Proprietary & Confidential

FINAL REPORT

County of Orange

OFFICE OF THE PUBLIC DEFENDER PERFORMANCE AUDIT

January 28, 2022

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MOSSADAMS

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I. EXECUTIVE SUMMARY

A. BACKGROUND, SCOPE, AND METHODOLOGY

The Orange County (the County) Office of the Public Defender Office (the Office) provides legal representation to those unable to afford a lawyer in criminal, juvenile, mental health, and dependency cases.

The County Board of Supervisors approved a general performance audit conducted by Moss Adams LLP to review the operations, policies, practices, and procedures of the Office's administrative functions. This performance audit was designed to:

- Review the current organizational structure and operations of the Office and make recommendations for enhanced efficiency within existing resources
- Review policies, practices, and procedures and identify opportunities for streamlining and reducing costs
- Review current use of technology systems and make recommendations for improvements and enhanced efficiency

Our analysis was informed by employee interviews, document review, a survey of administrative employees and the managers they support, and research into best practices for similarly structured Public Defender Offices in California.

B. SUMMARY OF FINDINGS AND RECOMMENDATIONS

Findings and recommendations were grouped into two categories as defined below: 1) Organization and Staffing and 2) Processes.

FINDINGS AND RECOMMENDATIONS		
Organization and Staffing		
1.	Finding	The Office reports a single performance measure, which does not adequately reflect key aspects of workload and performance.
	Recommendation	Develop additional performance measures to portray both workload and outcomes for the work performed by the Office year-over-year to help inform potential resource needs.
2.	Finding	Clerical staff, who often intake client inquiries, are sometimes unable to connect clients with attorneys to resolve client issues and concerns.
	Recommendation	A. Clarify the roles of public-facing clerical staff including what information they can or cannot provide. B. Consider establishing a defined triage process for providing legal support, as needed.

FINDINGS AND RECOMMENDATIONS		
3.	Finding	Due to the size of the Office, career development opportunities for administrative staff are often in other Country agencies, which may disrupt operational continuity.
	Recommendation	A. Consider establishing a separate administrative position classification for criminal justice agencies at the County to promote operational continuity for unique functions. B. Collaborate with County Human Resources to educate administrative employees on the promotional process and encourage ongoing career development opportunities, either internally or externally.
Processes		
4.	Finding	Overall staffing structures and administration levels appear to be adequate; however, workloads are increasing.
	Recommendation	Continue monitoring workloads and regulations to support appropriate staffing levels and consider leveraging workload metrics to demonstrate the need for existing or new resources.
5.	Finding	Administrative policies and procedures and the differences in the relative authority between the County and Office are unclear, resulting in potential gaps in policy.
	Recommendation	Continue to develop comprehensive Office-specific policies and procedures and clarify the differences between policies of the County and Office.

II. BACKGROUND, SCOPE, AND METHODOLOGY

A. BACKGROUND

The Orange County (the County) Office of the Public Defender Office (the Office) provides legal representation to those unable to afford a lawyer in criminal, juvenile, mental health, and dependency cases. The Orange County Public Defender safeguards the Constitutional rights of all by providing high-quality, cost-effective legal services to the indigent of Orange County. The Office's goals include:

- Guaranteeing the right to effective, competent counsel for all system-involved clients in the Office courts, consistent with statutory mandates to represent clients in criminal, juvenile, post-conviction, mental health, probate, civil commitment, and assisted outpatient treatment cases
- Protecting the rights of families in the foster care system while working towards reunifying families in the juvenile court
- Working collaboratively with the County and peer justice agencies to improve outcomes for system-involved clients
- Utilizing recidivism advisors to reduce the costs associated with repetitive crimes and incarceration

The Office provides quality representation to indigent clients through three independent units: the Public Defender's Office, the Alternate Defender's Office, and the Associate Defender's Office. The Alternate Defenders and Associate Defenders are separate subsidiary offices handling cases in which the Public Defender declares a conflict of interest, but all three units operate under the administrative supervision of the Public Defender. The three segments of the Office employ approximately 211 attorneys and 196 additional support staff (including administrative staff, investigators, investigative assistants, clerical staff, IT personnel, and paralegals). The FY 2020–2021 budget for the Office was $89,741,469, with $83,070,428 from the County General Fund and the remaining $6,671,041 sourced from revenues for services provided. Judges determine the defendants' ability to pay for legal services at the end of a trial.

The Office has a decentralized administrative structure in which services such as Human Resources, Information Technology, Finance, and Procurement functions operate independently from those of Orange County but are still beholden to many of the County's policies and procedures.

B. SCOPE AND METHODOLOGY

On September 15, 2020, the Orange County Board of Supervisors approved a general performance audit of the Offices of the Orange County Public Defender to review the operations, policies, practices, and procedures of the Office's administrative functions including, but not limited to:

- Accounting
- Budgeting
- Facilities Management
- Human Resources (HR)
- Information Technology (IT)
- Procurement

This performance audit was designed to achieve the following objectives:

- Review the current organizational structure and operations and make recommendations for enhanced efficiency within existing resources; including a review of each operational unit and the working relationships between each to identify any areas for streamlining operations.
- Review policies, practices, and procedures and identify opportunities for streamlining and reducing costs, expanding efficiencies, and applying best practices. Include any estimated costs/savings for recommendations, if applicable.
- Review current use of technology systems and make recommendations for improvements and enhanced efficiency.

Our analysis was informed by employee interviews, document review, a survey of administrative employees and the managers they support, and research into best practices for similarly structured Public Defender Offices in California. This project was conducted between June and November 2021 and consisted of four major phases:

- **Project Initiation and Management:** This phase concentrated on comprehensive planning and project management, including identifying employees to interview, identifying documents to review, communicating results, and establishing regular reports on project status.
- **Fact Finding:** This phase included interviews with Administration stakeholders, document review, a survey, and best practice research.
    - *Interviews:* We conducted interviews with key administrative support personnel and stakeholders within the Office such as Department Directors, Managers, and office supervisors.
    - *Survey:* We conducted a survey of internal administrative employees and law office support staff, as well as supervising attorneys representing external customers of the Office's administrative support services. The survey was open from August 2 through August 11. Out of the 66 employees invited to take the survey, 26 individuals submitted responses to the survey (a participation rate of 39.4%). Full survey results are included in Appendix A.
    - *Document Review:* We reviewed key administrative supporting documentation including policies, procedures, organization charts, budgets, department forms, and planning documents.
    - *Peer Benchmarking:* With input from Office leadership, we identified three peer agencies to ascertain best practices and other insights around administrative functions and processes in public defender's offices in California. Two peer agencies, Alameda County and San Diego County, agree to participate and were interviewed for this engagement. Appendix B includes a summary of the peer research.
- **Analysis:** This phase served as the assessment portion of the project where, based on information gathered, we evaluated the importance, impact, and scope of our observations in order to develop recommendations.
- **Reporting:** This phase concluded the project by reviewing draft findings and recommendations with the Office's leadership team and Office of the Orange County Executive to validate facts and confirm the practicality of recommendations.

C. STATEMENT OF COMPLIANCE WITH GAGAS

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

III. COMMENDATIONS

Based on insights gathered through interviews, document review, and survey results, the Office has many commendable organizational qualities and practices, including:

- **Mission-Driven Staff:** Based on interviews, Office staff provide excellent service, take pride in their work, and employ creative problem-solving in the face of challenges. This contributes to increased levels of employee engagement, long employment tenures, and limited turnover. The office experienced only 9% turnover during FY 2020–2021.
- **Cross-training:** There is considerable emphasis on cross training employees within the administrative functions of the Office; including proactive identification of primary and alternate employees for all major functions and roles, which is actively managed by department leadership. This commitment to resiliency allows the small office to readily adapt to changing workloads and resource availability, as well as support employees when they are out of office.
- **Collaboration:** Based on staff interviews, there is a strong ability to manage high volumes of work among administrative staff and a robust environment of collaboration among interrelated services.
- **Information Systems:** There is a high degree of satisfaction with existing information technology systems, specifically, the E-Defender case management software. Staff report confidence in the system's capabilities and the commitment from leadership to the ongoing assessment of potential improvements to support efficiency and effectiveness.
- **Leadership:** Office administrative staff reported confidence and satisfaction in executive leadership communication, culture, and alignment, which supports employee morale across the organization.
- **Employee Recruitment:** The Office's robust internship program provides a potential pipeline of future public defenders, legal staff, and support employees.

IV. FINDINGS AND RECOMMENDATIONS

Based on the input gathered from interviews, document review, survey results, as well as comparisons to peer agency best practices, we prepared a comprehensive set of findings and recommendations, which are presented in two categories: 1) Organization and Staffing, and 2) Processes. The findings and recommendations for each category are detailed in the following section.

A. ORGANIZATION AND STAFFING

Performance Measures and Reporting

1.	**Finding**	**The Office reports a single performance measure, which does not adequately reflect key aspects of workload and performance.**
	Recommendation	**Develop additional performance measures to portray both workload and outcomes for the work performed by the Office year-over-year to help inform potential resource needs.**

In 2002, the Office began using an internal measurement tool (Proficiency Index) to monitor and evaluate the quality of representation provided by the Public Defender. Due to the mission of the office to provide high-quality legal representation to clients, this Proficiency Index is a key indicator of performance outcomes. The Office has consistently shown above satisfactory performance since 2017.

The Proficiency Index is a qualitative review of client files conducted by managing attorneys after a case is closed. While this review is a useful evaluation of quality, it does not fully represent the workload of Office attorneys and administrative staff, nor does it report on strategic or program outcomes achieved by the Office. The Office does report workload metrics, such as case volumes, to the County as part of the budget development cycle and strategic planning forecast, but reporting these are primarily driven by regulatory requirements rather than ongoing evaluation and understanding of the Office's workload demands.

To optimize performance, the Office should consider monitoring and reporting on additional performance measures and workload indicators to accurately portray critical aspects of work being performed by the Office. This is a common challenge among peers, though some agencies report quantitative metrics aligned with the strategic goals of the department and/or county to represent the work being performed. For example, the Office of the Alameda County Defender includes the following performance measures in its department budget:

VISION 2026 ALIGNMENT	PERFORMANCE MEASURES	FY 2019 ACTUAL	FY 2020 ACTUAL	FY 2021 GOAL	FY 2022 GOAL
Eliminate Homelessness	# of clients served in homeless and caring court (by calendar year)	123	55	75	100
Employment for All	% of Clean Slate motions granted (by calendar year)	97%	98%	98%	98%

VISION 2026 ALIGNMENT	PERFORMANCE MEASURES	FY 2019 ACTUAL	FY 2020 ACTUAL	FY 2021 GOAL	FY 2022 GOAL
Thriving & Resilient Population	# of incarcerated voters registered through our VOICE (Voting Outreach Increases Community Empowerment) program (by calendar year)	288	220	100	100
Safe & Livable Communities	# of clients who received holistic defense services through our social worker program (by fiscal year)	224	225	225	300

Source: County of Alameda Final Budget 2021–2022

Similarly, San Diego County Public Defender has a performance reporting model that correlates performance measures to County-wide strategic goals; a sample of goals are noted for FY 2019–20 in the following table.

2021–2026 STRATEGIC PLAN INITIATIVE	PERFORMANCE MEASURES
Building Better Health	Completed 92% (1,276 of 1,387) of mental health treatment plans for referred individuals about to be released from custody within two weeks, exceeding the goal of 90%.
Living Safely	Used juvenile record sealing statutes to assist juvenile clients in clearing their records to gain employment or to participate in training and/or education programs, in 99% (656 of 660) of requests, exceeding the goal of 90%.
	Maintained the number of elapsed days between admission and sentencing in 100% of juvenile cases at 28 days of less to accelerate rehabilitation, when doing so benefits the client.
Sustainable Environments/Thriving	Continued the Youth Council, comprised of high school students representing high schools throughout the county. Attorney advisors from the Public Defender trained and guided this diverse group of students as they built a collective and positive voice on issues that will have an immediate effect on their community. Youth Council members gained skills that impacted their own lives and the lives of others as they learned to work together toward a common goal.
	Provided Fresh Start assistance to 2,371 clients.
	Achieved relief for 98% (542 of 555) of Fresh Start conviction relief petitions, exceeding the goal of 90%.
	Developed and maintained partnerships with education and community organizations to promote opportunities for residents to be civically engaged, leveraged resources, and addressed common needs.
	Received 79,604 hours of volunteer service, exceeding the goal of 72,500.

2021–2026 STRATEGIC PLAN INITIATIVE	PERFORMANCE MEASURES
Operational Excellence	Resolved 85% (22,351 of 26,401) of misdemeanor cases prior to trial when doing so benefited the client more than engaging in litigation, falling short of the goal of 90% due to operational impacts caused by the COVID-19 pandemic.
	Resolved 56% (8,089 of 14,453) of felony cases prior to preliminary hearing when doing so benefited the client more than engaging in litigation, falling short of the goal of 65% due to operational impacts caused by the COVID-19 pandemic.
	Established the Diversity and Inclusion Advisory Panel to serve as a direct link between staff and management in order to promote equity and advise the Public Defender on issues of social justice, diversity, and inclusion. Management has implemented a series of Panel recommendations designed to foster equity and inclusion such as amending the Attorney Policy and Procedures manual to reflect our commitment to diversity, committing to implementing diversity training for all staff as well as supervisors and managers, and extending COVID-19 vaccine priority to all staff.

Source: County of San Diego Adopted Operational Plan Fiscal Years 2021–2022 & 2022–2023

In addition to these potential metrics, in 1973, the National Advisory Commission published numerical caseload standards, which included:

- No more than 150 felonies per attorney per year, or
- No more than 400 misdemeanors per attorney per year, or
- No more than 200 juvenile cases per attorney per year, or
- No more than 200 "Mental Health Act" cases per attorney per year; or
- No more than 25 appeals per attorney per year.

However, while these standards are helpful as a general reference, case-weighting approaches may be more appropriate to quantify workloads. Case weight refers to the amount of work (in time) that is required to bring a case to a conclusion. This analysis, when completed over time, provides administrators with a more realistic jurisdiction-specific assessment of the number and types of cases that attorneys can effectively handle. There are several models of case weighting systems used by peer agencies to effectively monitor public defense attorney caseload that the Office could consider. For example, in 2012 the Washington State Supreme Court adopted new Standards for Indigent Defense, including guidance and instructions for developing local case weighting policies (see Appendix B). The State of California has not adopted standards, but the State Bar of California does suggest that "Great care should be exercised by Chief Defenders to cause continuous monitoring of workload and to arrange for workload adjustments where necessary."[1]

In order to better reflect its workload and outcomes, the Office should adopt a set of performance measures that is regularly reported in budget and other ad-hoc reports. Performance measures that are recommended include:

[1] The State Bar of California Guidelines on Indigent Defense Services Delivery Systems

- Number of cases managed by case type (misdemeanor, felony, capital, etc.)
- Caseload per attorney (may also be listed out by case type as noted in case weighting example)
- Average cost of case type (per-case attorney fees only)
- Percent of cases resolved prior to trial (may be listed out by case type)
- Hours of body worn camera footage reviewed
- Percent of cases that ended in non-conviction
- Percent of convictions that ended in an alternative to incarceration

The Office should consider additional metrics that would also support a comprehensive understanding of its workloads, such as participation in specific programming (mental health, juvenile, etc.). These metrics should be presented with year-over-year data spanning between three and five years to evaluate changes which may inform additional resource requirements (see Finding 4) or opportunities for improvement.

Clerical Staff Roles and Responsibilities

2. **Finding**	**Clerical staff, who often intake client inquiries, are sometimes unable to connect clients with attorneys to resolve client issues and concerns.**
Recommendation	**A. Clarify the roles of public-facing clerical staff including what information they can or cannot provide.** **B. Consider establishing a defined triage process for providing legal support, as needed.**

The Office is a service-oriented department that includes both legal and non-legal support staff. During interviews, clerical staff frequently mentioned being the entry point for clients with questions or concerns about their case. Because clerical staff and law office support employees are not attorneys, they are unable to address many client inquiries and must refer clients to the representing attorney. However, given the nature and demands on Office attorney workloads, representing attorneys are often unavailable to address many client inquiries and clerical staff are sometimes unclear on how to support the client or what information can be provided.

To improve the effectiveness of law office support functions and customer service, the Office should clarify the roles of public-facing clerical staff and develop policies for when and how to manage client-related escalations that require assistance from attorneys and/or legal staff. This guidance should include what information may be provided by non-attorneys. Additionally, the Office should consider creating an established process, such as a dedicated attorney mailbox or internal phone tree, for triaging client needs and providing timely responses to legal issues of clients.

Administration Career Development

3.	Finding	Due to the size of the Office, career development opportunities for administrative staff are often in other Country agencies, which may disrupt operational continuity.
	Recommendations	A. Consider establishing a separate administrative position classification for criminal justice agencies at the County to promote operational continuity for unique functions. B. Collaborate with County Human Resources to educate administrative employees on the promotional process and encourage ongoing career development opportunities, either internally or externally.

Due to the size of the Office and the relatively small administrative team, internal promotional opportunities are limited. In interviews, administrative employees reported a perception among staff that there is a preference for external candidates, which encompasses both transfers from other County departments and hires from outside of the County, when promotional opportunities arise. Since FY 2018–2019, 79% of administration hires have been either external new hires or transfers/promotions from other county agencies, while 16% have been internal promotions or reassignments. When evaluating potential candidates for a position, it is imperative that the process be fair and competitive to ensure the most qualified applicant is selected.

The functions of the Office are unique, and it is vital to effective continued operations to retain institutional knowledge and expertise. A perceived lack of career development within the Office administration presents a risk of losing specialized knowledge for opportunities elsewhere within the County or at another agency. The administrative functions of the Office have similarities with other criminal justice agencies at the County (i.e. Probation, District Attorney, Sheriff), but are otherwise unique. To promote staff development opportunities, Office leadership should collaborate with County Human Resources to educate administrative staff on the promotional process, which includes getting on the list for promotional positions at the time that the employee would qualify for a promotion. Additionally, the County may consider developing a separate classification for criminal justice agency administrative support to support operational continuity and career development among similar functions.

Finally, out of approximately 196 support staff, the Office has experienced 13% turnover due to external transfer, position dissolution, voluntary departure, or retirement. The Office has a well-established practice of cross-training administrative personnel across critical functional areas, but the Office should consider additional practices to continue supporting succession planning and career development among administrative staff—with emphasis on law office support personnel. Many employees noted a long tenure with the County and/or the Office, therefore it is imperative that succession plans are in place for key positions in the event of future retirements to support operational continuity.

B. PROCESSES

Resource Forecasting

4.	Finding	Overall staffing structures and administration levels appear to be adequate; however, workloads are increasing.
	Recommendation	Continue monitoring workloads and regulations to support appropriate staffing levels and consider leveraging workload metrics to demonstrate the need for existing or new resources.

The Office operates in a largely decentralized manner from the County given its unique mission and function. Therefore, its HR, finance, procurement, and IT functions are all specific to the Office and have dedicated staff. This decentralized framework is consistent with one of the two peer Offices of the Public Defender interviewed for the performance audit. The peer agency that reported a centralized organizational framework (including IT services that are managed by the County at large) indicated significant challenges in accessing the resources needed to perform critical work and concerns related to confidentiality. Conversely, the peer agency with a decentralized structure notes that this enables the Office to be responsive to unique internal needs while maintaining client confidentiality. Therefore, the decentralized model appears to be favored in order to provide efficient and effective client service.

We also evaluated whether administrative staffing levels were right-sized for the Office. When all budgeted positions are filled, staffing levels appear to be adequate for the Office and are comparable to other agencies within the County, as noted in the following table (based on the FY 2019–20 County Budget).

COUNTY DEPARTMENT	TOTAL DEPARTMENTAL BUDGET	TOTAL FTE COUNT	ADMINISTRATION FTE COUNT	PERCENT OF FTES DEDICATED TO ADMINISTRATION
District Attorney	$166,521,906.00	867	160	18%
Probation	$195,050,414.00	1275	316	25%
Public Defender	$7,799,448.00	421	103	24%

To support appropriate staffing levels on an ongoing basis, the Office should continue monitoring workloads and developing regulations to properly plan for required resources. Additionally, the Office should consider leveraging additional workload metrics (as discussed in Recommendation 1) to demonstrate and support the need for existing or future resources.

During interviews, employees reported that workloads are increasing as a direct result of changing regulations from the State. For example, the increased use of body-worn cameras by law enforcement has had an exponential effect on the workload demands of Public Defenders and Office IT staff. In addition to the additional hours needed for an attorney to review video footage relative to a case, the impacts to support infrastructure and resources as a result of the increased data storage are extremely costly. The Office has not historically leveraged available data or workload metrics in

this area to support budget augmentation requests, which may help secure needed short- and long-term resources (see Recommendation 1 for additional detail).

Office workloads also continue to be elevated as a result of the COVID-19 impacts on the legal system. While court services in the County were not as limited during the pandemic as other peers in the State, the effects of courts limited in any capacity has caused an increase in workload, which has only increased as the County has continued to introduce and repeal different constraints in response to the public health crises. The Office should consider using temporary assistance and staffing to manage the increase in workloads and continue to present internal and external benchmarks to the County for budget development and financial planning.

Policies and Procedures

5.	**Finding**	**Administrative policies and procedures and the differences in the relative authority between the County and Office are unclear, resulting in potential gaps in policy.**
	Recommendation	**Continue to develop comprehensive Office-specific policies and procedures and clarify the differences between policies of the County and Office.**

Similar to other county governments, the County operates in a largely decentralized manner, with some centralized County policies and procedures, and other policies and procedures developed by departments and offices. While most official policies and procedures are directed by the County, it was unclear during this review which require department-specific augmentation. As part of this review, we received the following Office and County policies and procedures:

- **Financial Policies and Procedures**
  - Asset Management Policy (Office) – *10/2/2020*
  - Travel and Meeting Policy (County) – *9/24/2019*
- **Purchasing/Procurement Policies and Procedures**
  - Cal-Card Procurement Policy & Procedures (County) – *10/2017*
  - Contract and/or Purchase Order Creation Procedures (County) – *1/10/2018*
  - Vendor Management Procedures (County) – *3/9/2021*
- **Information Systems Policies and Procedures**
  - Cybersecurity incidents Reporting Policy (County) – *9/26/2018*
  - Access Control and Management Policy (Office) – *10/2/2020*
  - Business Continuity and Disaster Recovery Policy (Office) – *10/1/2020*
  - Configuration and Change Management Policy (Office) – *10/2/2020*
  - Controls Management Policy (Office) – *10/2/2022*
  - Patch Management Policy (County) – *8/15/2018*
  - Vulnerability Management Policy (County) – *8/15/2018*
  - Information Technology Usage Policy (Office) – *1/26/2017*

- Use of Administrative Accounts by System Administrators and End Users Policy (County) – *8/15/2018*

We received County-level policies and procedures, including the County Accounting Manual, which also provided additional policies and procedures. However, we did not receive any information about the following operational areas and cannot fully evaluate potential gaps in policy:

- Performance management, reviews, and/or evaluations
- Retention, performance, and/or reclassification
- Employee manual
- Annual mandatory or optional training for existing employees, including certification tracking
- Employee code of conduct

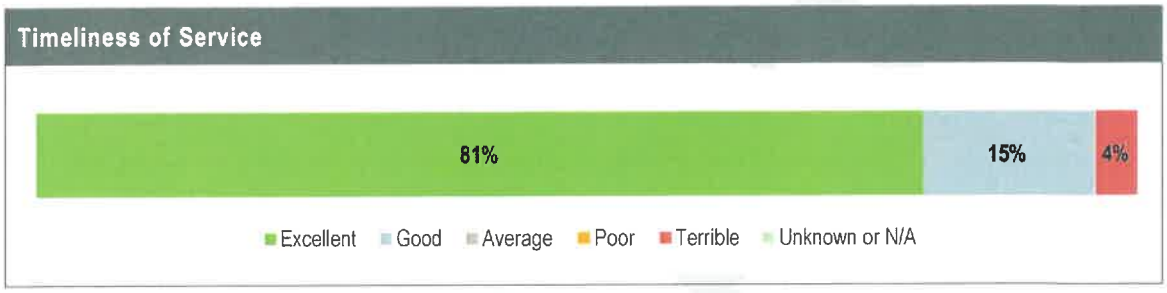
The Office has recently adopted several IT policies and should continue to develop comprehensive Office-specific policies and procedures as well as clearly identify the delineation between County and Office governed areas. Given the small team of administrative staff, it is critical to ensure policies and procedures are properly documented and referenced, including whether or not the policy expectations for the Office adhere to County requirements or are separate.

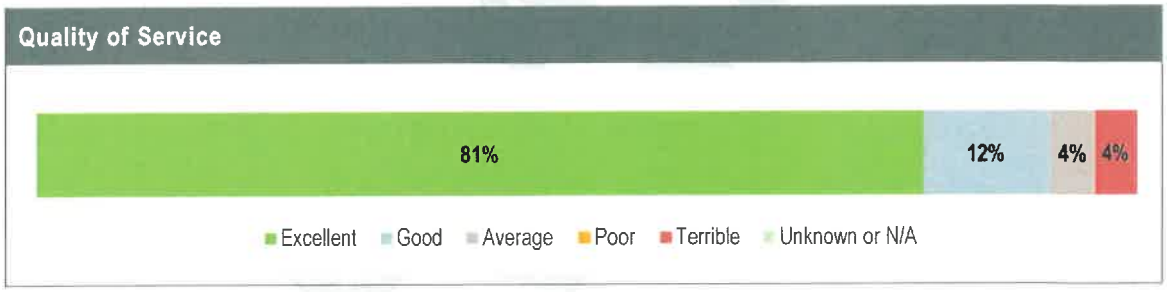
APPENDIX A: SURVEY RESULTS

Distribution of a services performance survey was sent to Office administrative employees and legal staff and was open for submission from September 2, 2021 through August 11, 2021. Out of the 66 employees invited to take the survey, 26 individuals submitted responses (a participation rate of 39.4%).

Human Resources Services

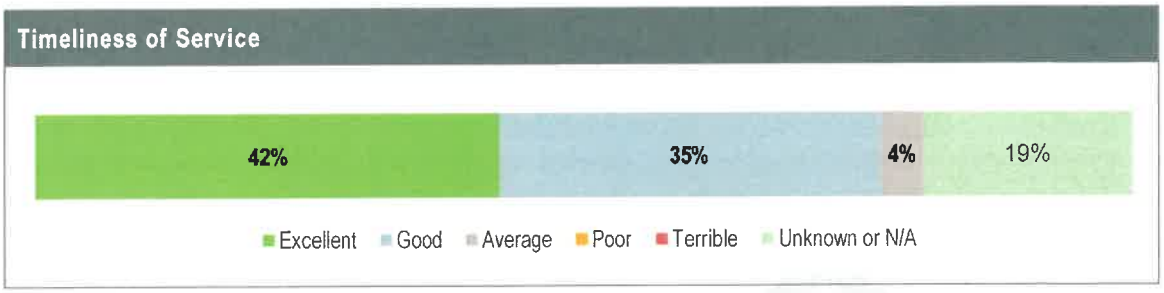
How would you rate the following for the following for the Department's Human Resources services?

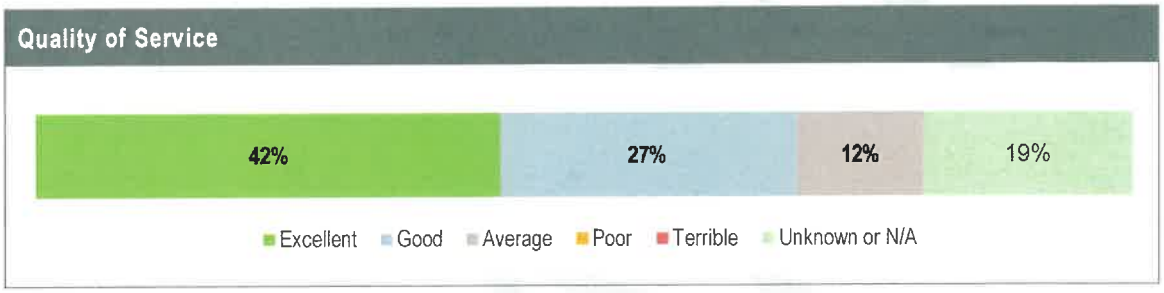


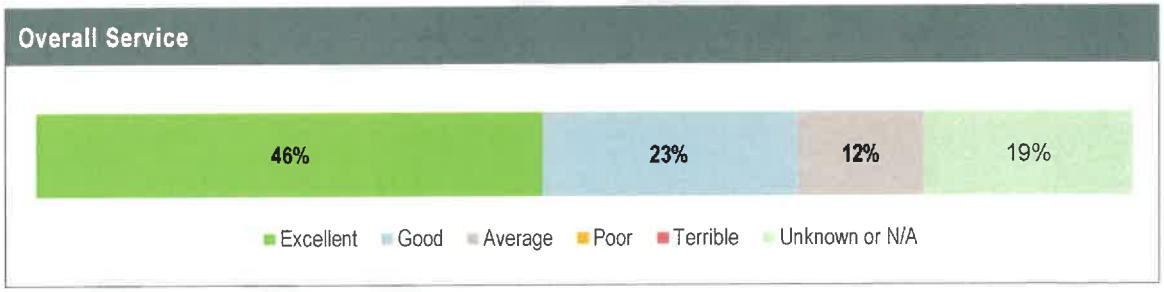


Law Office Support Services

How would you rate the following of the Department's Law Office Support services?







Finance Services

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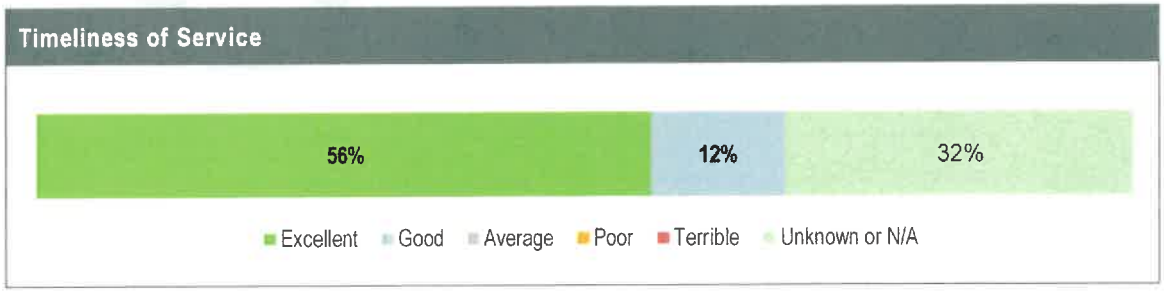
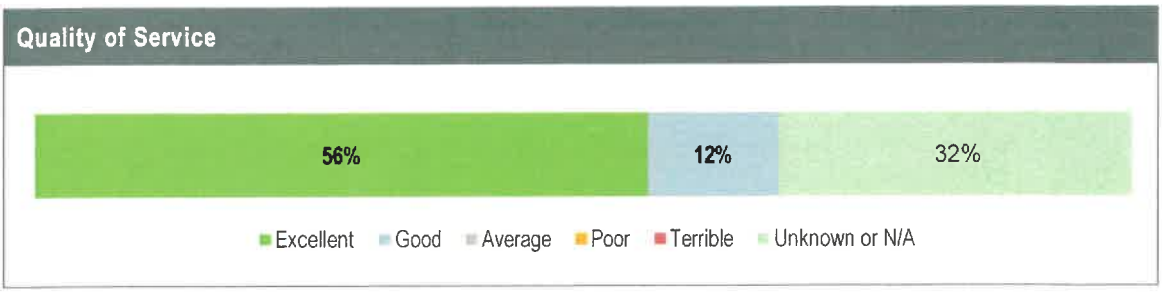
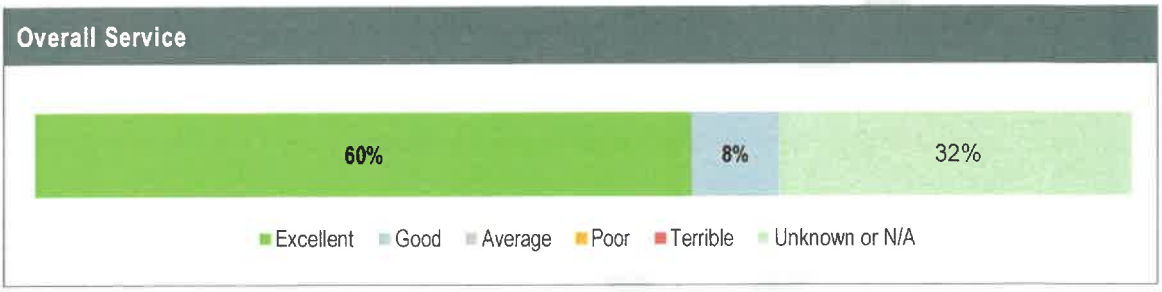
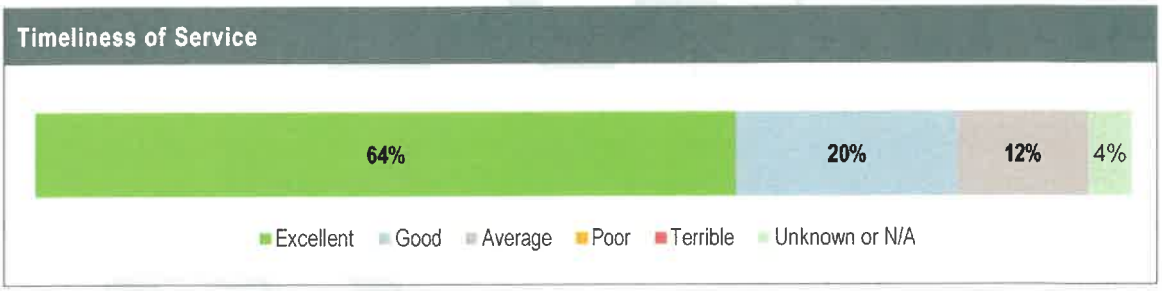


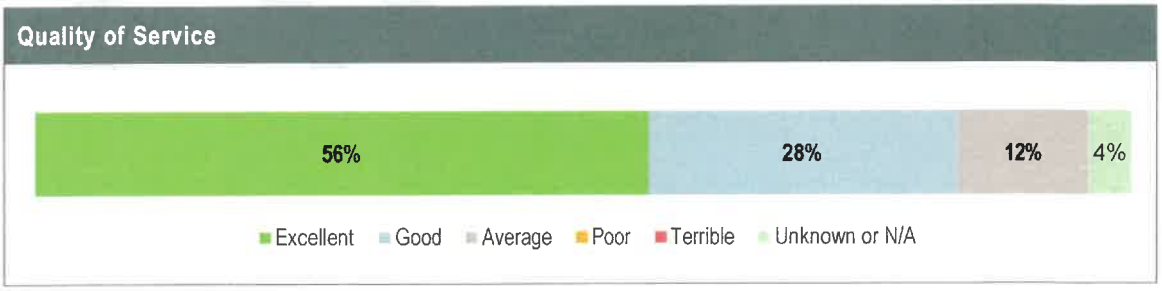


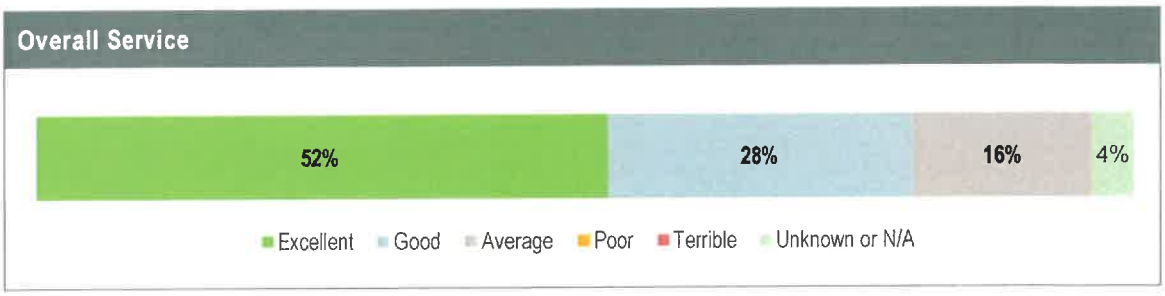


Technology Services

How would you rate the following for the Department's Information Technology services?







APPENDIX B: PEER BENCHMARKING RESULTS

The following table summarizes the results of the peer benchmarking efforts conducted for this study.

	County A	County B
Administration Organization	Centralized	Hybrid
Administration Staffing Levels (HR, IT, Finance)	Approximately 13 FTE	N/A
IT Structure	In-house IT support; works well to ensure client confidentiality and provide necessary levels of system support to staff.	No dedicated IT support; creates challenges in maintaining client confidentiality and accessing system support when needed. Deputy Public Defender is often technical support for Office-specific programs.
Clerical Staffing Levels	58 FTE across the Office	48 FTE across the Office
Workload Levels	Significant fluctuations noted, in particular as a result of COVID-19 pandemic impact on the legal system.	Significant increase as a result of COVID-19 pandemic impact on legal system. Caseloads approximately doubled.
System Environment	District Attorney's Office provides discovery electronically for most items; system has been in place for about a decade.	Case management system poses some challenges, but anticipating an upgrade soon. Have attempted to electronically share discovery through a system, but has not been effective in the absence of sufficient IT support. Currently, discovery that can be shared electronically is done so through a dedicated inbox.
Workload Monitoring	Development of 5-year forecast for resources, highly dependent on new legislation.	Evaluate resources required to continue providing work (referred to as Maintenance of Effort). Grant opportunities often leveraged to support staffing levels.

	County A	County B
Performance Measures	Detailed performance measures that tie to County strategic goals included in the County Budget.	Detailed performance measures that tie to County strategic goals included in the County Budget.

APPENDIX C: LOCAL CASE WEIGHTING POLICY TEMPLATE

In 2012, the Washington State Office of Public Defense developed a model case weighting policy consistent with Washington State Standards for Indigent Defense. Case weighting is an optional approach to calculating attorney caseloads. This model policy serves as a tool to help local public defense systems determine policies of their own *(source: Washington State Office of Public Defense Model Misdemeanor Case Weighting Policy)*.

[Insert city/county] Public Defense Case Weighting Policy – Misdemeanors

1. Purpose

This policy implements a system for weighting public defense cases for purposes of certifying to public defense misdemeanor caseloads pursuant to the Washington Supreme Court's Standards for Indigent Defense. This policy recognizes that appropriate case weighting allows reasonable workloads for public defense attorneys consistent with applicable rules and standards.

2. Applicable Court Rules, Regulations, and Standards

A. Washington State Rules of Professional Conduct
B. Criminal Rules for Courts of Limited Jurisdiction
C. Washington Supreme Court Standards for Indigent Defense (Standards)
D. *[Insert reference to local ordinance, court rule, and/or other local applicable authority.]*

3. Definitions

A. **Administrator:** the designated supervisor of public defense services: *[insert identification information]*.
B. **Case:** the filing of a document with the court naming a person as defendant or respondent, to which an attorney is appointed in order to provide representation.
   i. In courts of limited jurisdiction multiple citations from the same incident can be counted as one "case."
   ii. The number of counts in a single cause number does not affect the definition of a "case."
   iii. When there are multiple charges or counts arising from the same set of facts, the weighted credit will be assigned based on the most serious charge.
C. **Case Weighting:** the process of assigning a numerical value, or "weighted credit," to specific types of cases that recognizes the greater or lesser attorney workload required for those cases compared to an average case.
D. **Caseload:** the complete array of cases in which an attorney represents or provides service to clients.

E. **Docket /Calendar:** a grouping of filings where a public defense attorney is designated to represent indigent defendants without an expectation of further or continuing representation. Examples include, but are not limited to, first appearance calendars and arraignment calendars.

F. **Full Time:** working approximately forty hours per week. It is presumed that a "full-time" public defense attorney spends approximately 1,800 hours annually on case representation. It is expected that other work time is spent on administrative activities, attending CLEs, participating in professional associations or committees, and spending time on vacation, holiday, or sick leave.

G. **Local Factors:** practices, characteristics, or challenges that are unique to the delivery of public defense in a given jurisdiction, and that substantially impact the time required for effective delivery of public defense services.

H. **Non-Charge Representations:** matters where public defense attorneys represent clients who are eligible for public defense representation for matters that do not involve the filing of new criminal charges. Examples include, but are not limited to, sentence violations, extraditions, and representations of material witnesses.

I. **Partial Representations:** situations where clients are charged with crimes, but representation is either cut short at early stages of the case, or begins significantly later. Such situations include, but are not limited to, client failures to appear, preliminary appointments in cases in which no charges are filed, withdrawals or transfers for any reason, or limited appearances for a specific purpose.

J. **Public Defense Attorney:** a licensed attorney who is employed or contracted to represent indigent defendants. "Public Defense Attorney" also refers to a licensed attorney who is list-appointed to represent indigent defendants on a case-by-case basis.

K. **Weighted Credit:** one weighted credit represents a type of case which, on average, requires six hours of attorney time.

4. Misdemeanor Caseload Limits

As provided in the Washington Supreme Court Standards for Indigent Defense, the caseload of a full-time public defense attorney should not exceed 300 misdemeanor weighted credits per year, which is equivalent to the time spent on 400 average misdemeanor cases per year. The caseload of a full-time Rule 9 intern who has not graduated from law school may not exceed 75 misdemeanor weighted credits per year.

5. General Considerations

A. Caseload limits reflect the maximum caseloads for fully supported full-time defense attorneys for cases of average complexity and effort.

B. Caseload limits are set to ensure that all public defense attorneys have adequate time to provide quality representation.
C. Caseload limits assume a reasonably even distribution of cases throughout the year.
D. If the public defense attorney is carrying a mixed caseload with non-misdemeanor cases, the attorney's caseload should be calculated proportionately by case type, as provided in the Standards.
E. If the public defense attorney also maintains a private law practice, the public defense caseload should be proportionate to the percentage of work time the attorney devotes to public defense.
F. If the attorney provides public defense services in multiple courts, the combination of cases from all courts are used for caseload calculations.

6. Weighted Credits

A. **Weighted Credits by Criminal Charge Category.**
The weighted credits to be assigned by criminal charge category are in the Table of Weighted Credits by Charge Category found on the following table:

Table of Weighted Credits by Charge Category

Criminal Charge Categories[4]	Weighted Credits
Alcohol Related Offenses (excluding DUI)	0.50 credits
Assault (not Domestic Violence)	1.0 credit
Criminal Trespass 1 or 2	0.75 credits
Disorderly Conduct (excluding Indecent Exposure	0.50 credits
Domestic Violence - Assault, Reckless Endangerment	1.5 credits
DUI and Physical Control	1.5 credits
DWLS 1st and 2nd Degree	0.75 credits
DWLS 3rd Degree	0.50 credits
Harassment	1.5 credits
Hit and Run-Attended and Unattended	0.75 credits
Malicious Mischief	0.75 credits
Obstructing a Public Servant	0.75 credits
Racing	1.0 credit

[4] Hundreds of misdemeanor charges arise in courts of limited jurisdiction based on statutes and municipal codes. In creating this policy, similar charges requiring approximately the same amount of work time have been grouped into the categories in this table. Examples of charges under each category can be found in Appendix A.

Reckless Driving	1.0 credit
Simple Traffic Offenses (e.g. No Valid Driver's License)	0.50 credits
Theft/Shoplifting	0.75 credits
Violation of a Protection Order/No Contact Order/Restraining Order	0.75 hours
Weapons Related Offenses	1.0 credit
Other Unlisted Misdemeanors	0.75 credits

It is important to remember that in all cases, even those with fewer weighted credits and those that may be resolved by routine non-criminal resolutions such as diversion or reduction to an infraction, an appointed public defense attorney must first meet the basic requirements for providing effective assistance of counsel, such as interviewing and fully communicating with the client, carefully reviewing the evidence, obtaining records, investigating as appropriate, and preparing for court.

B. **Guilty Pleas at First Appearance or Arraignment**
As required by Standard 3.5, resolution of cases by **pleas of guilty to criminal charges at a first appearance or arraignment hearing** are presumed to be rare occurrences requiring careful evaluation of the evidence and the law, as well as thorough communication with clients. Therefore, if the attorney is appointed, these guilty pleas must be valued as one case.

C. **Routine Early Non-Criminal Resolutions**
[The following paragraph only applies to jurisdictions that use the practice described in section 6.C. of the ***Instruction Guide****. If applicable, see the* ***Instruction Guide*** *for details on completing this section. If not applicable, remove this portion.* When an attorney is appointed to represent clients facing **charges that, by local practice, are resolved at an early stage** by diversion, reduction to an infraction, stipulated order of continuance, or other alternative **non-criminal disposition** that does not involve a finding of guilt, Standard 3.6(B)(v) permits the attorney to count them at no less than 1/3 of a case.

Routine Early Non-Criminal Resolutions	
This only applies to public defense attorneys in courts that regularly resolve cases at an early stage by non-criminal disposition. If applicable, see the ***Instruction Guide*** *for details on completing this section. If not applicable, remove this portion.*	
Charge #1	No less than 1/3 of a case
Charge #2	No less than 1/3 of a

	case
Charge #3 (insert additional lines if necessary)	No less than 1/3 of a case

D. **Partial Representation:**
A partial representation is counted based on the amount of time that an attorney has spent on the case. **Each hour** of work is assigned **0.17** weighted **credits**, up to the maximum weighted credits normally assigned for the case type.

E. **Sentence Violations and Other Non-Charge Representation:**
As stated in Standard 3.6(B)(ii) sentence violations and other non-charge representations may be counted as **no fewer credits than one-third of a case.** *[See **Instruction Guide**]*

F. **Dockets / Calendars:** Cases on a criminal first appearance or arraignment docket where the attorney is designated, appointed, or contracted to represent groups of clients without an expectation of further or continuing representation and which are not resolved at that time (except by dismissal or amendment to an infraction) are not counted individually. Instead, the attorney's hours needed for appropriate client contact, preparation, and court time are calculated as a percentage of the net annual hours of work time, and then applied to reduce the attorney's caseload. **Each hour of such docket time is assigned 0.17 weighted credits.**

7. Adjustments

A. **Case-Specific Adjustments:** Because credits are assigned to cases based on an average amount of time needed for each charge type, ordinary deviations in how complex a case is or how long it takes do not justify an adjustment to a case's credit value. It is assumed that attorneys will receive a mix of cases of varying complexity and effort, ending with a combination of cases that closely approximates a full-time caseload. However, an attorney may request that the weighted credit be adjusted upward for any particular case that involves substantially more work. Examples may include cases where a client's competency is litigated, extraordinarily long trials, or cases that go to jury trial more than once. Weighted credits may not be adjusted downward unless pursuant to the process identified in 7.B.

B. **Local Factors:** *[The following paragraph only applies to public defense attorneys in courts that have local factors impacting the time required for public defense as described in section 7.B of the **Instruction Guide**. If applicable, see the **Instruction Guide** for details on completing this section. If not applicable, remove this portion.]* Due to the following circumstances, this policy deviates from the Model Misdemeanor Case Weighting Policy by making adjustments to weighted credits as follows:
[_Insert text here_]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December 15, 2021

TO: Lilly Simmering & Lala Ragen
Chief Executive Office, County of Orange

SUBJECT: Department Responses to the County of Orange Office of the Public Defender Performance Audit

Please find below the Department's responses to the findings and recommendations contained in the Peformance Audit of the Offices of the Public Defender conducted by Moss Adams, LLP.

Finding #1 The Office reports a single performance measure, which does not adequately reflect key aspects of workload and performance.

Neither agree nor disagree with finding

The proficiency index was never meant to be an indicator of workload, only an indicator of qualitative performance.

The original impetus for the Proficiency Index was the Department's participation in a County-mandated program called "Result Oriented Government." Through the program, the Department collaborated with a private consulting group, Management Partners, Inc., to identify meaningful performance measurement criteria. The firm thoroughly assessed our Department's operations and concluded that the quality of overall performance could not be measured in a quantifiable manner. Nevertheless, we continued working with the County to create a tool that could reliably measure qualitative performance. The Proficiency Index and accompanying guidelines were the result of a comprehensive review of national standards for delivery of indigent defense services, including the National Criminal Justice Reference Services' *Compendium for Standards for Indigent Defense Systems*, the National Legal Aid and Defender Association's *Performance Guidelines for Criminal Defense Representation*, the American Bar Association's *Standards for the Defense Function* and the Office of Juvenile Justice and Delinquency Prevention's *Juvenile Justice Standards*.

The Proficiency Index tool is applied during the review of closed files by managing attorneys to gauge the quality of legal services delivered. The Proficiency Index measures quantifiable criteria for documentation of tasks performed, but is not the sole measure for evaluating performance as there is no effective objective metric that measures some of the work we do, such as the effectiveness of a closing argument or what constitutes a favorable settlement, because they are fact-driven and vary substantially from case to case.

Recommendation #1 Develop additional performance measures to portray both workload and outcomes for the work performed by the Office year-over-year to help inform potential resource needs.

This recommendation has been implemented

As noted in the report, the Department does report out annual caseload demands, which is a significant driver of workload. The Department also reports out data on other factors impacting workload, such as the impact of body worn cameras, new legislation and post-conviction work in its annual Strategic Financial Plan.

The report provides examples of data reported out by public defender offices in Alameda and San Diego counties. The cited data includes number of clients served in Homeless Court, percentage of post-conviction relief motions granted, number of incarcerated voters registered to vote, number of clients served by social workers, number of clients referred for mental health treatment, number of juvenile records sealed, and number of working hours contributed by volunteers.

The Department reports out similar data points to the County in different settings. For example, the number of volunteers and volunteer hours is reported annually to the County's Human Resources Services. For the past three years, the Public Defender's Office has ranked either first or second among departments countywide in volunteer utilization.

Other data points, such as post-release supervision violation cases opened, mandatory supervision violation cases opened, parole violation cases opened, total court appearances in supervision cases, total contested violation hearings held, client contacts by the Department's recidivism reduction advisors, and the number of program referrals are separately reported out the County and justice partners on a quarterly basis as part of the Orange County Community Corrections Partnership Quarterly Report. The Department also reports out additional workload impacts during the annual budget process to justify requests for additional resources.

Finding #2 Clerical staff, who often intake client inquires, are sometimes unable to connect clients with attorneys to resolve client issues and concerns.

Agree with finding

Clerical staff responsibilities include servicing the Department's public-facing counters and answering phone calls to our general office lines. Attorney staff are typically in court handling cases on that day's court calendar during business hours and are not always available to take

calls from clients in the moment. Attorneys typically return phone calls from clients when they return from court.

Recommendation #2A Clarify the roles of public-facing clerical staff including what information they can or cannot provide.

Concur with recommendation

New clerical staff typically begin as receptionists and are provided training on a variety of issues, including training on what information can be provided to clients and third parties calling the office. Clerical staff are also provided with a list of Frequently Answered Questions posed by callers or visitors seeking information and how to respond to specific queries.

However, this training is only provided to new clerical staff. The fact that this was raised as a concern during the audit evidences a need for ongoing training in this area, something the Department will implement.

Recommendation #2B Consider establishing a defined triage process for providing legal support, as needed.

This recommendation has been implemented

When a client calls a general office number asking to speak with their attorney, the call is transferred to that attorney's direct line. The direct line is a hardwired Verizon handset that sits on the attorney's desk. All attorneys also carry office-issued cell phones that use a Verizon App known as "One Touch" that links the desk phone to the cell phone. This connection causes any call to the desk phone to simultaneously ring to the cell phone, allowing the attorney to pick it up on either device. Using this system, attorneys can take client calls regardless of whether they are at their desk or in court.

However, often attorneys cannot pick up calls to their cell phones because they are on the record in court, interviewing a different client or in court holding facilities. Additionally, attorneys cannot take calls when visiting clients at the jails, as cell phones are prohibited in jails by the Penal Code. When this occurs and the client needs immediate assistance, calls are referred to the assigned attorney's supervisor. That supervisor has immediate access to the electronic file in the case and can usually answer any questions the client has. However, that supervisor may not always be available to take a call because the supervisor may be in court on the record, in a custodial facility, evaluating an employee's in-court performance or with another client. Nevertheless, the second layer of assistance through the supervisor provides the client more access to counsel than a privately retained attorney would typically be able to provide.

When attorneys are not able to take calls because of other client obligations, calls from out of custody clients are returned when the attorney returns from court. When the calls are from in custody clients, attorneys visit clients at the jail or set up a remote visit through the Sheriff's Department.

Additionally, out of custody clients have access to their assigned attorneys through email as well. Through email, they have the option of emailing their assigned attorney directly or sending an email to the Department's general email account (available on the Department's public-facing website). Emails directed to the Department's general email account are addressed within one business day.

Another potential layer of access could be afforded to clients through the establishment of a daily on-call attorney, whose primary responsibility would be to field client calls throughout the day. However, current Department resources do not allow for such a position.

Finding #3: Due to the size of the Office, career development opportunities for administrative staff are often in other County agencies, which may disrupt operational continuity.

Disagree with finding

It is true that the Department is small relative to other County departments and therefore has a smaller number of administrative managers on staff than other larger departments. Because of the smaller number of managerial positions, there is less opportunity for non-managerial staff to move into administrative manager positions. This dynamic does create the potential for turnover among staff.

In practice, however, that is not the case. The Public Defender's Office is mission-driven and staff share a commitment to the work of the Department and find satisfaction in working toward the common goal of ensuring due process for all. While other Departments may offer more managerial positions to promote into, they cannot offer the mission-specific commitment that staff find so rewarding.

Nevertheless, as with all Departments, there will be turnover from time to time and sometimes that turnover will be driven by staff seeking promotional opportunities in other County departments. However, there is no basis for the finding that it may disrupt operational continuity. The Department has never experienced such disruptions due to employees seeking career development opportunities in other County agencies, as measures have been in place to prevent any disruptions. In fact, the County encourages its employees to seek promotional opportunities in other departments and views the County as one employer consisting of multiple agencies/departments. All agencies/departments must prepare for this type of employee turnover, and the Public Defender succession plan addresses this as well. As acknowledged in this audit report, the Office of the Public Defender has a robust cross-training program, and this has given employees the opportunity to expand their knowledge to cover other areas when need arises. Through this cross-training program, multiple employees have been trained to perform all critical functions. Unless an unforeseen catastrophic event causes a slew of administrative members to leave the Department at the same time, there are always enough people trained to perform the tasks and train the newcomers, so there will be no disruption to operational continuity.

Throughout the years, people have retired from the administrative unit or have left the unit for promotional opportunities, but that has never posed a risk to the Department's operations. Our cross training programs and uniform procedures have mitigated any risk in this area. Through the succession plan we have in place already, we have been able to successfully mitigate any staffing issues due to attrition.

Recommendation #3A: Consider establishing a separate administrative position classification for criminal justice agencies at the County to promote operational continuity for unique functions.

Does not concur with recommendation

We have considered this recommendation very carefully and strongly feel that it is not prudent for several reasons:

1) The recommendation is based on the assumption that administrative functions are unique to the Public Defender's Office. While the Department has confidentiality and ethical issues unique to a law office, the majority of the administrative functions performed by staff in our Information Technology, Accounting and Finance, Human Resources and Purchasing units is common to all County departments; therefore a separate administrative position classification is not necessary. With little orientation, qualified candidates coming from other departments have been able to easily perform the department's administrative tasks.

2) It is in the Department's best interest to fill promotional opportunities with the best candidates who possess relevant hard and soft skills. While the Department always takes a long look at internal candidates, we owe it to our clients to employ the best candidate for the job. Creating a separate administrative classification may unnecessary narrow the pool of candidates to the detriment of the clients we serve.

3) Even if the County establishes a separate administrative classification for criminal justice agencies, the existence of the classification, by itself, may not prevent an employee from leaving for another Department for a promotional opportunity.

4) Employees leaving County departments for promotional opportunities is typical for all County departments. The Public Defender's turnover rate is lower than most departments and poses no operational risks.

5) The Department has a merit-based hiring practice and our robust cross-training program mitigates against any risk of losing specialized knowledge.

6) We believe the current classification structure for administrative positions meets the Department's needs. If employees in the existing administrative positions wish to transfer to another non-criminal justice department, creating unique classifications may have unintended consequences and may serve to limit one's promotional opportunities within the County of Orange.

Recommendation #3B: Collaborate with County Human Resources to educate administrative employees on the promotional process and encourage ongoing career development opportunities, either internally or externally.

Concur with recommendation

The professional and career development of staff has always been a priority for the Department. The Department encourages staff to take advantage of professional and advanced educational opportunities to obtain professional credentials and educational degrees, encourages participation in County leadership and organizational development programs, and cross-trains staff to expose employees to new areas and develop skills. Consequently, the Department concurs in the recommendation that it should continue to invest heavily in the professional growth of staff.

Ultimately, it is up to staff to take advantage of these opportunities. For example, the County provides staff $10,000 per year through the professional and educational reimbursement program to develop their careers, and staff are encouraged to take advantage of this as well as to prepare themselves for promotional opportunities. This money can be used for, among other things, advanced education courses towards degrees and professional licenses and certificates. Nevertheless, it is incumbent upon staff to take advantage of this opportunity.

The Department has also encouraged participation in the County's various leadership and organizational development programs by allowing participation on County time but again it is up to the individual to participate and follow through.

The cross training provided by the Department is perhaps the most effective tool for practical skill development. However, rather than use those skills to seek promotions within the Department, some individuals have leveraged the new skills to seek promotional opportunities with other County agencies, possibly due to the limited number of promotional opportunities within the Department. The Department does not discourage this, as it is in keeping with the County's philosophy that it is a single employer which encourages its employees to seek promotional opportunities in other departments.

As indicated, the professional development of staff is a priority for the Department and we will meet with staff to see if more can be done in this area. Additionally, the Department will better publicize the opportunities currently available and clearly communicate the pathway to promotional opportunities to staff.

Finding #4 Overall staffing structures and administration levels appear to be adequate; however, workloads are increasing.

Agree with finding

The Department continues to provide effective representation to clients in a variety of court systems including the justice juvenile system, the child welfare system, in probate, involuntary hospitalizations, assisted outpatient treatment, civil commitments and most significantly, the criminal justice system. In fact, the Department represents over 90% of criminal justice involved

individuals with felony cases. Nevertheless, there are a number of factors which are causing workloads to rise dramatically, creating an unsustainable strain on the Department's resources.

The volume of discovery in cases, particularly in the criminal system, along with the ever-increasing demands of continued legislative efforts at criminal justice reform have strained the Department's ability to deliver core services. A case in point is the extent to which body worn camera evidence has impacted workload. Over the past few years, many municipal police departments have begun mandating the use of body worn cameras by officers in the field, with more adopting such policies every year. Those cameras are recording when arrests are made and crimes investigated, and the resulting footage must be provided to the defense. Most arrests and criminal investigations are conducted by teams of officers, the size of which is often dependent on the seriousness of the offense. Because each officer is recording footage from the time they receive the call for service through the arrest and investigation of the case, even simple cases often come with many hours of body worn camera footage. It is not unusual, especially in serious cases, for there to be over a hundred hours of body worn camera footage associated with just one case. Assigned attorneys are ethically obligated to review this footage in preparing the defense of cases and, if the footage is to be played in court, to prepare transcriptions of the recordings as required by the California Rules of Court. The result is a massively increased workload demand which is compounded each time a new police agency begins to use body worn cameras. With Irvine PD and the Orange County Sheriff's Department rolling out their body worn camera programs this fiscal year, the Department projects an 80% increase in the amount of digital evidence received. Measured in terms of time, the workload demand created amounts to roughly 350 hours of video for every attorney. This is a massive workload multiplier that did not exist at all as recently as five years ago.

Additionally, recent legislation, including the passage of AB 865, AB 1228, AB 1793, AB 1810, AB 1812, AB 1950, AB 3234, SB 260/261, SB 317, SB 384, SB 395, SB 483, SB 775 and SB 1437 have all had varying but significant impacts on the Department's workload by creating mandated programs or legal obligations that did not previously exist.

Recommendation #4A Continue monitoring workloads and regulations to support appropriate staffing levels and consider leveraging workload metrics to demonstrate the need for existing or new resources.

This recommendation has been partially implemented

The Department regularly updates the County CEO's Office on the workload impacts associated with new legislation, technology and other factors and requests resources to mitigate their impact. Requests are accompanied by data demonstrating the need for additional resources. One additional tool recommended by the report is exploring the use of a case weighting system to realistically define workload (as defined in Finding 1 and incorporated into Finding 4). The Department agrees that a case weighting system is the best tool to define workload. However, there is no universally agreed upon case weighting system in the California public defender community. Consequently, only a small percentage of institutional public defender offices employ a case weighting system. That, however, is changing. During the last legislative cycle, the Governor signed AB 625, which directed the Office of the State Public Defender, in

consultation with the California Public Defender's Association, to undertake a study to assess appropriate workloads for public defenders. Consequently, the California Public Defender's Association has set up a working group to address the issue. The Orange County Public Defender is represented on that working group which, hopefully, will ultimately result in statewide workload standards and a universally accepted case weighting system.

Recommendation #4B Consider leveraging American Rescue Plan Act funding to secure temporary assistance to support increased caseloads resulting from the pandemic.

This recommendation has been implemented

Resource issues associated with the pandemic have led to increased caseloads throughout the state, and Orange County is no exception. Given the direct link to the pandemic, the Department has engaged the County CEO's Office regarding the use of American Rescue Plan funding to help mitigate the impact. The CEO's Office has responded by providing additional funding this fiscal year to hire extra-help attorneys to help mitigate this issue.

Finding #5: Administrative policies and procedures and the differences in the relative authority between the County and Office are unclear, resulting in potential gaps in policy

Disagree with finding

Even though the Public Defender's Office operates in a decentralized manner, it strictly adheres to County policies and procedures. The County CEO's Office and the Auditor Controller's office have made available comprehensive policies and job aids to guide Departments in their execution of administrative tasks. Where applicable, the Department diligently adheres to these policies and guidance.

The Department has thorough desk procedures, which implement County policies, and detail the steps to perform a function from the beginning to the end. These consist of specific steps to accomplish certain tasks, as well as examples and exhibits. All procedures are in line with the County policies and the Office of the Public Defender adheres to them. The desk procedures were not shared with the Audit Team, as those procedures were geared towards helping the employees who are new to a task to learn and perform it quickly and easily. These desk procedures also help with the Department's cross-training efforts.

Some policies mentioned in the Audit Report as not received by them, such as Debt Management and Asset Management, do not apply to our operation, and therefore are not available for distribution. In other areas mentioned, the Department relies on County policies and procedures.

Recommendation #5: Continue to develop comprehensive Office-specific policies and procedures and clarify the differences between policies of the County and Office

Concur with recommendation

The Department is certain that it has comprehensive policies and procedures. Nevertheless, as recommended by the audit report, we will continue to develop comprehensive office-specific

policies and procedures and clearly delineate the differences between policies of the County and the Department.

Respectfully Submitted,

Martin F. Schwarz
Public Defender, County of Orange