

Juvenile/TAY Social Worker Proposal

Submitted to the Public Protection Committee by the Office of the Public Defender
February 5, 2018

1. Request

The Office of the Public Defender is requesting funding for 1 FT Public Defender Social Worker to work with our juvenile and transitional aged youth (“TAY”) clients.

2. Background and Context

Providing effective defense to juvenile (under 18 years old) and TAY (18 through 25-year-old) clients necessitates that Public Defenders adopt a “holistic” model. Attorneys must be able to litigate not just the legal aspects of cases, but also be able to delve into the root causes of incarceration that lead young people to become system involved. These causes are complex and often include mental illness, substance use disorders, cognitive or learning issues, poverty, homelessness, trauma, and abuse.

It is widely recognized that to effectively represent juvenile clients, Public Defenders should collaborate with social workers, who have subject matter expertise in mental health and educational advocacy, and integrate them into the defense team. In the juvenile arena, a social worker is critical to providing attorneys with the tools to advocate for alternatives to incarceration and to presenting sentence mitigation to the court. In addition, a social worker is the key to advocating for juvenile and TAY clients, in court and in the community, by connecting clients with early intervention, providing supportive counseling and helping guide individuals through a maze of legal and social service systems during the reentry process.

For our TAY clients, as with our juvenile clients, the neurocognitive research in the field of brain development demonstrates that this group is still developing and susceptible to peer pressure, both positive and negative. The TAY population is specialized and, like those working with juvenile clients, those working with TAY clients need specialized skills. It was the high rate of recidivism of the local TAY population that led Contra Costa County to apply for and be awarded a Smart Reentry grant to solicit additional funding and resources in supervising this specialized population during their reentry. The TAY population tends to be the largest age group within the local custodial population in Contra Costa County’s jails and they suffer from the highest rates of homelessness in the County. (Application for Second Chance Act Smart Reentry Program, Contra Costa County Probation Department (June, 2016), page 1).

3. Program Design

A Public Defender social worker will ensure smooth reentry to juvenile and TAY clients. The social worker will collaborate with the defense team, thoroughly research all of the social services available in the community, and build relationships with those that are most effective. In this way, the social worker will build a network of resources that enables them to connect clients quickly to the services they need to meet their short term needs and to achieve success in the long run with reentry into the community.

The Public Defender Juvenile/TAY Social Worker will:

- Interview, evaluate and divert juvenile/TAY clients to social services at the earliest point in time to ensure early intervention
- Provide juvenile/TAY clients with a detailed needs assessment, identifying mental health and substance use disorder issues
- Investigate and document an individual's family, medical, mental health, social, educational, employment and forensic histories
- Assess incarcerated clients in order to develop a reentry transition plan into the community
- Work with clients post-release to navigate services and ensure reentry plans are successfully executed
- Write alternative disposition recommendations to the court and be able to testify regarding client's ability to engage in out of custody programs and services and achieve reentry success

4. Outcomes

A social worker will help assure that we are providing early intervention in cases involving juveniles and TAY clients and working with those clients to ensure a smooth and coordinated reentry after they are released from custody. Through the development of detailed client assessments and alternative dispositions, our Public Defender Social Worker will be integral to providing important alternatives to incarceration and aiding a smooth reentry into the community while increasing public safety.

5. Budget for FY 18/19

Employee Classification	Salary and Benefits
1 FT Social Work Supervisor	\$143,165
	Total \$143,165

Public Defender AB109 Funded Social Worker Proposal

Submitted to the Public Protection Committee by the Office of the Public Defender
February 5, 2018

The use of Social Workers as part of a “holistic” defense team is widely recognized as a best practice and is essential for connecting justice-involved individuals with the reentry resources available throughout the County. Public Defender Social Workers help address the root causes of incarceration and system involvement, which are complex and often include mental health, substance use disorders, poverty, homelessness, trauma and abuse. To be effective, Public Defender attorneys must collaborate with social workers, who have subject matter expertise in mental health, and integrate them into the defense team.

The Office of the Public Defender currently has only 1 FT Social Worker to work with over 80 attorneys in 3 branches of the Department (the Martinez Office, the Richmond Office, and the Alternate Defender’s Office). The Public Defender is requesting additional AB109 funding for 2 FT Social Workers as part of the AB109 budget submissions for Fiscal Year 2018-19 as follows:

- 1) Social Worker for Youth Offender Parole Hearings: to address a new legal obligation of the Department to handle Youth Offender Parole Hearings. This new duty was added to the Public Defender’s office as a result of a series of judicial decisions and legislation over the past two years and means the Department will potentially represent over 600 individuals at *Franklin* hearings in Superior Court to present youth-related mitigating evidence on their behalf to provide a meaningful opportunity for parole. (Please see attached proposal for more information).
- 2) Social Worker for Juvenile / Transition Aged Youth (TAY): a Social Worker is critical in working with the specialized populations of juvenile and transition aged youth (TAY) to connect individuals with early intervention and support in the community. (Please see attached proposal for more information).

Bay Area Public Defender Social Workers by County

County	Population	Number of Adult & Juvenile Social Workers
San Francisco	874,228	10
Alameda	1,645,359	6.5*
Santa Clara	1,938,180	3
Solano	436,023	2
San Mateo Defender Program	770,203	1 (soon to be 2)
Contra Costa	1,139,513	1

* In Alameda County, 2 of the 6.5 Social Workers are employed by the Conflict Panel

Proposal for Social Worker for Youth Offender Parole Hearings
Submitted to the Public Protection Committee by the Office of the Public Defender
February 5, 2018

1. Request

The Office of the Public Defender is requesting funding for 1 FT Public Defender Social Worker to assist with preparation of Youth Offender Parole Hearings for those currently in State Prison.

2. Background and Context

CCPD has received a large influx of new cases involving juvenile and young adult defendants due to significant legal reforms in the past two years. In 2014, Senate Bill 260 created a new process through which state prisoners who were under 18 at the time of their crimes and who were sentenced in adult court to lengthy prison terms would be eligible for early parole consideration based on their lack of maturity at the time of the offense. The law established that these inmates were entitled to a Youthful Offender Parole Hearing ("YOPH") where, due to their lack of maturity and age at the time of the offense, the parole board should give the inmate a "meaningful opportunity" to be paroled. The new law instructed the parole board to give "great weight" to the diminished culpability of juveniles as compared to adults, to the "hallmark features of youth," and to any subsequent growth and maturity of the individual.

In 2016, the state legislature enacted Senate Bill 261, which expanded eligibility for Youthful Offender Parole Hearings to those who committed their crimes prior to the age of 23. This was done in recognition of the overwhelming scientific evidence that brain development and thereby executive functioning are not fully intact until a person reaches their mid-twenties. Subsequent to SB 261, Governor Brown signed AB 1308 on October 11, 2017, which further expanded YOPH eligibility to persons who committed crimes before age 25.

Normally, CCPD would not be tasked with conducting parole hearings on behalf of their former clients. However, in 2016, the California Supreme Court ruled in the case of *People v. Franklin* that all inmates eligible for youth offender parole are entitled to a hearing before their parole eligibility date where they should be afforded an opportunity to present all mitigating evidence tied to their youthfulness at the time of the crime. These hearings are to be conducted in the Superior Court of the county of the original conviction. The evidence from these hearings would subsequently be used by the Parole Board in determining whether the individual is fit to reenter society despite having committed a serious crime while a child or young adult.

Based on these new laws, CCPD has an obligation to investigate the social and family history for all clients under 25 who currently have pending cases and who are facing potential incarceration for longer than 15 years. This means that CCPD attorneys must obtain such things as school records, medical records, dependency court records, and mental health records for their youthful clients. These records are to be used in presenting a mitigating case on behalf of our clients so that, when they are eligible for parole, the board can appropriately consider the client's youth and lack of maturity at the time of the offense.

Significantly, based on the *Franklin* decision, CCPD now has an additional obligation to conduct this mitigation investigation on behalf of all **former** clients who are currently in state prison and who are eligible for a YOPH. While representing clients at their parole hearings is not the responsibility of the CCPD, the law now requires the CCPD to make a record of youth-related mitigating evidence in Superior Court.

The pool of inmates eligible for a YOPH from Contra Costa is quite large. The Department of Corrections has identified approximately **607 prison inmates** sentenced by the Contra Costa County Superior Court who are potentially eligible for a *Franklin* hearing. This is a low estimate of those eligible, as this list of 607 includes only those who were under 23 at the time of their offense, and not those who were under 25 at the time of their offense. This group encompasses those sentenced from the 1980s forward. Many of these individuals have already served 15-25 years, meaning that they are immediately eligible for a hearing. This immediate eligibility has been confirmed in at least 129 cases. Many of these cases are required to be heard before January 1, 2020. The consequence of an incompetently-handled hearing can be a lifetime in prison versus early parole.

3. Program Design

At the present time, CCPD has dedicated one senior Deputy Public Defender to handling this new caseload. It is recognized as an effective practice for an attorney to work closely with a social worker as part of a multidisciplinary team to prepare for this type of hearing.

CCPD will add one social worker to work closely with the attorney handling *Franklin* hearings for those eligible in Contra Costa. The social worker assigned to YOPH will:

- Investigate mitigation, including collection of records (birth, medical, mental health, education, dependency/delinquency, military, jail/prison, etc.) for both our client and their immediate family members
- Communicate with the client to discuss their life circumstances at the time of the offense, their subsequent insight about their behavior at the time of the offense, the steps they have made towards rehabilitation while incarcerated and to plan for a successful reentry into the community
- Interview family members and other contacts who may have relevant testimony for the hearing
- Identify adverse childhood experiences and trauma and document these experiences
- Prepare a compelling statement in mitigation and social history, including the client's involvement in the offense, the impact of youth-related factors, and the client's likelihood of responding to rehabilitation, and what a reentry plan back into the community would entail

4. Outcomes

With the addition of a YOPH Social Worker, CCPD will be able to fulfill its duty to provide a meaningful opportunity for parole to those individuals entitled to this potential relief. This will further the goal of encouraging releases from custody and reduce recidivism by aiding successful reentry and reintegration for those released.

5. Budget

Employee Classification	Salary and Benefits
1 FT Social Work Supervisor	\$143,165
	Total \$143,165