

Joint Public Defense Pilot Program application—San Francisco County

The San Francisco Public Defender and the Bar Association of San Francisco (BASF) Indigent Defense Administration (IDA) (under contract with the San Francisco Superior Court) provide indigent defense services for the county. The SF Public Defender submits this proposal for both providers; and, upon receipt of funds, will allocate BASF's share to the San Francisco Superior Court.

1. The Freedom Project, SF Public Defender

The Freedom Project is dedicated to decarceration, successful reentry, and post-conviction systemic change. In two years, we have helped free 55 people.

Our focus is prosecutor-initiated resentencing. We submit applications to the District Attorney's office on a rolling basis and handle *Franklin* petitions to document youth factors for future parole hearings, successfully converting that process into resentencing. In 2021, we helped draft and pass Assembly Bill 1540, piloted parole hearing representation, and began challenging parole denials and governor parole grant reversals.

Unfortunately, our limitations are as substantial as our accomplishments and have resulted in real tragedy. In just one example, we submitted a strong resentencing application but too slowly, due to staffing issues, then waited months. When the prosecutor finally agreed, we learned our client had recently died in prison.

As on January 2019, data provided by CDCR shows there were 817 in California prisons from San Francisco County. We believe each such person is entitled to have their case reviewed for possible resentencing under new section 1170.03 (former 1170(d)). Approximately 128 persons are eligible for 3051 hearings. As many as 50 are eligible for 1170.95 under the newly revised law.

A. Growth vision and needs

Having relied on our office's trial units to pitch in during pandemic closures, we lack resources for post-conviction work now that courtrooms have reopened. We lack the means to tackle the many complex cases requiring costly experts and extensive release planning, to move on numerous cases simultaneously, to handle 1437.7 work, and to offer routine reentry support.

Funds from the Resentencing Pilot Budget Allocation (\$750,000 over 3 years) will cover one social worker (for social histories and mitigation) and one paralegal for resentencing and data tracking. With the resources requested here, we will:

- 1) Conduct outreach to all potential resentencing and youth hearing candidates;
- 2) Submit a higher volume of applications for prosecutor-initiated resentencing;
- 3) Provide top level in-court representation, in a timely fashion;
- 4) Launch a robust habeas practice for innocence, immigration, and RJA work; and,
- 5) Ensure holistic and successful reentry.

B. Funding proposal

We seek this grant money to add the following:

- A 1437.7 attorney will handle habeas petitions addressing immigration consequences, innocence claims, and Racial Justice Act violations. This position requires comprehensive understanding of criminal law and its intersection with immigration law.
- A 1437.7 paralegal will gather, organize, and summarize necessary records and track data.
- A reentry specialist will create airtight parole plans for each person facing resentencing or parole hearing and follow clients post-release to link to services and troubleshoot. (§§ 1170.03, 1170.95)
- A social worker will maximize successful integration and minimize recidivism by meeting clients individually and holding peer circles. (§§ 1170.03, 1170.95)
- Discretionary funds will allow us to obtain risk assessments in cases where a judicial officer is unwilling to resentence otherwise (\$5000 to \$9000 each), to consult and present prison conditions experts to explain certain discipline or other records, and to retain necessary experts for 1437.7 innocence work. We will supplement \$200 gate money with gift cards for clothing, shoes, hygiene products, cell phones, and groceries, pay for hotel rooms to bridge emergency gaps between release and transitional housing, purchase office supplies and refreshments for client peer gatherings. (§§ 1170.03, 1170.95, 1437.7, 3051)

2. Conflict Counsel: Post-conviction Representation Project, BASF IDA

The Bar Association of San Francisco (BASF) contracts with the San Francisco Superior Court to provide indigent defense in conflict-of-interest cases, historically limited to cases through conviction, therefore BASF has no infrastructure or staff to undertake or support a robust post-conviction caseload. The requested staffing positions are necessary to provide services including but not limited to: (1) CDCR record gathering and organizing (2) outreach to attorneys/social workers/experts, (3) outreach to eligible persons (both in and out of custody), (4) data collection/analysis, and (5) researching and exploring as-yet-undefined scope of work required to provide statutory immigration relief pursuant to 1473.7. Absent this funding, BASF cannot represent post-conviction clients in parity with Public Defender clients.

A. Funding proposal

The proposed budget includes new personnel needed to build capacity, identify, assign and monitor the new caseload and includes two full time paralegal positions, a part time attorney (subject matter expert) position to direct the work, and 20% additional FTE compensation for BASF's IDA's Operation Manager to undertake and coordinate additional data development/tracking required by this new work, and IDA's Multidisciplinary Representation Coordinator to secure and train additional social workers/case managers to take on the work essential to post-conviction work (e.g. re-entry plans and the social histories required for 3051 relief). Considerable attorney/investigator/social worker time is saved through a thorough and detailed identification of eligibility prior to assignment to counsel by careful review of the CDCR files.

As budgeted, all of these positions will work exclusively to represent our clients eligible for relief pursuant to PC 1170(d) (1), 1170.95, 3051 and 1473.7 as there are no positions at BASF's IDA assigned to undertake this work. Like the Public Defender, we are committed to conducting the outreach to all potential resentencing and youth hearing candidates; conducting a thorough analysis of the CDCR files to determine eligibility and suitability for relief, submitting a higher volume of applications for prosecutor-initiated resentencing, including re-entry plans; and assuring our ability to provide top level in-court representation for all of our clients qualifying for post-conviction relief under these code sections.