



Contra
Costa
County

To: Board of Supervisors
From: Robin Lipetzky, Public Defender
Date: October 18, 2016

Subject: Grant Award from the Bureau of Justice Assistance

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Public Defender, or designee, to apply for and accept a grant in the amount of \$377,657 from the U.S. Department of Justice - Bureau of Justice Assistance for a Misdemeanor Early Representation Project from October 1, 2016 through October 1, 2018.

FISCAL IMPACT:

This grant will provide \$377,657 for salary, employee benefit, training and consulting support expenditures for a two (2) year pilot program. No direct matching funds are required; however office space and supplies will be provided by the County, as in-kind contributions to the program. There is no increase to Net County Cost.

BACKGROUND:

The majority of criminal cases that clog America's courts and overwhelm its jails are lower-level misdemeanor offenses. In Richmond, California, an indigent person who is

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **10/18/2016** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Mary N. Piepho, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: October 18, 2016

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Richard Loomis, (925)
335-8093

cc:

cited and released for a misdemeanor offense

BACKGROUND: (CONT'D)

generally does not receive legal representation until his or her first court appearance. This lack of early representation during the critical months between arrest and arraignment gives rise to a host of grave and lasting consequences for indigent people, lacking the financial means to hire private attorneys in advance of their first court appearance.

The first indicator of the negative consequences of this gap in representation for indigent defendants is the high rate of failures to appear (FTA's). Often defendants fail to appear because they fear the consequences of, or don't understand, the legal proceedings, but also because they are unable to arrange for transportation to court, they forget the appointment, or they have competing responsibilities (employment commitments and/or child or family care). Additionally, language and literacy issues play a significant role in FTA's. This reality is strikingly apparent in the Richmond branch of the Contra Costa County Superior Court. Of the approximately ninety (90) misdemeanor arraignments per week, the court estimates that as many as one-third of defendants FTA for their first court date. Because of high frequency of FTA's, 20% of public defender cases originate with a client who has been arrested on a bench warrant.

When a person fails to appear for arraignment, the judge issues an arrest warrant. Police officers eventually execute that warrant and take the person into custody, generating adverse impacts that follow from incarceration. The costs of this cycle of consequences can be devastating to family and community stability: bills go unpaid, jobs are lost, evictions are served, and children/spouses lose a member of the family. The Public Defender proposes to address these points of failure by establishing the West County Misdemeanor Early Representation Project. In July of 2016 a similar activity was initiated in the Delta branch of the Court in Pittsburg, using a funding allocation of AB109 revenues.

The Misdemeanor Early Representation Program (MERP) is designed to provide immediate representation for persons cited for misdemeanor offenses, so as to reduce incarceration and other collateral consequences stemming from FTA and time spent in-custody for indigent clients in Richmond. This early representation will be provided alongside co-located social services to support client success, both during and after the judicial process. MERP is intended to: reduce the number of FTA's, reduce the number of arrest warrants issued, reduce FTA burden on justice system partners, mitigate collateral consequences of custodial arrests and improve outcomes for indigent persons charged with misdemeanor offenses. The Public Defender will partner with a subgrantee partner (the Justice Management Institute), which will assist with program design and will track multiple data points to evaluate program success.

This program has strong support of local justice partners, including: the District Attorney, the Court, the Sheriff, the Richmond Police Department and the West County Reentry Resource Center.

CONSEQUENCE OF NEGATIVE ACTION:

The Office of the Public Defender would not otherwise be able to assist the Court in reduction of the high rate of FTA's by indigent defendants.