads were so high that offices said that they could not handle all of the requests coming in and had to adapt processes and staffing to meet these workloads. The case volume could also make it more difficult to train staff who had trouble balancing high workloads with the time required for training.

Workloads remained consistently high across reporting periods, although demand for representation sometimes declined as offices worked through their initial tranches of cases. But certain tasks were reportedly associated with higher workloads than others; for example, client screening, obtaining records, and collecting, sorting, and inputting data (e.g., medical records) could have particularly high workloads. Other time-intensive services included compiling and building mitigation or social history reports.

Not all offices reported using specific strategies to alleviate high workloads. For example, some offices worked through their cases without reporting any strategies to alleviate workloads; their cases sometimes tapered off. Others attempted strategies to address heavy workloads, such as training, reassigning additional staff to postconviction work, or using non-PDPP funding to hire staff. Still, staffing changes did not always reduce workloads to the extent desired. In other cases, grantees relied on CBOs to help with workloads, such as through client outreach, allowing grantees to focus on other aspects of PCR. One office described employing this strategy:

> Both in terms of manpower and resources, it can be difficult to reach those within the prisons who might be eligible for these types of resentencing. Our [office] social worker was able to connect with counselors and organizations working from within the prisons, such as [a specified CBO], that can facilitate resource distribution. Additionally, any time we receive a phone call, or request for additional information, we send out these informational resources.

Finally, offices also pursued process changes in the event of heavy workloads. For example, offices attempted to make work more efficient, streamlining processes (such as outreach) to free up more time for other tasks. Some offices prioritized, or "triaged," certain cases over others with needs perceived as more urgent or likelier to be successful. Offices also remained flexible; some offices said that, when they faced decreased demand for relief under one statute, they might pivot to another.

## Accomplishments Resulting from the Public Defense Pilot Program

Although grantees experienced challenges in pursuit of their goals, the progress reports also allowed them to report on successes related to the grant program. Specifically, during each progress reporting period, grantees were asked to provide information about their "top one or two PDPP grant–funded accomplishments" during that reporting period. Most grantees reported on successful outcomes of cases that had been represented during the report period or up to that point in the grant program. These included clients who were resentenced, released early from incarceration, or granted parole or who had cases certified to juvenile court. When describing these successes, many offices provided examples of specific cases. For example, one office reported,

> Some of the more memorable resentencings included [a specified client] who had been incarcerated for 17 years, since he was 19 years old, for what had started as a death penalty case, who was released and is now working full time and doing well in the community.

Some offices emphasized the cumulative number of prison-years avoided by clients who had been successfully resentenced. For example, one county reported,

> In Period 2, just for recalls, we saw 62 years, 4 months of incarceration shaved off of original sentences. For example, one person with a sentence of 56 years was resentenced to 22 years, 8 months. Two others were resentenced from life sentences to deemed served sentences.

Others aimed to quantify the potential cost savings resulting from these resentencings:

> Since program inception, the Public Defender's Office has obtained the release of 61 individuals by way of resentencing under sections 1172.6 and 1172.1, saving both those clients and the State nearly 750 years of custody. It is worth noting that according to the Legislative Analyst's Office, it costs approximately $106,000 annually to incarcerate an inmate in California. Using this number, the estimate of the potential savings to the State based on these resentencings alone is approximately $79,500,000. If using the Legislative Analyst's marginal rate of $15,000 annually, the savings come to $11,250,000.

Many offices highlighted the instances in which the resentencing process had resulted in the immediate release of their clients. In these cases, some offices shared stories of their clients' postrelease experiences—for example, clients who had reunited with their families, returned to school, or were working full time. A small number of offices described the active role their PDPP-funded work had in supporting clients during the reentry period, such as providing connections to housing or basic needs. One office described the long-term effects that can result from PCR services:

> [Our office's team] continues to grow as a specialized team successfully getting over nine clients released from lengthy sentences or significantly reduced sentences, and for those remaining incarcerated, bolstering the possibility for parole and a renewed sense of hope. While nine may seem like a small number, those are nine lives who had previously been denied hope for a second chance. Those nine lives impact many other lives—their parents, siblings, children, partners, extended family and community as a whole.

Some offices noted that their successes had been more modest. For example, the funds had enabled them to hire new personnel, retain experts, digitize files, or develop new processes for approaching PCR, even if they had very few successful cases during the reporting period. But offices noted that these process improvements were also significant achievements and had improved the quality of the services they can provide to clients:

> This program allowed us to expand our operations and develop a level of expertise that I never thought possible. We no longer turn clients away *en masse* and instead have a functioning system in which to analyze their sentencings and create a holistic and bespoke solution to hopefully achieve early release or put them on the path to early release.

They noted that the grant funds have allowed their own staff to gain new knowledge and skills, which had increased their success in seeking relief on behalf of clients. For example, one office talked about successes related to P.C. § 3051:

> Our unit completed and filed 33 *Franklin* motions on behalf of our clients. Our motions were instrumental in educating our clients and the parole board on childhood trauma. They also gave our clients excellent talking points during their parole hearings. Parole was successfully granted in 8 hearings during this period.

And many offices noted that, although not all petitions were successful, their efforts had paved the way for future clients to seek relief because they now had more staff, relationships that had been established with experts, and overall a more efficient and effective process for petitioning for relief.

CHAPTER 5

# What Lessons Were Learned About Implementing This Type of Grant Program?

Part of the goal of the statewide evaluation was to understand how grant funds were used and what they enabled offices to accomplish. However, we were also interested in exploring the broader lessons learned from this grant program, particularly because it was the first state-funded grant program made available to all California counties to support a specific area of legal practice. Therefore, through our post-PDPP survey and interviews, we solicited information from grantees about their overall experiences with the grant program, including what facilitators and barriers they encountered in using the funds. We also interviewed representatives from counties that opted not to apply for funds in the first year of the grant program so we could learn more about the factors that guided that decision.

## Feedback from Counties That Did Not Apply for the Public Defense Pilot Program

In fall 2022, we conducted interviews with counties that opted not to apply for the grant funds during cohort I. In total, seven counties agreed to participate in the interviews. Interview questions focused on how public defense was organized in each county, whether the county offered PCR programs, awareness of the PDPP grant program, factors that led to their decision not to apply for the grant program, and changes that could be made to the grant program that might lead the county to apply in the future.

Of the seven interviews completed with representatives from counties that had not applied for funds, only two counties had their own public defenders' offices; the remaining five contracted public defense services to external attorneys. Interviewees commented that they provided PCR when mandated but that there was not a lot of demand in their small counties and they did not have the resources to provide those services. Interviewees cited staffing vacancies, particularly in rural counties, and funding constraints as the main barriers to providing PCR.

Three counties reported that they had not wanted to apply because of how specific the requirement for funding use was; if the requirement had been more flexible, they would have considered applying. One county representative said that the county had not known about the program and ended up applying for the next round of grant funding. Four counties also reported not having enough cases to justify the administrative expense of applying, considering the low dollar amount available to them based on their population size. Representatives from two counties said that they had not applied because of personnel shifts, which made the application fall to the wayside. A representative of one county, which did not have its own public defender's office and instead contracted with attorneys for services, said that they were under the impression that the funds were meant as "extra assistance to public defender offices" rather than a way to fund services.

# Barriers to Implementing the Grant Program

## Survey Findings

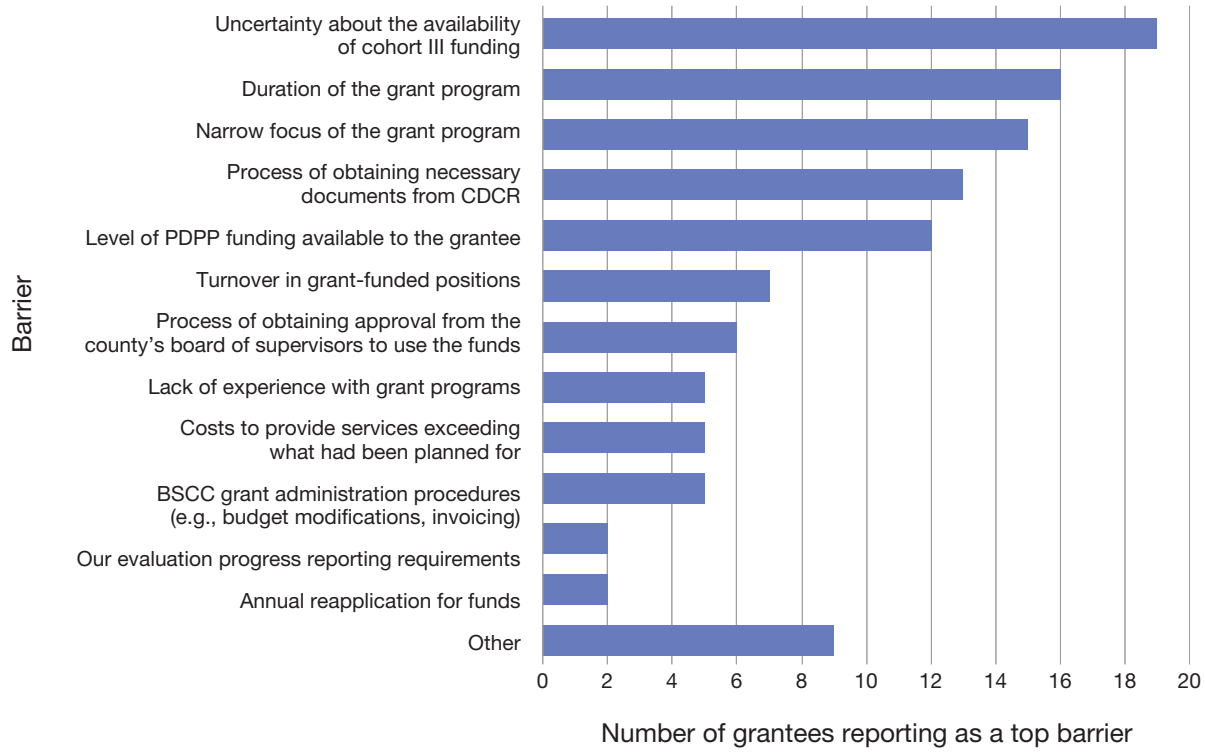
On the grantee survey, we asked offices to identify the top three barriers they experienced in accomplishing their PDPP-related goals. Responses are summarized in Figure 5.1. The most common barrier was uncertainty about the availability of cohort III funding, followed by the duration of the grant program and the narrow focus of the grant program.

Some offices used a free-response field on the survey to identify additional barriers. One of the common responses pertained to difficulty recruiting staff or identifying qualified attorneys. Related to this was the complexity of postconviction cases; as one respondent noted, "much of this work is legally complex and best accomplished by reassigning experienced public defenders to grant-funded work, [which] created a workload issue in other operations." Other barriers included a lack of clients with qualifying cases and the DA's slow pace in responding to cases.

## Interview Findings

Our interviews with grantees also provided insight into the barriers that offices experienced. Across the two rounds of interviews we conducted with grantees (midway through the evaluation period and at the end of 2024), interviewees reported three main types of barriers when planning for and implementing their grant-funded activities: funding constraints, administrative challenges, and funding uncertainty.

**FIGURE 5.1**
**Top Barriers to Accomplishing Goals**




SOURCE: Our analysis of grantee responses to our post-PDPP survey.
NOTE: $n = 40$.

## Funding Constraints

Some interviewees noted that a limitation of this grant program was that the funds were limited to specific cases and strategies, which is consistent with our survey findings. Some said that they believed that their offices could not spend funds on specific activities, such as outreach, which stymied their work. Other interviewees reported delays in receiving funds caused by administrative errors, which created hurdles in completing the work: Some counties had policies of not beginning grant-funded work when the funds had not yet been deposited. Other interviewees noted that the small dollar amount of the grant available to their county limited the activities it was able to complete.

## Administrative Challenges

Some interviewees noted that having to reapply each year for the grant funds created additional administrative burden. One mentioned that, for each application, their office had to seek approval from the board of supervisors, which meets only a few times a year. Additionally, applying for board approval could be cumbersome with multiple levels of reviews and meetings, diverting the office's resources to serve clients. Additionally, semiannual reporting requirements were a challenge, and some interviewees recommended that more training on tracking implementation be provided. Last, many interviewees cited staffing as a challenge because of termed contracts and a lack of available talent at the levels specified in the grant. Some offices have backfilled positions as a strategy to get around this challenge. As one interviewee noted,

> It took a [lot] longer to hire staff than anticipated. We are now fully staffed under the grant, and I'm trying desperately to hold onto the folks in those positions. I don't know how much longer I'll be able to do that. I hope if they have to move out of that role or decide to leave, I can get someone quickly. It [wasn't] until a year ago that we were fully staffed.

## Cohort III Funding Uncertainty

Through other interactions with the funder and grantees, we heard anecdotally that the uncertainty about cohort III funding had been an obstacle for some offices. To address this, the interview protocol included a question on how (if at all) the uncertainty had affected offices.

This was identified as the top barrier in the survey. However, during the interviews, some interviewees reported that they were not affected by the uncertainty, although they suggested that it did prompt concerns and frustration from some staff. Some interviewees mentioned that contingency planning for a potential loss of funds resulted in additional administrative workload but ultimately did not affect their work. Other interviewees said that their offices were affected more directly; for example, one office's contingency plan of hiring a contracted defender was too far along when the cohort III funds were secured, leading to a decision not to move forward with the renewed funding.

Some interviewees said that, should the funding not have been made available in cohort III, their offices were planning on turning to their counties for funding, depending on possible budgets and willingness on the part of county administrators. One interviewee talked about the challenges of receiving funds and then having them taken away:

> It almost would have been better not to get the money, because then the county and everyone else would have had to have made other arrangements for this work, maybe through appellate projects or expert panels. I don't know, but once we get the money and it's taken away, you know, we already have the momentum of doing the work and people expect us to. But now it's just completely unfunded, and it's going to create a gap of resources for us. And then also you know, once we start doing postconviction relief, now every time we get something else, like [a specified colleague] is talking about, we're expecting a flood of interest in

the new resentencing. And this community is expecting us to do it. The county's expecting us to do it, and there's no support at all.

## Overall Facilitators to Implementation of the Grant Program Funds

### Survey Findings

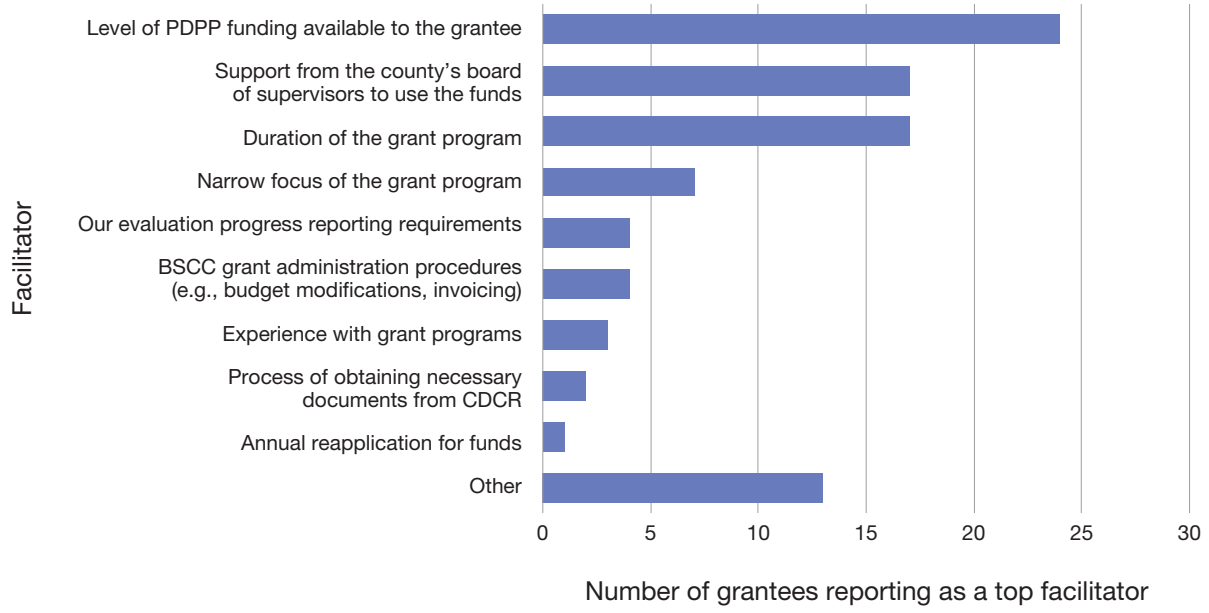
On the survey, we also asked about the top three factors that have helped facilitate grantees' efforts to accomplish the goals they established for the grant program. Responses are summarized in Figure 5.2. The most common response was that the level of grant funding that the office had received was a key facilitator, followed by support from the county board of supervisors. Interestingly, although the duration of the grant program was cited as one of the top barriers, a similar number of offices cited it as a top facilitator to accomplishing their goals.

Some offices also wrote in additional facilitators. Multiple offices cited the value of being able to hire personnel with these grant funds, especially those who had expertise specific to PCR. Others cited the support of other county departments and the broader community.

### Interview Findings

Through our interviews, we also probed about facilitators to the grant program. Interviewees noted that the funding allowed grantees to do postconviction work at a higher capacity than if the funding had not been provided. Reviewing files is time-consuming, and the grant allowed offices to dedicate time to do so. Other interviewees credited the funds for their offices' ability to hire certain skilled staff, such as social workers, who increased their ability to adequately prepare petitions for clients.

**FIGURE 5.2**
**Top Facilitators to Accomplishing Goals**




SOURCE: Our analysis of grantee responses to our post-PDPP survey.
NOTE: $n = 38$.

Some interviewees also mentioned how planning and being proactive improved their offices' ability to effectively use their grant funding as soon as it became available. One interviewee mentioned that, in crafting its application, their office consulted with a mitigation expert to make sure it was being efficient. An interviewee from a small office reported that the office had been proactive with its county in securing support for postconviction work even before there was grant funding. Another interviewee emphasized the importance of having well-defined roles and clear lines of communication between different system stakeholders to make sure the work could be executed seamlessly.

## Experience with Grant Partners

Grantees had three partners to work with on their funded activities—OSPD, the BSCC, and RAND. Experiences with the three organizations varied; although some said that they were clear about the different roles of these organizations, other grantees expressed confusion about whom in each of the agencies to contact.

In the first round of interviews, interviewees reported that their offices had worked largely with OSPD at the beginning of the grant application process. OSPD provided advice on identifying eligible grant areas and activities. However, this was not uniformly the case; at least one interviewee said that their office had had limited experience working with OSPD, and another was unsure whom to contact. During the exit interviews, multiple interviewees mentioned OSPD as having provided training, education, and other information-sharing initiatives that helped grantees consider OSPD a resource. However, an equal number said that they perceived OSPD's role to be concentrated primarily at the beginning of the grant application phase and not as much throughout the grant period.

Office representatives interacted most with the BSCC, as the funding agency, with questions about the application process, billing or invoicing, and contract modifications. In the first round of interviews, most interviewees said that their offices had had good experiences in their communication with the BSCC. However, there were a few exceptions in which interviewees said that responses from the funder were delayed or unanswered. Interviewees whose offices required contract modifications reported that the BSCC was responsive and helpful. However, the quality of the communication with the BSCC seemed to change over time. During the interviews conducted at the end of the grant period, multiple interviewees mentioned that communication with the BSCC had been delayed. Others said that some information provided by the BSCC was incorrect or not updated. As one grantee said, "It's just kind of—the communication piece of it has been a little bit of a black hole. I haven't been able to contact people and them get back to me in a timely fashion."

One interviewee said that they wished that the BSCC staff responsible for approving grants had had the legal expertise to determine the feasibility of proposed projects. Their office experienced difficulties during the proposal approval process that delayed the implementation of the proposal.

Interviewees reported that working with RAND was a positive experience. They cited the helpfulness of the tracking tasks in recording the work that was being done, even if it did add some administrative burden. They did note that it would have been helpful to have the reporting templates available while developing their infrastructure for the grant program. However, the timing of the contract for the evaluation and the disbursement of funds for the grant program did not allow this to happen.

## Opportunities for Improvement

### Expansion of Grant-Funded Activities

When asked about ways to improve the grant program, most interviewees gave recommendations that focused on changes to the program's scope. Interviewees expressed that the statutes covered should be expanded.

They said that the grant should be more flexible to meet the unique needs of each county (e.g., smaller counties versus larger counties, allowing contracted defenders' offices the opportunity to apply on their own for funds). Given the fact that new postconviction mandates are passed each year, offices need the flexibility to use the grant funds more liberally and most efficiently (e.g., serving more clients). They also suggested that an attorney be consulted when writing the grant terms so the objectives apply to offices' daily work.

### Funding Changes

Grantees expressed frustration about the limitations placed on grant-funded work and recommended that the BSCC allow offices to decide how to use the funds. As one interviewee said,

> We had a hard time filling [the] paralegal spot, a hard time filing the attorney spot. What would've helped is more flexibility in how the money's spent. For example, we're just bringing in an attorney 1. It would've been nice to decide on the fly that we can't hire attorney 4—we're going to hire an attorney 1. Because it's in the same band, it's an attorney, it'd be nice to just be able to do that. That flexibility would allow us to do more quickly more of the work.

Interviewees suggested that, to alleviate uncertainty, the total amount of funding be provided at the start of the grant period. This would give offices the opportunity to finish the work they set out to do in the original time frame they intended to finish their projects without having to navigate additional applications. In addition, they recommended that a minimum amount of funding be provided to all counties regardless of population size (similar to what the IDGP does), which would encourage more small counties to apply.

### Data Tracking

In interviews, one office suggested that the tracking documents be provided earlier in the grant activity process so that offices could set up their tracking systems to more easily pull data relevant to reporting. Another office suggested that the uniformity of the data-tracking templates did not allow for the individual nuances across offices.

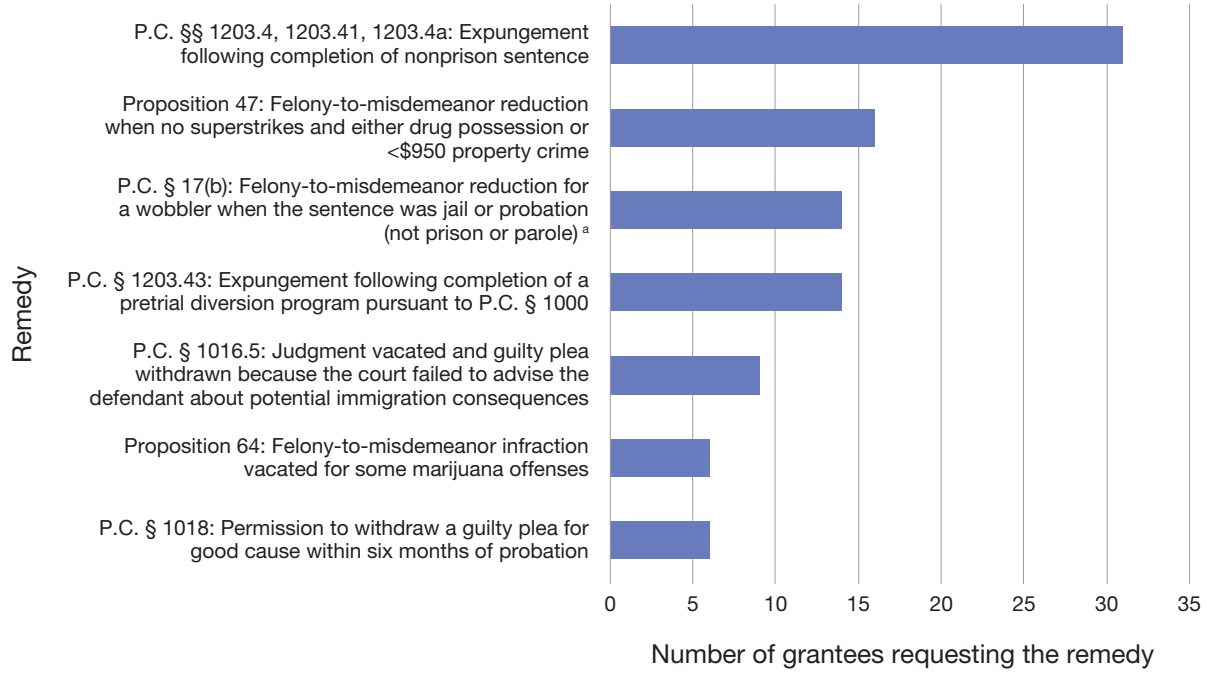
## Opportunities to Expand the Focus of the Grant Program to Include Other Types of Existing Postconviction Remedies

During interviews, including those conducted with interviewees from counties that had not applied for funding, some interviewees noted that the focus of this grant program was somewhat narrow, especially given the expanding array of postconviction remedies available in California. On the survey, we asked grantees what postconviction remedies or procedures (other than appeals, probation or parole matters, and habeas corpus) that were outside of the scope of the PDPP grant program they wished had been supported by PDPP funding (see Figure 5.3). The most common response was expungement following completion of a nonprison sentence under P.C. §§ 1203.4, 1203.41, and 1203.4a, followed by felony-to-misdemeanor reductions under Proposition 47 and P.C. § 17(b). Several offices also wrote in other postconviction remedies, including AB 600 resentencing, AB 865/P.C. § 1170.9 veteran relief,[1] SB 384 sex offender tier determination, SB 483 resentencing for one-year prison priors and three-year drug priors, and compassionate relief.

[1] California Assembly, Military Personnel: Veterans: Resentencing: Mitigating Circumstances, AB 865, September 19, 2018a.

**FIGURE 5.3**

## Postconviction Remedies Grantees Wanted the Public Defense Pilot Program to Cover




SOURCE: Our analysis of grantee responses to our post-PDPP survey.

NOTE: *N* = 39.

[a] A wobbler is a criminal offense that can be charged as a misdemeanor or as a felony.

CHAPTER 6

# The Future of Postconviction Relief for Grantees

Although the PDPP provided offices a short-term source of financial support for PCR, our team aimed to explore whether and how offices would continue to provide these services after the grant program ended. This chapter summarizes findings from our final round of grantee interviews and the grantee survey responses relevant to the sustainment of these services.

## Other Sources of Funding Being Used to Support Postconviction Services

Several interviewees indicated that their offices had no other postconviction work outside of that funded by the PDPP. However, some noted that they did have grants to support RJA-related work. Interviewees expressed concern that their offices would be unable to continue to do postconviction work and that it would be challenging to find other funds to support such work. However, some interviewees were hoping to secure other sources of funding. One interviewee said, "To lose this funding would be devastating." In addition, some interviewees noted that legislation allowing for PCR is passed without consideration of the administrative burden that falls on public defense providers. They noted that short-term grant funding can result in greater challenges after the funding ends. As one interviewee said,

> It almost would have been better not to get the money, because then the county and everyone else would have had to have made other arrangements for this work, maybe through appellate projects or expert panels. I don't know, but once we get the money and it's taken away, you know, we already have the momentum of doing the work and people expect us to. But now it's just completely unfunded, and it's going to create a gap of resources for us.

In the survey, we asked offices what other funding sources they had used for work relevant to each penal code section during the grant period. These questions were asked specifically of offices that said they used grant funds for a given penal code section—for example, 35 offices reported using funds for § 1172.1 cases, and these 35 offices were asked follow-up questions about their use of PDPP and non-PDPP funds. We asked two follow-up questions related to funding for each penal code section: first, whether work had been funded primarily by the PDPP grant program or through other sources, and second, if other sources of funds were used, what types of sources those were. Findings are summarized in Table 6.1.

Across penal code sections, grant funds were the primary source of funding that offices used to support postconviction services, although efforts to vacate sentences for RJA violations (P.C. § 1473.7[a][3]) or failure to explain immigration consequences (P.C. § 1473.7[a][1]) were somewhat likelier to be primarily funded through other sources.

When offices relied on funds beyond the grant program, those funds typically came from the general office operating budget, although, in a small number of instances, they were supported by other grants or

**TABLE 6.1**
**Funding Sources for Postconviction Services During the Grant Program**

| | Primary Source of Funds | | Sources of Funds Other Than PDPP Funds | | | |
|---|---|---|---|---|---|---|
| Penal Code Section | Grant Funds | Other Sources | Only Grant Funds | General Office Operating Budget | Other Grant Sources | Other Funding Streams or Sources |
| 1172.1 (*n* = 35) | 94.3% (33) | 5.7% (2) | 40.0% (14) | 51.4% (18) | 14.3% (5) | 5.7% (2) |
| 1172.6 (*n* = 39) | 89.7% (35) | 10.3% (4) | 41.0% (16) | 56.4% (22) | 0% (0) | 2.6% (1) |
| 1473.7(a)(1) (*n* = 24) | 73.9% (17) | 26.1% (6) | 41.7% (10) | 54.2% (13) | 0% (0) | 0% (0) |
| 1473.7(a)(2) (*n* = 10) | 80.0% (8) | 20.0% (2) | 50.0% (5) | 40.0% (4) | 0% (0) | 10.0% (1) |
| 1473.7(a)(3) (*n* = 17) | 70.6% (12) | 29.4% (5) | 23.5% (4) | 70.6% (12) | 5.9% (1) | 0% (0) |
| 3051 YOPH (*n* = 24) | 83.3% (20) | 16.7% (4) | 45.0% (9) | 70.0% (14) | 0% (0) | 5.0% (1) |
| 3051 *Franklin* (*n* = 32) | 96.9% (31) | 3.1% (1) | 48.4% (15) | 51.6% (16) | 0% (0) | 3.2% (1) |

SOURCE: Our analysis of grantee responses to our post-PDPP survey.

NOTE: The number in parentheses accompanying each percentage is the number of grantees reporting that source.

funding streams. These results demonstrate that the PDPP was a key source of support for offices doing this work.

We also asked offices whether they would have worked on cases related to each penal code section without the grant program. Responses are summarized in Table 6.2. Offices indicated largely that they would have worked on these penal code sections even if grant funds had been unavailable, especially for relief under § 1172.1 and under § 3051 *Franklin* provisions. Therefore, although offices did rely on the PDPP to support this work, it does appear that they would have found other ways to handle these cases. However, similar to the way offices dealt with work in the baseline period (as described in Chapter 3), this might have meant that offices handled cases in a less systematic or more decentralized way, or perhaps might not have been able to take on the same volume of cases.

**TABLE 6.2**
**Would Offices Have Worked on Penal Code Sections Without Grant Funds?**

| Penal Code Section | *n* | Offices Saying They Would |
|---|---|---|
| 1172.1 | 35 | 33 (94.3%) |
| 1172.6 | 39 | 35 (89.7%) |
| 1473.7(a)(1) | 24 | 17 (73.9%) |
| 1473.7(a)(2) | 10 | 8 (80.0%) |
| 1473.7(a)(3) | 17 | 12 (70.6%) |
| 3051 YOPH | 24 | 20 (83.3%) |
| 3051 *Franklin* | 32 | 31 (96.9%) |

SOURCE: Our analysis of grantee responses to our post-PDPP survey.

## Future Postconviction Relief Plans

Some interviewees noted that their offices would continue to have the obligation to take these cases when they are raised and would continue to work on cases that could not be completed before the end of the grant program. There was also some indication that the volume of cases might change in the future—for example, interviewees noted that the grant funds allowed them to get through a large volume of initial cases but that they were finding that the rate of cases coming in was starting to slow. Some offices were considering whether they might need to reduce the number of staff they had dedicated to postconviction work, perhaps resulting in work progressing "more slowly," but that they planned to continue to have dedicated postconviction attorneys. As one interviewee said, "We're going to find a way to continue that work because it's important work."

In the survey, we asked grantees whether they planned to continue work on activities related to each penal code section after PDPP grant funding has ended. Responses are summarized in Table 6.3. Across penal code sections, most offices said that they did plan to continue their PCR efforts—and that, in most cases, they planned to do so even if additional funding is not made available, although some also noted that they planned to seek new funding to do so. When offices indicated that they did not intend to continue PCR work, it was typically because they did not expect that there would be sufficient demand for these activities in the future, although occasionally they indicated that it was because they did not believe that they would have the financial means to continue, even if they do actively seek alternative funding sources.

On the survey, we also asked offices whether they had seen any decline in the demand for relief under each of the penal code sections (see Table 6.4). Although some offices reported a decrease in demand for each of the penal code sections, the numbers were fairly small for most areas. With the exception of § 1172.6, less

**TABLE 6.3**
**Offices' Plans to Continue Postconviction Services Following Completion of the Public Defense Pilot Program**

| | Number Indicating No Plans to Continue PCR Work | | | | Number Indicating Plans to Continue PCR Work | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Penal Code Section | Insufficient Demand | Prioritize Non-PCR Services | Insufficient Financial Means | Other | If New Funding Available | Regardless of New Funding | Other | Number of Unknown Responses | Number of Missing Responses |
| 1172.1 (*n* = 35) | 0 | 0 | 1 | 1 | 7 | 15 | 6 | 5 | 0 |
| 1172.6 (*n* = 39) | 3 | 0 | 1 | 0 | 6 | 21 | 5 | 3 | 0 |
| 1473.7(a)(1) (*n* = 24) | 1 | 0 | 1 | 1 | 4 | 13 | 1 | 2 | 1 |
| 1473.7(a)(2) (*n* = 10) | 0 | 0 | 1 | 1 | 4 | 3 | 0 | 1 | 0 |
| 1473.7(a)(3) (*n* = 17) | 0 | 0 | 0 | 0 | 5 | 8 | 0 | 4 | 0 |
| 3051 YOPH (*n* = 24) | 1 | 0 | 1 | 1 | 3 | 12 | 1 | 5 | 0 |
| 3051 *Franklin* (*n* = 32) | 1 | 1 | 3 | 0 | 9 | 10 | 1 | 7 | 0 |

SOURCE: Our analysis of grantee responses to our post-PDPP survey.

NOTE: Another survey option was "No, because we wish to prioritize other post-conviction relief categories"; however, this was not endorsed across any of the penal code sections and therefore is not presented in the table.

**TABLE 6.4**
**Decline in Demand for Postconviction Relief During the Evaluation Period**

| Penal Code Section | *n* | Offices Experiencing Decline in Demand |
|---|---|---|
| 1172.1 | 35 | 6 (17.1%) |
| 1172.6 | 39 | 24 (63.2%) |
| 1473.7(a)(1) | 24 | 1 (4.6%) |
| 1473.7(a)(2) | 10 | 1 (10.0%) |
| 1473.7(a)(3) | 17 | 2 (11.8%) |
| 3051 YOPH | 24 | 4 (17.4%) |
| 3051 *Franklin* | 32 | 8 (25.0%) |

SOURCE: Our analysis of grantee responses to our post-PDPP survey.

than one-quarter of offices indicated a decrease in demand across the PDPP-relevant penal code sections. For § 1172.6, 63 percent of offices said that they had observed a decline in demand. This is perhaps to be expected: SB 1437 changed the criteria for prosecution and conviction in cases of felony murder, presumably reducing the overall number of people who are convicted of felony murder and similar offenses. This means that the pool of people who might be eligible for relief under § 1172.6 is mostly people with convictions before 2019, and that pool is no longer growing.

CHAPTER 7

# Conclusion

This report presents findings from the statewide evaluation of the PDPP. This chapter summarizes our findings from the evaluation and discusses recommendations for future grant programs.

## Summary of Findings

According to what we learned from our data collection, the grant program clearly enhanced the ability of county-based public defense systems to provide legal counsel to people who might be eligible for the legislatively created PCR processes highlighted in the program's enabling legislation. This appears to have been the legislature's primary purpose in creating the PDPP; by that measure, the program was successful. Our evaluation was essentially agnostic as to whether the various types of PCR contemplated by the PDPP serve appropriate purposes or have had their intended effect on the criminal justice system in general and the lives of those seeking relief in particular. Instead, our focus was on the PDPP's impact on connecting convicted people with public defense counsel, and our evaluation suggests that, without these grant funds, the volume of clients screened for potential services, the volume actually provided counsel, and the volume that had PCR proceedings initiated on their behalf would all be much lower. Moreover, there appears to be an increase in the capacity of public defense offices to take on similar cases in the future as a result of training and infrastructure improvements.

As the tables in the previous chapters clearly indicate, not all clients receiving grant-funded counsel were successful in achieving their desired outcomes in terms of motion or petitions granted or new sentences handed down. But that metric is misleading when the primary concern involves unmet legal needs. The underlying goal of public defense funding is to make sure qualified people "have the Assistance of Counsel for [their] defence"[1] so they do not have to navigate the complexities of the criminal justice system alone. The PDPP appears to have met that goal, albeit for a fairly narrow set of relief types and with an uncertain future in terms of continued funding.

Some grantees mentioned another benefit that we did not specifically test but nevertheless deserves mention. As indicated previously, most offices were doing some PDPP-relevant PCR work before the initiation of the grant program. For example, efforts to have felony murder (or felony attempted murder or felony manslaughter) convictions vacated and the person resentenced under more-recent interpretations of the law were certainly a busy area of activity for offices before grant funds were first received. Such processes can be complex and time-consuming for counsel, but the unquestionably significant benefit for a successful client would have made seeking a vacated sentence a top priority for even the most resource-constrained public defense provider before the program. But although PDPP funding might not have triggered a massive surge in P.C. § 1172.6 proceedings, it would likely have had an equally important benefit: the ability to have state-supplied funding support further work in this area during the grant period (perhaps by hiring counsel to

[1] U.S. Constitution, Amendment VI.

focus on such proceedings) and, by doing so, freeing up county-supplied funds for other provider purposes. Such a shift might allow counsel who previously spent time on these matters to devote additional attention to their traditional client base of those currently facing felony and misdemeanor prosecutions, a welcome luxury in the face of what are often imbalances between attorney resources and the incoming caseload. In such instances, there might not have been a change in the frequency with which PCR was granted, but there certainly was a meaningful benefit to the delivery of public defense in California.

## What Activities Were Supported?

PDPP grant funds were used to support a variety of activities within the offices receiving funds. Many offices used the funds to hire personnel or reassign personnel within their offices to focus specifically on PCR, and some created new postconviction units. Funds were used especially to hire attorneys and paralegals, and some new social workers and clinicians were supported with grant funds—particularly when compared with hiring that occurred with non-PDPP funds during the evaluation period. These new personnel were described in interviews as essential: Postconviction work required effort that offices were not resourced to provide in a large-scale way before the PDPP. Offices particularly highlighted their ability to use the funds to hire experienced attorneys and those with postconviction expertise, noting the legal complexity of these cases.

PDPP funds were also used to support approximately 3,900 hours of training during the evaluation period. Some of this training was in the form of paid seminars and conferences; however, much was provided free of charge by OSPD, and grant funding supported the time of the personnel who attended the training. In this way, OSPD filled a key need for specialized training on topics relevant to the key statutes covered by the PDPP.

Several offices used the funds for infrastructure-related investments, such as changes to the physical office space or purchases of hardware and software. Offices appeared to be equally likely to use non-PDPP sources of funds for these purchases, although they did seem to use PDPP funds more often to support investments in their CMSs (e.g., new software, upgrades, new licenses).

Client-focused and case-support services were another common use of PDPP funds. Compared with non-PDPP funds during the evaluation period, PDPP funds were especially used for psychological assessments, mitigation reports, and immigration support services. Offices also used grant funds for case management services for their clients. In their narrative progress reports, offices emphasized the value of these services. For example, grant funds made it easier for them to retain experts specific to a given client's case without having to request—and wait for—the assignment of a court-appointed expert. The funds were also uniquely used to support clients' reentry and rehabilitation, such as through housing and other material supports (e.g., transportation, basic needs).

## How Many Clients Received Postconviction Representation and Relief?

A key purpose of the grant program was to increase the number of clients receiving postconviction services, and indeed, the goals set by most offices explicitly reflected this objective. According to the progress reports submitted by grantees, many clients were served using PDPP funds (for a summary, see Table 7.1). Efforts to seek relief under P.C. § 1172.1 were most common, with more than 45,000 people reaching out to the office for assistance, being independently screened by the office for potential eligibility, or being identified to the office as someone recommended for recall and resentencing. More than 1,300 clients were granted relief under this statute during our evaluation period; this is a relatively low percentage that reflects the fact that these sorts of proceedings can only be initiated by a judge, DA, the sheriff, or other external actor rather than the convicted person or their counsel. The next most common was relief under P.C. § 1172.6, with more

**TABLE 7.1**
**Clients Served Using Public Defense Pilot Program Funds, by Penal Code Section**

| Penal Code Section | Total People Requesting Assistance, Being Screened, or Being Identified | Total Representations | Total Granted Relief |
|---|---|---|---|
| 1172.1 (externally initiated recall) | 45,448 | N/A | 1,318 |
| 1172.6 (felony murder) | 13,357 | 6,098 | 594 |
| 1473.7(a)(1) (immigration consequences) | 6,255 | 1,896 | 551 |
| 1473.7(a)(2) (exculpatory evidence) | 52 | 22 | 2 |
| 1473.7(a)(3) (RJA) | 1,492 | 162 | 1 |
| 3051 YOPH | 5,049 | 1,013 | 132 |
| 3051 *Franklin* | 5,532 | 3,217 | 607[a] |

SOURCE: Our analysis of grantee-submitted semiannual progress reports.

[a] For *Franklin* hearings, this is the number of cases in which a motion was granted or relevant materials were made part of the client's C-file or entered into the court record.

than 13,000 people reaching out, being screened, or being identified and nearly 600 clients granted relief. Although fewer people received office attention under P.C. § 1473.7(a)(1), a higher percentage were granted relief, with 551 motions granted. Under P.C. § 3051, offices were more successful in having materials added to C-files for *Franklin* hearings than in having people granted relief at parole hearings when the office contributed in some way to the proceedings.

We also found that seeking relief under P.C. §§ 1473.7(a)(2) and 1473.7(a)(3) was the least commonly reported objective when using program funds. For § 1473.7(a)(3), which provides the opportunity for relief under the RJA, interviewees noted that the legal issues were especially complex and there could be difficulties when attempting to pull together the records and extensive data needed to make a strong case. These challenges might explain the relatively low number of clients served. But the fewest representations occurred under P.C. § 1473.7(a)(2), and although offices did not provide a specific explanation for this, they did note that these cases were less common than anticipated. Presumably, the discovery of new evidence that points to innocence long after a matter is litigated in the trial courts is a rare event in the criminal justice system.

Although there were some variations across the penal code sections, a noteworthy number of people were served in some way using PDPP grant funds. At a minimum, previously convicted people received at least an opportunity to talk to someone about their situation, have their history with the criminal justice system reviewed by legal counsel, or have their potential eligibility for appropriate types of PCR assessed. As offices highlighted in their progress reports and interviews, representations that were ultimately successful translated into a significant number of clients whose lives were changed as a result of the grant program. Offices emphasized the number of years of prison sentences that clients avoided and the postrelease benefits that these clients have experienced, such as reintegrating into the community, getting jobs, and reuniting with family. At the same time, offices could not always address all cases under a certain penal code section because of limited resources. As a result, some people would likely benefit from meaningful representation as they pursue PCR if more resources were available.

## What Challenges and Successes Did Grantees Experience?

Grantees did experience challenges as they worked toward their goals. For example, they had difficulty accessing potential clients and communicating effectively with them. It took time for them to develop the right processes and expertise to take on these cases, and many aspects of these representations depended on external stakeholders as well (e.g., DAs, courts, CDCR). For example, offices discussed challenges in communicating with clients who were incarcerated. At the same time, it is important to acknowledge that county-funded public defense providers more typically interact with clients in local jails rather than in state prisons, and navigating CDCR requirements was a new challenge for some.

In addition to doing the legal work, office personnel had to learn the administrative steps associated with this type of grant program and how to provide structured data for evaluation purposes. Moreover, multiple times during the grant program, uncertainty about ongoing funding or small funding amounts meant that offices sometimes set smaller goals than they initially intended to achieve.

Despite these challenges, offices made substantial progress toward their goals. This success included the many goals focused on client services—screening for potential clients, representing clients, and providing other services, such as assessments or reentry supports. It also included the strides that offices took in building their overall capacity and skills for this type of postconviction work, including developing new processes, expertise, and infrastructure.

## What Lessons Were Learned from Implementing the Public Defense Pilot Program?

With the evaluation, we also set out to learn more about the overall experiences that offices had in applying for and using PDPP funds, with the goal of informing future grant programs. First, not all counties applied, although there were funding allocations for all 58 counties in the state. Some counties reported that they did not believe they had the volume of cases necessary to justify the funding, but others indicated that the funding allocated to them was insufficient to justify the administrative burden associated with a grant.

Some counties were unsure how the program might work if they did not have a traditional public defender's office within the county government structure—for example, when the primary public defense provider was a contracted law firm, a panel run by an administrator, or a consortium of private law firms. Indeed, when we developed progress reports for grantees to submit, there were additional complications related to public defense approaches that used panels, contracted defenders, or consortium models. For example, a grantee with a consortium model had to identify a single point of contact responsible for collecting data on expenditures and clients served from each of the participating law firms. Such firms might be reluctant to disclose to outsiders any significant information about the cases they represent, even to other law firms with which they have a contractual arrangement to share the county's public defense caseload. These challenges were not necessarily insurmountable, and many grantees with this type of defense model successfully fulfilled their reporting requirements. Some panel administrators with whom we worked were extremely proactive in gathering data from panel attorneys, assisting them in executing grant-related representations, and thinking strategically about how to maximize the impact of grant funding on PCR activities in their counties. However, it was clear that grant administration was not necessarily a one-size-fits-all experience.

Another challenge was how funding was allocated and the narrow focus of the grant program. Funding was allocated for this grant program annually, which meant that funding was not guaranteed for all three years. This aspect of the PDPP sometimes made it challenging for offices to develop and adhere to a specific plan. For example, some offices that used the grant funds to hire personnel became concerned about the potential loss of funds to continue supporting those personnel. Other offices initially planned to work on

specific penal code sections but then found that there was insufficient demand for those types of PCR and sometimes wished that they could pivot to a different type of PCR beyond the focus of the grant program.

At the same time, important lessons were learned about how to support offices doing this type of work. Although some offices had modest allocations, many grantees reported that the funding level was sufficient to achieve their goals. Many also applauded the three-year duration of the grant program. On a local level, offices reported that having support from their boards of supervisors facilitated the use of these funds because boards have to approve the acceptance of grant funds. Support from external entities was key too: Offices relied on guidance and technical assistance from both OSPD and the BSCC.

## What Is the Future of Postconviction Relief in California After the Public Defense Pilot Program?

As the grant program concludes, a bigger-picture question is raised about the future of PCR—not just within these offices and related to these penal code sections but also more broadly.

According to the reports, many offices were doing this work in some way even before the PDPP began, and many also reported that they would have found a way to provide at least some postconviction services addressed in the target statutes even without the grant program. However, postconviction work could have looked much different in these offices. It might have been decentralized, or perhaps handled by just a single attorney, or grantees might not have been able to take on the same volume of cases. Even offices that did have attorneys to take on the work might have found it more difficult to retain experts for certain services, such as psychological assessments or mitigation reports. In this way, PDPP funding significantly affected offices' abilities to provide these services. In fact, offices reported that the PDPP was the primary funding source for PCR under each of the penal code sections during the grant program. When other funding sources were used, they were most often just the general office operating budget.

Regarding their plans for postconviction work after the PDPP ends, many offices highlighted the importance of these services and indicated that they planned to continue to provide postconviction support to clients. Some offices raised concerns about how those services would continue to be funded. A few offices suggested that they might have to cease providing services after the grant program ends, although they often cited a mix of insufficient demand and insufficient financial means. Several offices indicated that future postconviction work might be possible only if new funding were available and that they planned to seek that funding. However, most grantees said that they would find a way to continue providing these services even without funding. But, as noted, the way these cases are handled could be much different from how they were handled during the PDPP.

Acknowledging that the PDPP supported PCR only under a narrow set of penal code sections is also important. Grantees repeatedly noted that they would like the flexibility to provide additional types of PCR with the support of grant funding. Moreover, as new postconviction remedies are developed, offices might wish to pursue these additional avenues for their clients, although such pursuit might be difficult because of budget constraints. Unfunded legislative PCR mandates certainly did not end with the PDPP. As described in the introduction of the report, AB 2483 required that certain types of postconviction proceedings "include a consideration of whether or not to appoint counsel to represent the defendant." This bill also has the potential to address some of the challenges that offices faced in interacting with DAs and judges because it aims to bring these stakeholders together within counties. Similarly, it could ease the challenges in communicating with CDCR because it dictates that each prison have a specified point of contact to address record requests. But it does not provide additional funding for public defense providers to accommodate the expected increase

in workload,[2] a situation that could well lead to continued resource strains on public defense providers that seek to represent previously convicted people in matters contemplated by AB 2483.

## Limitations of the Evaluation

Several limitations of our evaluation should be considered when interpreting findings. First, this was designed to be a statewide evaluation, assessing the program's implementation across grantees. Although we collected data from individual offices and counties, our goal was not to thoroughly evaluate each office; instead, we were interested in understanding patterns, commonalities across offices, and cumulative outcomes. As a result, our reporting templates were designed to capture certain common implementation and outcome measures but were not necessarily designed to be exhaustive. However, offices noted that they sometimes felt that the reporting templates did not capture the full breadth of their work and sometimes made it difficult to categorize the activities being undertaken using grant funds.

It is also important to note that many cases were still in progress when the evaluation ended. These are cases for which a motion might have been filed or a client was being represented but the office did not yet know whether the motion would be granted or denied. Therefore, our tables in Chapter 5 reflect preliminary outcomes across grantees, but it would be valuable to continue tracking these cases to determine what the resolution is. Similarly, we were limited to collecting information only on immediate case outcomes—whether PCR was granted or denied. However, it would also be valuable to track the longer-term outcomes for clients who were granted relief—for example, what was their postrelease experience once they returned to the community? What supports would be needed to support long-term positive outcomes in this population? Finally, we asked offices to submit aggregate data about the number of clients served but did not collect data on the characteristics of individual clients. It would have been challenging for offices to track this level of data. Still, data about client demographics or case characteristics would have helped us further describe the population served through these grant funds.

For a variety of reasons, a small number of grantees were unable to consistently comply with our reporting requirements. Outright refusal was extremely rare; more common was the unexpected loss of key personnel tasked with the grant program's administrative side or the provision of legal counsel. Given that these issues were likeliest to arise in the smallest offices receiving grant funding, we do not believe that our findings were affected by any missing data.

## Recommendations for Future Grant Programs Focused on Postconviction Relief

Informed by our findings, we identified the following recommendations for the state of California to consider if it continues to provide grant funding to support postconviction services.

### Establish a Minimum Grant Level Across All Offices

Because county funding allocations were based on county populations, there was a very wide range of grant sizes across counties. At the extremes, Alpine County was allocated approximately $1,500 for cohort I, whereas Los Angeles County was allocated $12,720,000. The median funding allocation across all counties

[2] AB 2483, assembly floor analysis.

was $237,763 (mean = $853,448, standard deviation = $1,834,123). To some extent, it makes sense for funding allocations to be tied to the county population, or at least to the size of some relevant subset (such as the incarcerated population in a county or the annual number of prosecutions in the local courts). However, it is very challenging for a county to develop a meaningful work plan with a relatively small amount of funding—and in fact, many counties with the smallest allocations opted not to apply for the funds. As we learned in interviews, the administrative burden of the grant is likely to outweigh the funding those counties would receive. Moreover, even if counties could absorb the administration burden, counties that received smaller allocations would have difficulty using the funds for meaningful changes in their existing approaches to addressing PCR needs, such as hiring an attorney, which seemed to be one of the more impactful ways in which funds were spent. For future grant programs, the state should consider a minimum funding threshold. Among all the counties, only 35 percent that were allocated less than $100,000 during cohort I used funds during the evaluation period, compared with 89 percent of counties allocated more than $100,000 and 100 percent allocated more than $250,000. Some small counties still might not have the volume of cases needed to support a large grant; however, a minimum funding threshold of $100,000 would be worth consideration.

## Provide Additional Guidance to Counties with Contracted Defenders or Consortium Models

According to our interviews, counties that had contracted defenders or consortium models might not have always understood that they were also eligible to apply for PDPP funds. Several counties with these defense models applied for funds, but they may have navigated through additional hoops to actually use the grant funds—for example, not only obtaining approval from the county board of supervisors to use the funds but also establishing the contract with a given attorney or practice. In addition, anecdotally throughout the course of our role on the project as a technical assistance provider for data collection, we heard about more complexities for counties with consortium models because they had to obtain data from multiple entities to fulfill reporting requirements. This is not to say that counties with this type of defense model should be ineligible for funds—these offices could also successfully use grant funds. However, it would be worthwhile to provide additional support for these counties on how they might develop agreements with their contracted attorneys or firms and how to set clear expectations with those attorneys regarding submission of data related to PDPP funds.

## Provide More Flexibility in the Types of Postconviction Relief That Are Covered

Offices expressed appreciation for the opportunity to provide postconviction services under the penal code sections covered by the PDPP. However, they reported that the narrow focus of the grant program was a barrier. RJA violation relief under § 1473.7(a)(3) is a good example. Such claims can require highly sophisticated analyses of court and law enforcement data to establish the existence of a pattern and practice of discrimination. Many public defense providers, with or without PDPP funding, are unlikely to have the capacity to establish and utilize such evidence, which might explain the low uptake for these claims. But other types of PCR might be a far better fit for their capacities and clients. California has expanded opportunities for PCR in the past several years, and offices indicated that they would have liked to have provided services under other options, such as P.C. §§ 1203.4, 1203.41, and 1203.4a, and Proposition 47, P.C. § 17(b), and P.C. § 1203.4. Providing more flexibility to offices would allow them to focus their work on the types of relief for which most clients in their counties might be eligible and would mean that offices could more easily pivot or expand their efforts if needed (e.g., in the case of new PCR options or if one area tends to be less fruitful or common).

## Allocate Grant Funds in Full at the Beginning of the Grant Program, or Provide More Guidance to Grantees on Budgeting in an Uncertain Funding Climate

Funds were allocated for this grant program on an annual basis. This was made clear in the application materials for cohort I, which stated that "future appropriations and amount are not guaranteed." The application also explicitly stated that "there may be a reduction in [the] allocation amount and the funding will not be known until each budget is passed." At the same time, many offices likely developed their plans under the assumption that subsequent years of funding would be available. This was particularly true when they were hiring staff: The apparent longevity of the funding may have been the difference between posting a permanent staff position and a temporary one. Ideally, grant funds would be allocated in full at the beginning of the grant program. This funding allocation model was used with the IDGP and made it easier for offices to develop plans for the three-year grant period. However, the overall funding amount available for the PDPP was quite a bit higher than that for the IDGP, which was $10 million in total, compared with $140 million for the PDPP. Therefore, if it is not possible to provide the full funding allocation at once, another option would be for an entity, such as OSPD, to provide additional guidance to grantees on budgeting or establishing a scope of work in the context of funding uncertainty. Lessons learned could be drawn from the current grantees.

## Continue to Draw on the Expertise of the Office of the State Public Defender for Implementation

Grantees noted how valuable it was to have consultation and input from OSPD as they developed their grant applications, including assistance in identifying eligible work and scoping their work plans. The Indigent Defense Improvement Division also developed a series of courses focused specifically on PCR under the penal code sections covered by the PDPP, and these were among the courses attended most by grantees. These types of training helped offices develop staff technical knowledge, helped personnel become subject-matter experts, and improved the perceived effectiveness of grantees' postconviction work.

## Create a Forum for Information-Sharing Across Offices

During interviews and in their progress reports, some grantees talked about the value of connecting with other counties and offices that were receiving grant funds and sharing lessons learned. In their progress reports, offices also described how it took time to develop efficient internal processes related to postconviction work and how they needed to navigate complicated external processes, such as gaining access to CDCR facilities to meet with clients. Although it seems that some offices found ways to connect informally, it would be worthwhile to consider developing a formal community of practice across offices, which would serve as a venue in which grantees could share strategies and other lessons learned with one another. This ultimately could help counties save time and resources. The development of this type of forum could be supported by a state entity, such as OSPD.

# Abbreviations

| | |
|---|---|
| AB | Assembly bill |
| BPH | Board of Parole Hearings |
| BSCC | California Board of State and Community Corrections |
| CBO | community-based organization |
| CDCR | California Department of Corrections and Rehabilitation |
| CMS | case management system |
| DA | district attorney |
| FY | fiscal year |
| IDGP | Indigent Defense Grant Program |
| IT | information technology |
| N/A | not applicable |
| OSPD | Office of the State Public Defender |
| P.C. | California Penal Code |
| PCR | postconviction relief |
| PDPP | Public Defense Pilot Program |
| RJA | California Racial Justice Act of 2020 |
| SB | Senate bill |
| YOPH | youth offender parole hearing |

# References


AB 600—*See* California Assembly, 2023.

AB 865—*See* California Assembly, 2018a.

AB 2483—*See* California Assembly, 2024.

AB 2942—*See* California Assembly, 2018b.

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BSCC—*See* Board of State and Community Corrections.

Budget Act of 2021—*See* California Senate, 2021a.

California Assembly, Military Personnel: Veterans: Resentencing: Mitigating Circumstances, Assembly Bill 865, September 19, 2018a.

California Assembly, Criminal Procedure: Recall of Sentencing, Assembly Bill 2942, September 30, 2018b.

California Assembly, California Racial Justice Act of 2020, Assembly Bill 2542, September 30, 2020.

California Assembly, Criminal Procedure: Resentencing, Assembly Bill 600, October 8, 2023.

California Assembly, Postconviction Proceedings, Assembly Bill 2483, September 29, 2024.

California Penal Code, Preliminary Provisions, Section 17.

California Penal Code, Part 2 of Criminal Procedure; Title 6, Pleadings and Proceedings Before Trial; Chapter 2.5, Special Proceedings in Narcotics and Drug Abuse Cases; Sections 1000–1000.65.

California Penal Code, Part 2 of Criminal Procedure; Title 6, Pleadings and Proceedings Before Trial; Chapter 4, Plea; Sections 1016–1027.

California Penal Code, Part 2 of Criminal Procedure; Title 7 of Proceedings After the Commencement of the Trial and Before Judgment; Chapter 4.5, Trial Court Sentencing; Article 1, Initial Sentencing; Sections 1170–1170.95.

California Penal Code, Part 2 of Criminal Procedure; Title 7 of Proceedings After the Commencement of the Trial and Before Judgment; Chapter 4.5, Trial Court Sentencing; Article 1.5, Recall and Resentencing; Sections 1172–1172.75.

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