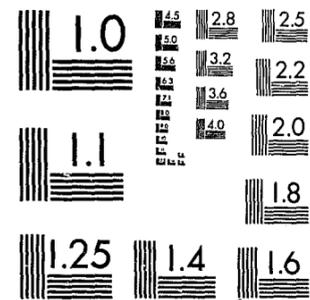


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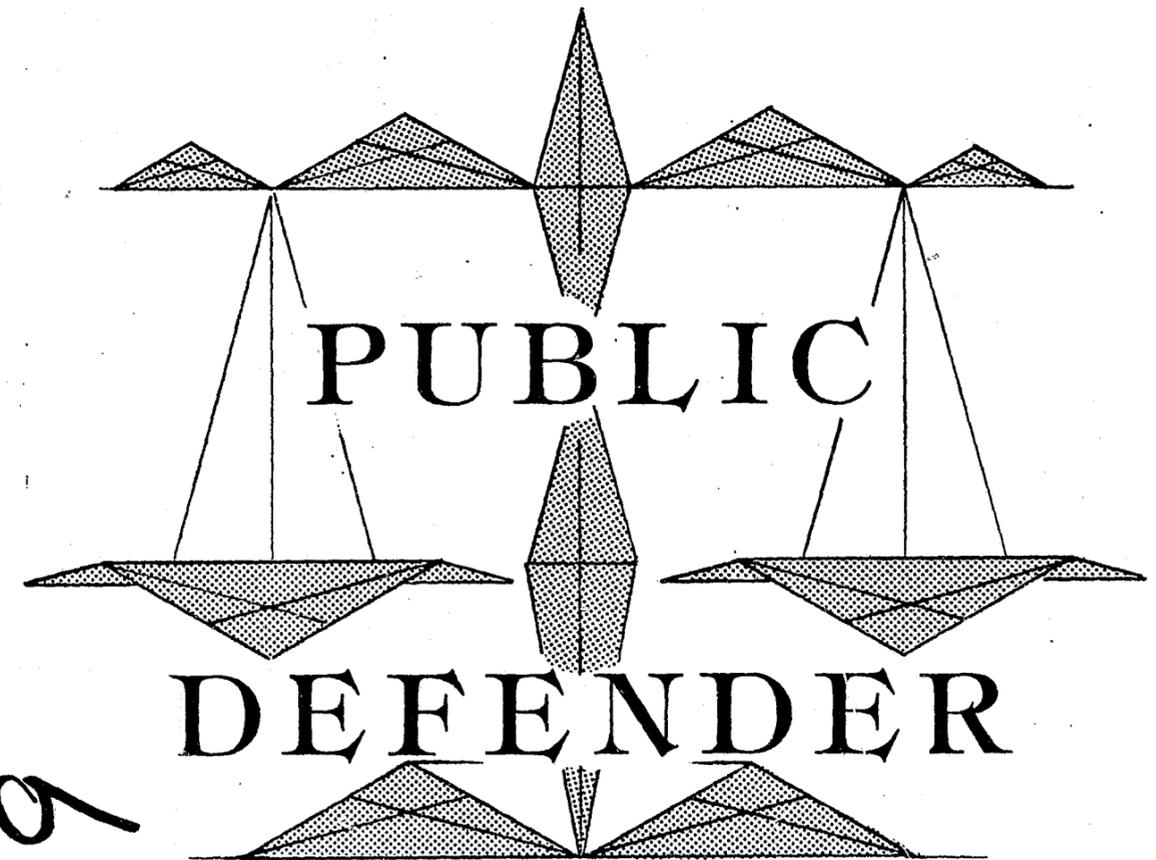
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# ANNUAL REPORT 1979 » « 1980



82379

UNTY OF SANTA CLARA  
CALIFORNIA

County of Santa Clara

California

ANNUAL REPORT -- 1979-80

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National Institute of Justice

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ACQUISITIONS

**County of Santa Clara  
 California**

ANNUAL REPORT

FISCAL YEAR 1979-80

The Public Defender is required to provide legal services to persons financially unable to employ private counsel in criminal cases, in juvenile cases, and in mental health and certain civil proceedings. (See Santa Clara County Ordinance Code, Sec. A2-51; Cal. Gov. Code Sec. 22706.)

I. GENERAL WORKLOAD ACTIVITY

During FY 1979-80, the Public Defender received 29,600 new cases<sup>1/</sup>. This was an increase of 5.1%<sup>2/</sup>. 3,250 applicants were financially ineligible and were denied services under financial criteria approved by the Board of Supervisors. The legal staff numbered 54 attorneys -- unchanged from the previous year and four less than the number employed in 1977-78 before Proposition 13 cuts. The caseload averaged 495 cases per attorney, compared to 471 cases during 1978-79<sup>3/</sup>. Court appearances totaled 70,022, or 1,296 per

<sup>1/</sup> "Cases" are defined as person-applicants, i.e., each defendant, juvenile or mental health client who applies for services after request, court referral or appointment is considered a "case."

<sup>2/</sup> This increase is calculated with an adjustment for a reduction of about 1,700 mental health cases due to revised case-counting. In prior years, LPS notices of certifications were counted as "Non-court legal services." These notices are no longer counted unless the patient actually requests a judicial hearing.

<sup>3/</sup> The felony caseload average was 196; the misdemeanor caseload was 654; and the juvenile caseload was 631. (See 5-Year Public Defender Attorney Caseload, Appendix I.) These caseloads are substantially above the recommended state and national standards of 150 cases per felony attorney and 400 cases per attorney for misdemeanors.

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attorney. Trials, hearings and motions numbered 6,960.

The following charts present a detailed comparison of case categories and trials and hearings:

	CASE CATEGORIES		
	1978-79	1979-80	% Change (+/-)
Homicides	50	36*	-28
Felonies			
Superior Court	2,848	2,885	+1.3
Municipal Court	5,229	5,641	+7.9
Misdemeanors	9,831	10,146	+3.2
Juveniles	4,118	4,419	+7.3
Mental Health	**	4,017	**

\*Includes eight death penalty cases. At the end of the fiscal year there was an all-time high of 23 homicide cases pending, including six death penalties.

\*\*Not reported due to inaccuracies.

	TRIALS, HEARINGS AND MOTIONS		
	1978-79	1979-80	% Change (+/-)
Court and Jury Trials	358	219	-38.8
Preliminary Examinations	3,019	2,031	-32.8
Juvenile Jurisdictional Hearings	874	1,240	+41.9
Mental Health	**	567	N/A
Motion Hearings	2,576	2,903	+12.7

\*\*Not reported due to inaccuracies.

Investigation Division Activity. The Investigation Division, consisting of 14 investigators, handled a total of 2,091 cases during FY 1979-80, compared to 1,780 during the previous year -- a 17.5% increase.

Administrative Services Division. This division, consisting of 7 legal stenographers, 15 clerks, and 2 telephone switchboard operators, opened and processed 26,736 new case files, calendared 70,022 court appearances, received more than 20,000 office visitors, and prepared legal memoranda and briefs in support of over 600 motions.

## II. SUCCESS RATES

Favorable case dispositions, including acquittals, dismissals and reduced charges, provide an indication of the department's effectiveness. These "success rates" during the year were as follows:

<u>TRIALS</u>	
<u>Felonies (Superior Court)</u>	
Found Not Guilty	11
Found Guilty Lesser	53
Found Guilty as Charged	66
<u>Total</u>	130*

\*\*Success Rates: .492 [.560]

\*Includes 4 murder trials in which 3 defendants were found guilty of lesser charges for a .750 success rate.

\*\*Includes totals of acquittals and lesser findings. Figure in brackets shows rate for prior year.

## Misdemeanors

<u>Municipal Courts</u>	<u>Guilty</u>	<u>Not Guilty</u>
San Jose	18	14
Santa Clara	23	10
Sunnyvale	7	1
Palo Alto	1	2
Los Gatos	1	6
Morgan Hill/Gilroy	2	0
<u>Totals</u>	52	33

Success Rate: .634 [.353]

PRELIMINARY HEARINGS

<u>*Dispositions</u>	<u>Dism.</u>	<u>N/HTA</u>	<u>Div.</u>	<u>Estey.</u>	<u>PG/M</u>	<u>PG/F</u>	<u>HTA</u>
San Jose	253	43	76	71	493	535	1,310
Palo Alto	26	0	12	5	132	84	295
Los Gatos	2	0	1	0	5	20	17
M.Hill/Gilroy	4	0	4	3	15	12	16
<u>Totals</u>	285	43	93	79	645	651	1,638

Total Dispositions: 3,434

\*\*Success Rate: .333 [.301]

\*Disposition abbreviations: Dism. = Dismissals; N/HTA = Not held to answer; Div. = Diversion; Estey. = Esteybar motion granted; PG/M = Plead guilty to a misdemeanor; PG/F = Plead guilty to a felony; HTA = Held to answer.

\*\*Includes Dism., N/HTA, Div., Estey., PG/M.

SETTLEMENTS

Felonies

Dismissals Before Trial	145
Pleaded Guilty to Lesser Charge	763
Pleaded Guilty as Charged	413
<u>Total</u>	1,321

Success Rate: .687 [.692]

Misdemeanors

	<u>Diversion</u>	<u>Dismiss.</u>	<u>Pleaded Guilty</u>
San Jose	112	982	2,346
Santa Clara	8	387	1,189
Sunnyvale	1	86	311
Palo Alto	10	187	714
Los Gatos	6	44	110
M.Hill/Gilroy	2	29	190
<u>Totals</u>	139	1,715	4,860

Total Dispositions: 6,714

Success Rate: .176 [.268]

MOTIONS, WRITS AND APPEALS

	<u>Relief Granted</u>	<u>Relief Denied</u>
PC 995 Motions	42	26
PC 1538.5 Motions	34	57
Appeals	4	5
Writs	3	9
Petitions for Hearing In Supreme Court	0	7
<u>Total</u>	83	104
<u>Total Cases:</u> 187		
<u>Success Rate:</u> .451 [.450]		

RE-CAP

	<u>1979-80</u>	<u>1978-79</u>
<u>Trials and Hearings</u>		
Felonies	.492	.560
Misdemeanors	.634	.353
Preliminary Hearings	.333	.301
<u>Settlements</u>		
Felonies	.687	.692
Misdemeanors	.276	.268
<u>Motions, Writs and Appeals</u>	.451	.450
<u>Overall "Success" Average:</u> .475 [.437]		

### III. SPECIAL PROBLEMS

Clerical Staff Shortage. The overriding problem during FY 1979-80 was the Department's lack of sufficient clerical personnel. This caused severe delays in processing case files and other clerical functions. This problem was especially difficult in the Santa Clara Facility of the Municipal Court where a large increase in drinking driver cases was experienced due to stepped up enforcement funded by federal and state grants. One clerk typist was simply inadequate to handle the very heavy load of cases in that court.

At the beginning of the year the Department set two major goals to deal with this problem: 1) to obtain additional clerical staff, and 2) to restore our CJIC computer data system to improve efficiency in obtaining necessary client and court information. Both goals were achieved. In the Spring of 1980, approval was obtained for a temporary clerk position from the State's Office of Traffic Safety. This position is funded by a grant through the end of 1981. In addition, during the 1980-81 budget session, the Department was given approval for three additional clerical positions. In late 1979, the Department reacquired a CJIC terminal. These additions have relieved our clerical staffing crisis.

Consolidation of the Municipal Courts. On July 1, 1979, the various municipal courts were consolidated into the Municipal Court for Santa Clara County. This resulted in reassignment and reorganization of the functions of the municipal courts. The principal

change affecting the Department was elimination of criminal case jurisdiction in the Los Gatos-Campbell-Saratoga Court and concentration of all drunk driving cases in the Santa Clara Court. The latter required the assignment of three attorneys to that court. The Department was able to adapt smoothly and efficiently to this new organization.

### IV. ACHIEVEMENTS

County Charter Amendment. In May, 1980, the Public Defender proposed to the Board of Supervisors a County Charter Amendment to make the Public Defender an appointee of the Board of Supervisors. This resulted from problems encountered by the Department as the only criminal justice agency in the county that was subservient to the County Executive -- unlike any other county justice system agency and any other public defender in the state.

This proposal was also recommended to the Board of Supervisors by the Santa Clara County Bar Association. On June 10, 1980, the Bar Association, represented by President Nordin Blacker, appeared before the Board of Supervisors, with other witnesses including the Executive Director of the California Public Defenders Association (Michael Cantrall); Patrick O'Laughlin, a prominent local criminal law practitioner; and Monterey County Assistant Public Defender Fred Herro. Following that hearing, the Board of Supervisors approved placing the measure on the November ballot.

The measure received the editorial support of the San Jose Mercury News, the County's leading newspaper. And on November 4, 1980, it was approved by a vote of 201,418 (53.7%) in favor. (A

copy of the full text of the charter amendments, designated "Measure A" on the November 1980 ballot, together with the County Counsel's analysis and the arguments and rebuttal pertaining to the measure are set forth below in Appendix J.)

Administrative Support Officer II. In addition to solving a critical clerical shortage problem described above, the Department succeeded in obtaining approval to upgrade the administrative officer's position to that of Administrative Support Officer II, and succeeded in recruiting Mr. Jim Peckham to replace Mr. John Osborne who retired after eleven years as the Department's office manager. Mr. Peckham had been with the County Executive's Office as our budget analyst before joining the Department, and before that had been with the County Department of Social Services for several years.

Jail Overcrowding Social Worker for Adult Cases. The Department also succeeded in obtaining a loaned social worker from the Department of Social Services to demonstrate the effectiveness of social work services to obtain early release and sentencing alternatives for appropriate clients. This demonstration began in May 1980 and lasted for about three months. Our juvenile court social worker, Lynne Woodward, was temporarily reassigned to adult criminal cases for the period of the demonstration, and she succeeded in obtaining the release of about 26 pretrial prisoners -- averaging about 2 prisoners per week at a savings of about 4 weeks per prisoner in custody time, or 2,912 prisoner days per year. At

a minimal custody cost rate of \$33 per prisoner day, this amounted to a projected savings of \$56,096 -- substantially above the cost of a Grade V Social Worker.

As a result of this demonstration, the Department later obtained approval for a full time permanent position, which was filled in January 1981 by Charles Kaspar, a psychiatric social worker. Unfortunately, however, subsequent budget cuts in the summer of 1981 necessitated the elimination of this position.

LEXIS Research System. In late 1979, the Department was selected as one of 10 public defender offices to participate in an LEAA-funded statewide LEXIS research computer system demonstration. At no cost to the county, the Department obtained a LEXIS legal research computer terminal, and an indexed copy of the entire brief bank of the State Public Defender's Office on microfiche.

Unfortunately, the termination of LEAA in late 1980 ended the federal funding for this project at the end of 1980. However, the Department obtained county funding to restore it late in 1981. The State Public Defender's brief bank system is being maintained at a modest annual subscription cost.

These systems have helped to improve the productivity of our very limited research staff, consisting of but one research staff attorney supplemented by law students.

Improving Office Decor. The deteriorating physical appearance of the Department's offices prompted a volunteer corrective

effort by the staff, led by attorneys Nancy Hoffman and Jette Garland. Thirty staff members contributed more than \$600 to purchase supplies, bulletin boards, art prints and floral arrangements. Donations of furniture were also obtained, including a large couch for the office waiting room.

Many of the staff also volunteered an entire Saturday in February 1980 to help paint and spruce up the office. This helped to improve morale considerably.

#### V. PERSONAL HONORS AND APPOINTMENTS

During May 1980, Nancy Hoffman, a senior trial lawyer with our Department, was appointed to the Municipal Court of Santa Clara County. In August 1980, another former member of our staff, Leonard P. Edwards, was appointed to the Superior Court.<sup>4/</sup>

Philip H. Pennypacker, a senior trial attorney, was appointed to be the first Conflicts Administrator for the County to administer the appointment of private counsel to handle cases which this Department cannot handle due to conflicts of interest. The program was begun in early 1980 and grew out of an earlier proposal to divide the public defender's office to handle conflicts and eliminate appointment of private attorneys. (See discussion in 1978-79 Annual Report, at pages 7-8.)

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<sup>4/</sup> Other members of the bench formerly of this office include: Hon. Rose Elizabeth Bird, Chief Justice, California Supreme Court; Hon. Taketsugu Takei, Superior Court; Hon. Thomas Hastings, Superior Court; Hon. Read Ambler, Superior Court; Hon. R. Donald Chapman, Superior Court; and Hon. Fred Lucero, Municipal Court. (Judge Chapman was the first Public Defender of Santa Clara County and was appointed to the Municipal Court in 1967 by former Governor and now President Ronald Reagan. In November 1980, Judge Chapman was elected to the Superior Court.)

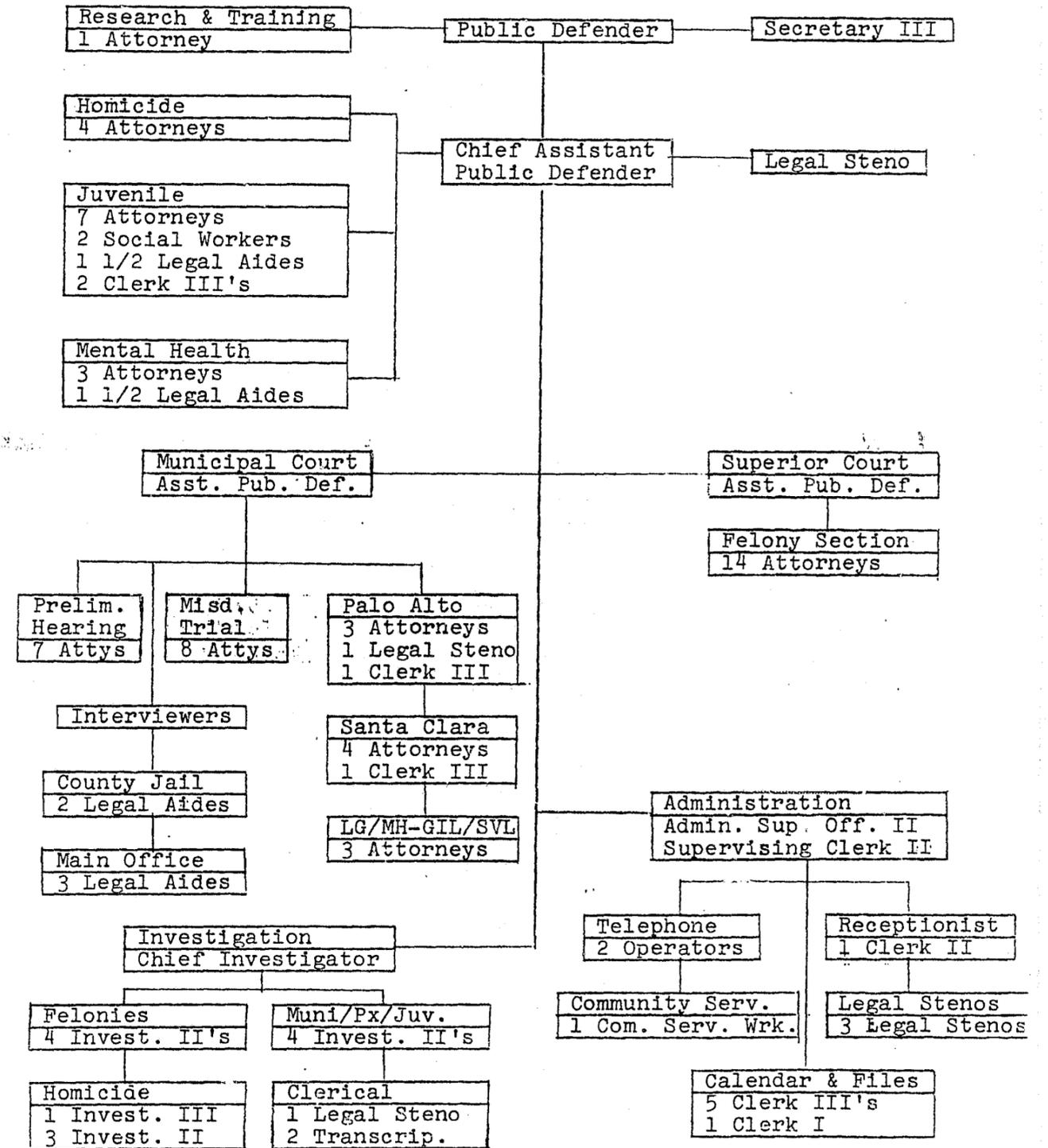
Another honor was Governor Brown's appointment of the Public Defender, Sheldon Portman, to the California Council on Criminal Justice in June, 1980. During 1979-80, Mr. Portman was also elected Chairman of the Defender Committee of the National Legal Aid and Defender Association.

VI. FINANCIAL DATA AND CASE COSTS

A summary of actual expenditures and revenues for fiscal year 1979-80 compared to the previous year is as follows:

	<u>1978-79</u>	<u>1979-80</u>
<u>Expenditures</u>		
Salaries	\$ 3,022,091	\$ 3,601,025
Telephone Services	40,396	32,485
Insurance	-0-	10,626
Witness Expense	4,367	2,514
Maintenance - Equip.	154	57
Office Expense	16,721	17,636
Prof. & Special Services	14,787	31,198
Data Processing	-0-	3,872
Rent - Equip.	5,704	5,226
Educational Expense	925	200
Memberships	1,830	1,730
Reimbursement of Bar Dues	-0-	5,020
Printing	4,866	4,501
Transportation & Travel	3,380	3,205
Automobile Mileage	11,312	17,051
Automobile Services	39,083	30,220
Meter Postage	1,557	2,075
<b>TOTAL EXPENDITURES</b>	<b>\$3,167,318</b>	<b>\$3,768,641</b>
<u>Revenue</u>		
State Reimbursement	141,853	217,380
Collections - Legal Services	9,478	5,003
<b>TOTAL REVENUE</b>	<b>\$ 151,331</b>	<b>\$ 222,383</b>

PUBLIC DEFENDER STAFFING CHART



ATTORNEY STAFF

JUNE 30, 1980

PUBLIC DEFENDER: Sheldon Portman  
CHIEF ASSISTANT  
PUBLIC DEFENDER: Howard A. Siegel  
ASSISTANT  
PUBLIC DEFENDERS: Norwood A. Nedom, Ronald A. Norman

DEPUTY  
PUBLIC DEFENDERS:

Attorney IV:	Katharine V. Alexander Grant M. Armstrong William L. Campbell N. A. Christensen William B. Cottrell Nazario A. Gonzales Mark B. Harmon John C. Horning, Jr. David C. Johnson Carl L. Lambert David M. Mann	Thomas F. Mueller George R. Overton Gregory C. Paraskou Robert K. Regan C. Randall Schneider Wesley J. Schroeder Donald V. Seratti Lloyd G. Stephens W. Steve Stevens Cris M. Story Robert A. Weeks
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Attorney III:	Marilyn L. Carmichael Francis C. Cavagnaro William H. Curtiss Barbara B. Fargo Jette Garland Charles N. Goldman Edward A. Gomez Timothy H. Hallahan	Esau R. Herrera Michael A. Kresser Jeffery A. Kroeber Alan M. Lagod Kevin P. Morrison Benjamin W. Reese Bryan R. Shechmeister Patricia J. Tiedeman
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Attorney II:	John B. Aaron Ralph H. Dixon Michelle A. Forbes Katherine J. Houston Aram B. James Donald L. Johnson	Virginia G. Marcoida Deborah A. Ryan Rosemary Seiter David A. Tauber James M. Thompson
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Attorney I:	Ernest R. Barrios Barbara L. DiPietro Lynne N. Henderson	Kenneth L. Shapero John M. Sullivan Mary E. Yale
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ROSTER OF STUDENT ASSISTANTS AND INTERNS  
DURING 1979-80

RESEARCH INTERN PROGRAM

Hastings College of Law: Susan Gibbs  
Marion Whittaker

University of Santa Clara Law School: Bruce Highman  
Tim Provis

SOCIAL WORKER INTERN PROGRAM

San Jose State University: Elizabeth Nelson  
Jean Sangster

VOLUNTEERS

University of Santa Clara Law School: Greg Coates  
Mark Schnurle  
Lisa Steingart  
Marta Vides

**County of Santa Clara  
California**

Office of the Public Defender  
County Government Center, West Wing  
70 West Hedding Street  
San Jose, California 95110  
299-4221 Area Code 408  
998-5121 Area Code 408

WORKLOAD ACTIVITY REPORT

FISCAL YEAR 1979-80

I. SUMMARY - CASES OPENED

A. SUPERIOR COURT DIVISION

1. Felony Defendants		2,921
2. Probation Violation Proceedings		797
3. Juvenile Court		
a. Neglected/Abused Minors (W&I §300)	179	
b. Habitually Disobedient Minors (W&I §601)	131	
c. Minors Violating Criminal Law (W&I §602)	3,074	
d. Traffic Violations	104	
e. Termination of Parental Status (CC §232)	8	
f. Reviews other than Annual Reviews, Modifications, Changes of Placement, 388, 730, 777 (when not with other charges), 778, Advice & Assistance		923
Total		4,419
4. Mental Health *		
a. Mentally Ill (LPS)	3,567	
b. Developmentally Disabled (DD)	142	
c. Probate Conservatorships (PC)	208	
d. Non-Court Legal Services	100	
Total		4,017*
5. Special Proceedings (HOP, Discovery, W/D as Atty., Rost, New Trial, Dism., RBR, MOR, Ballard)		1,267
6. Appeals and Writs		20
<u>TOTAL SUPERIOR COURT</u>		<u>13,441</u>

B. MUNICIPAL COURT DIVISION

1. Felony		5,641
2. Misdemeanor		10,146
3. Probation Violations		372
<u>TOTAL MUNICIPAL COURT</u>		<u>16,159</u>

\* LPS Statistics were not kept until March 1980, and no workable log sheet was developed during FY 1979-80 for DD or PC. Thus non-court representation figures for FY 1979-80 do not reflect our full workload.

Workload Activity Report - FY 79-80 (cont.)

II. COURT ACTIVITY

A. COURT APPEARANCES

1. Superior Court Division	30,028
2. Municipal Ct. Div.	39,994
TOTAL	<u>70,022</u>

B. CONFLICTS DECLARED

1. Superior Ct.--Criminal	185
2. Juvenile	336
3. Municipal Ct. Div.	
a. Felony	390
b. Misdemeanor	93
TOTAL	<u>1,004</u>

C. DISPOSITIONS - SUP.CT.DIV.

1. <u>Sup.Ct.--Crim.</u>	
a. Pleas/Guilty	1,199
b. Ct./Jry.Trials	130
c. Dismissed	146
d. Total	<u>1,475</u>
2. <u>Sup.Ct.--Juvie</u>	
a. Detention Hrngs.	2,108
b. Cont.Juris.Hrngs.	1,240
c. Pet. Admitted	1,145
d. Pet. Dismissed	145
e. Prima Facie Hrngs.	17
f. Dispo. Hrngs.	595
g. Annual Reviews	193
h. Fitness Hrngs.	92
i. Total	<u>5,535</u>
3. <u>Sup. Ct.--Mental Health</u>	
a. Writs	246
b. Consent Calendar	2,696
c. Trials CT/JT	557
d. Total	<u>3,499</u>
4. <u>TOTAL DISPOS.--SUP.CT.DIVISION</u>	<u>10,509</u>

D. DISPOSITIONS--MUNICIPAL CT. DIV.

1. <u>Felony Cases</u>	
a. HTA	1,647
b. PG Felony	651
c. PX Waived	171
d. Dism/Not HTA	384
e. SPC/RTB/REJ	922
f. PG Misd/Esty.	714
g. Total	<u>4,489</u>

II.D. (cont.)

2. Misd. Cases

a. Pleas/Guilty	4,771
b. Dism/Divert	1,906
c. FG CT/JT	52
d. FNG CT/JT	34
e. SPC/RTB/REJ	2,328
f. Total	<u>9,091</u>

3. TOTAL DISPOSITIONS MUNI. CT. DIV.

13,723

E. TOTAL DISPOSITIONS SUP/MUNI DIVISIONS

24,089

III. SUPERIOR COURT--CRIMINAL CASES

CASES SERVICED

a. Informations Filed	2,083
b. Certifications Filed	781
c. Indictments Filed	2
d. Appt/Accept Aft. Arr.	130
e. Probation Violation	797
f. Special Proceed. (NGI, 1368m MDSO, CRC, Writ H/C, Represent Witness)	1,267
TOTAL	<u>17,445</u>

DISPOSITIONS W/O TRIAL

g. PG as Charged	413
h. PG to Lesser	763
i. Dism/Diverted	145
j. SPC	106
k. Conflict (by D)	184
l. RTB/REJ	65
TOTAL	<u>1,676</u>

TRIALS

m. FG as Charged CT/JT	65
n. FG Lesser Fel.CT/JT	44
o. FG Misd CT/JT	3
p. FNGI CT/JT	3
q. FNG CT/JT	11
TOTAL	<u>126</u>

MOTIONS

r. 995 Grtd/Den.	354
s. 1538.5 Grtd.Den.	308
t. Other (HOP, Discovery, W/D as Atty, Rost, New Trial, Dism., Ballard, BRB, MOR)	1,194
TOTAL	<u>1,856</u>

Workload Activity Report - FY 79-80 (cont.)

IV. SUPERIOR COURT--HOMICIDES

CASES OPENED	36
COURT APPEARANCES	399
DISPOSITIONS W/O TRIAL	
a. PG to 1st <sup>o</sup>	5
b. PG to 2nd <sup>o</sup>	3
c. PG to Manslaughter	15
d. Dismissed	1
e. Not HTA	1
f. Not Indicted	0
g. No Charges Filed	0
h. SPC	1
i. Conflicts by D	2
TOTAL	28
TRIAL ACTIVITY	
j. HTA	17
k. Death CT/JT	0
l. FG 1st <sup>o</sup>	1
m. FG 2nd <sup>o</sup> CT/JT	2
n. FG Mansl. CT/JT	1
o. FNGI CT/JT	0
p. FNG CT/JT	0
TOTAL	20
CASES PENDING	145
MOTIONS	
q. 995 Grtd/Den.	9
r. 1538.5 Grtd/Den.	6
s. Other (HOP, Discovery, W/D as Atty, Rost, New Trial, Dism., Ballard, BRB, MOR)	51
TOTAL	66
V. SUPERIOR COURT--JUVENILE SECTION	
CASES OPENED	
a. W&I Sec.300	179
b. W&I Sec.601	131
c. W&I Sec.602	3,074
d. Traffic	104
e. CC Sec.232	8
f. Other Cases	923
TOTAL	4,419
DETENTION HEARINGS	
g. Released	394
h. Detained	1,714
TOTAL	2,108

V. (cont.)

JURISDICTIONAL HRNGS.	
i. Uncont. Pet. Adm.	1,145
j. Pet. Dismissed	145
k. Cont. Pet. Sustained	1,011
l. Cont.Pet.Not. Sust.	189
TOTAL	2,490
OTHER HEARINGS	
m. Prima Facie	17
n. Dispositional Hrngs.	595
o. Annual Reviews	193
Fitness Hearings	
p. Found Fit	20
q. Found Unfit	72
TOTAL	897
CONFLICTS	286
MOTIONS	
r. 1538.5	4
s. Others	49
TOTAL	53
COURT APPEARANCES	8,365
SOCIAL WORKER ACTIVITY	
t. Cases Referred	1,060
u. Court Appearances	409
v. Alternatives Devel.	374

VI. SUPERIOR COURT--MENTAL HEALTH SECTION

CASES OPENED (Lanterman-Petris-Short (W&I Sec. 38000))	2,060
COURT REPRESENTATION	
a. LPS	3,567
b. DD (Developmentally Disabled (H&S Secs.39009.2, 38451))	142
c. PC (Probate Conservatorships (P.C. Sec.1461; H&S Sec.416.95))	208
TOTAL	3,916
COURT APPEARANCES	3,940
NON-COURT LEGAL REPRESENTATION	
d. LPS	84
e. DD	4
f. PC (Ann. Rev.)	12
TOTAL	100

Workload Activity Report - FY 79-80 (cont.)

VI. Sup.Ct.--M.H.Sec. (cont.)

COURT ACTIVITY	
Writs of H/C	
g. LPS	185
h. DD	61
TOTAL	246
Consent Calendars	
LPS Consent Calendar	
i. LPS Sppt/Reappt	1,520
j. Terminations	24
k. Accountings	793
l. Miscellaneous	130
TOTAL	22,467
Probate Consent Calendar	
m. Pet's Conserv.	111
n. Pet's to Terminate	0
o. Accountings	35
p. Miscellaneous	5
TOTAL	151
DD Consent Calendar	
q. Petitions	78
Trials	
r. LPS CT/JT	544/1
s. DD CT/JT	7/1
t. PC CT/JT	/4
TOTAL	551/6
VII. SUPERIOR COURT--APPELLATE SECTION	
a. 995 Memos Prepared & Filed	69
b. 1538.5 Memos Prepared & Filed	91
c. 995 Motions Grtd/Den.	42/26
d. 1538.5 Motions Grtd/Den.	34/57
e. Briefs on Appeal Filed	7
f. App. Decisions Fav./Unfav.	4/5
g. Petitions for Writs Filed	13
h. Writs Grtd./Den.	3/9
i. Petitions for Hrng. in Supreme Court Filed	6
j. Petitions for Hrng. in Supreme Ct. Grtd./Denied	/7
k. Petitions for Rehearing Grtd/Denied	/3
l. Other Support Research (Trial Brief; Evidentiary Matters, Jury Instructions, etc.)	13/15
=====	

VIII. INVESTIGATION DIVISION

Case Activity	
a. Felony	714
b. Misdemeanor	919
c. Juvenile	424
d. Mental Illness	2
e. Other Investigation	31
TOTAL	2,090
Interviews	6,345
IX. SAN JOSE MUNICIPAL COURT	
CASES OPENED	
a. Felony	4,384
b. Misdemeanor	5,392
c. Probation Viol.	198
TOTAL	9,974
COURT APPEARANCES	22,479
FELONY CASES	
d. HTA	1,310
e. PX Waived	107
f. PG Felony	535
g. Not HTA	43
h. Dismissed	253
i. Diverted	76
j. PG Misdemeanor	493
k. Esteybar Motion	71
l. Conflict	327
m. SPC	195
n. RTB/REJ	489
TOTAL	3,899
MISDEMEANOR CASES	
o. PG	2,346
p. Dismissed	982
q. Diverted	112
r. FG CT/JT	/18
s. FNG CT/JT	/14
t. Conflict	68
u. SPC	137
v. RTB/REJ	1,082
TOTAL	4,789
MOTIONS	
w. 1538.5	430
x. Others (HOP, Discovery, W/D as Atty., ROST, New Trial, Dism., Ballard, BRB, MOR)	433
TOTAL	814

Workload Activity Report - FY 79-80 (cont.)

X. SANTA CLARA MUNICIPAL COURT

<u>CASES OPENED</u>	
a. Misdemeanor	2,344
b. Probation Viol.	92
TOTAL	<u>2,436</u>
<u>COURT APPEARANCES</u>	
TOTAL	<u>6,632</u>
<u>MISDEMEANOR CASES</u>	
c. PG	1,189
d. Dismissed	387
e. Diverted	8
f. FG CT/JT	1/22
g. FNG CT/JT	/10
h. Conflict	5
i. SPC	26
j. RTB/REJ	478
TOTAL	<u>2,216</u>
<u>MOTIONS</u>	
k. 1538.5	29
l. Other (See IX--x, supra)	118
TOTAL	<u>147</u>

XI. SUNNYVALE MUNICIPAL COURT

<u>CASES OPENED</u>	
a. Misdemeanor	547
b. Probation Viol.	9
TOTAL	<u>556</u>
<u>COURT APPEARANCES</u>	
TOTAL	<u>1,214</u>
<u>MISDEMEANOR CASES</u>	
c. PG	311
d. Dismissed	86
e. Diverted	1
f. FG CT/JT	/7
g. FNG CT/JT	/1
h. Conflict	1
i. SPC	8
j. RTB/REJ	128
TOTAL	<u>543</u>
<u>MOTIONS</u>	
k. 1538.5	26
l. Other (See IX--x, supra)	16
TOTAL	<u>42</u>

XII. PALO ALTO MUNICIPAL COURT

<u>CASES OPENED</u>	
a. Felony	1,090
b. Misdemeanor	1,198
c. Probation Viol.	26
TOTAL	<u>2,314</u>
<u>COURT APPEARANCES</u>	
TOTAL	<u>6,411</u>
<u>FELONY CASES</u>	
d. HTA	295
e. PX Waived	62
f. PG Felony	84
g. Not HTA	0
h. Dismissed	26
i. Diverted	12
j. PG Misdemeanor	132
k. Esteybar Motion	5
l. Conflict	54
m. SPC	90
n. RTB/REJ	74
TOTAL	<u>862</u>
<u>MISDEMEANOR CASES</u>	
o. PG	714
p. Dismissed	1
q. Diverted	1
r. FG CT/JT	/1
s. FNG CT/JT	/2
t. Conflict	11
u. SPC	29
v. RTB/REJ	315
TOTAL	<u>1,269</u>
<u>MOTIONS</u>	
w. 1538.5	3
x. Others (See IX--x, supra)	8
TOTAL	<u>11</u>

XIII. LOS GATOS MUNICIPAL COURT

<u>CASES OPENED</u>	
a. Felony	95
b. Misdemeanor	296
c. Probation Viol.	33
TOTAL	<u>424</u>
<u>COURT APPEARANCES</u>	
TOTAL	<u>823</u>

Workload Activity Report - FY 79-80 (cont.)

XIII. Los Gatos Muni Ct. (cont.)

<u>FELONY CASES</u>	
d. HTA	17
e. PX Waived	1
f. PG Felony	20
g. Not HTA	0
h. Dismissed	2
i. Diverted	1
j. PG Misdemeanor	5
k. Esteybar Motion	0
l. Conflict	3
m. SPC	2
n. RTB/REJ	10
TOTAL	<u>61</u>
<u>MISDEMEANOR CASES</u>	
o. PG	110
p. Dismissed	44
q. Diverted	6
r. FG CT/JT	/1
s. FNG CT/JT	/6
t. Conflict	3
u. SPC	5
v. RTB/REJ	102
TOTAL	<u>277</u>
<u>MOTIONS</u>	
w. 1538.5	10
x. Others (See IX--x, supra)	3
TOTAL	<u>13</u>

XIV. MORGAN HILL/GILROY MUNICIPAL CT.

<u>CASES OPENED</u>	
a. Felony	72
b. Misdemeanor	369
c. Probation Viol.	19
TOTAL	<u>460</u>
<u>COURT APPEARANCES</u>	
TOTAL	<u>858</u>

XIV. (cont.)

<u>FELONY CASES</u>	
d. HTA	16
e. PX Waived	1
f. PG Felony	12
g. Not HTA	0
h. Dismissed	4
i. Diverted	4
j. PG Misdemeanor	15
k. Esteybar Motion	3
l. Conflict	6
m. SPC	3
n. RTB/REJ	9
TOTAL	<u>73</u>
<u>MISDEMEANOR CASES</u>	
o. PG	190
p. Dismissed	29
q. Diverted	2
r. FG CT/JT	/2
s. FNG CT/JT	0
t. Conflict	5
u. SPC	2
v. RTB/REJ	59
TOTAL	<u>289</u>
<u>MOTIONS</u>	
w. 1538.5	8
x. Others (See IX--x, supra)	12
TOTAL	<u>20</u>

County of Santa Clara  
California

111 N. Market St., Suite 1000  
San Jose, California 95113  
908-5121 Area Code 408

INVESTIGATION DIVISION REPORT  
Fiscal Year 1979 - 1980

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
Total Referred	178	206	127	180	157	141	222	171	181	176	179	172	2091
ADULTS	135	170	98	130	130	104	184	137	159	133	148	138	1667
Felony	63	56	55	45	61	46	95	55	70	58	55	55	714
Misdemeanor	70	112	43	81	69	55	83	80	87	69	90	80	920
Mental	0	0	0	0	0	0	1	0	0	0	1	0	2
Outside Ser- vice Requests	0	0	0	2	0	1	0	1	0	2	0	1	7
Financial Eligibility Advice and Assistance	0	0	0	0	0	0	1	0	0	0	0	0	1
2	2	0	2	0	2	4	1	2	4	2	2	2	23
JUVENILES	43	36	29	50	27	37	38	34	22	43	31	34	424
Felony	24	26	22	25	17	20	27	17	17	26	22	19	262
Misdemeanor	19	10	7	25	10	17	11	17	5	17	9	15	162

Services	133	428	262	368	284	208	295	263	339	181	227	162	3150
Field Interviews	271	244	234	346	322	286	324	279	346	310	296	316	3574
Office Interviews	196	192	212	254	347	313	341	276	147	169	165	168	2780
Cases Pending End of Month	280	167	250	230	251	260	288	350	334	227	296	257**	

\*\*Cases Pending

June	1
July	3
Aug.	1
Nov.	1
Dec.	1
Jan.	7
Feb.	7
Mar.	15
Apr.	19
May	57
June	145

Homicides: 22 (incl. 4 spec. circ.)

Submitted   
J.F. O'Connell  
Chief Investigator

An Equal Opportunity Employer

APPENDIX E

PUBLIC DEFENDER  
- Investigation Section -

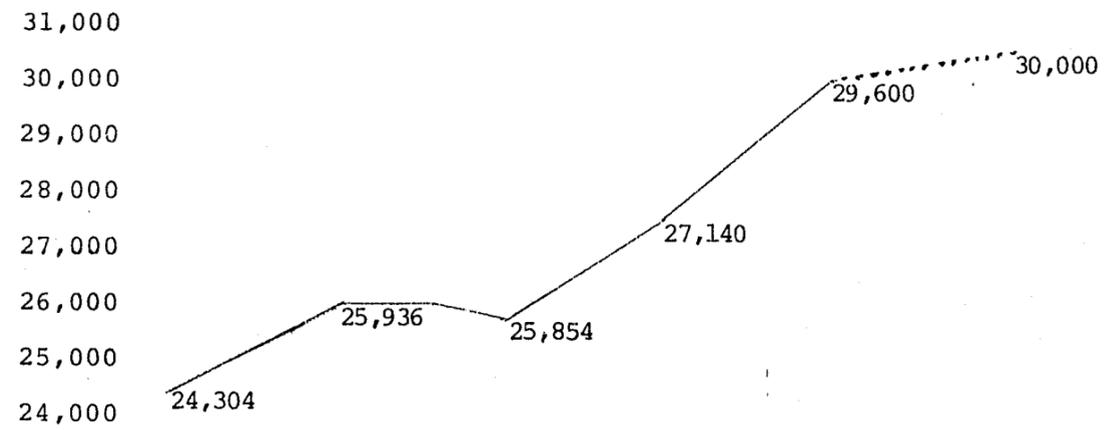
FIVE YEAR  
STATISTIC COMPARISON  
(7-01-80)

	1975-76	1976-77	1977-78	1978-79	1979-80	% Inc-Dec
ADULT FELONY	587	641	732	693	714	+ 3.0%
ADULT MISDEMEANOR	846	891	1007	833	920	+ 10.4%
ADULT OTHER	27	30	45	36	33	- 11.0%
ADULT TOTAL	1460	1552	1784	1562	1667	+ 6.6%
JUVENILE FELONY	82	128	155	154	262	+ 70.0%
JUVENILE MISDEMEANOR	49	102	130	99	162	+ 63.6%
JUVENILE TOTAL	131	230	285	253	424	+ 67.5%
CASE TOTAL	1591	1794	2069	1815	2091	+ 15.0%
SERVICES	869	1495	2173	2661	3150	+ 18.3%
FIELD INTERVIEWS	2851	3096	3115	2771	3574	+ 28.9%
OFFICE INTERVIEWS	1444	1525	3246	2709	2780	+ 2.6%
HOMICIDES	24	36	43	36	43	+ 19.4%

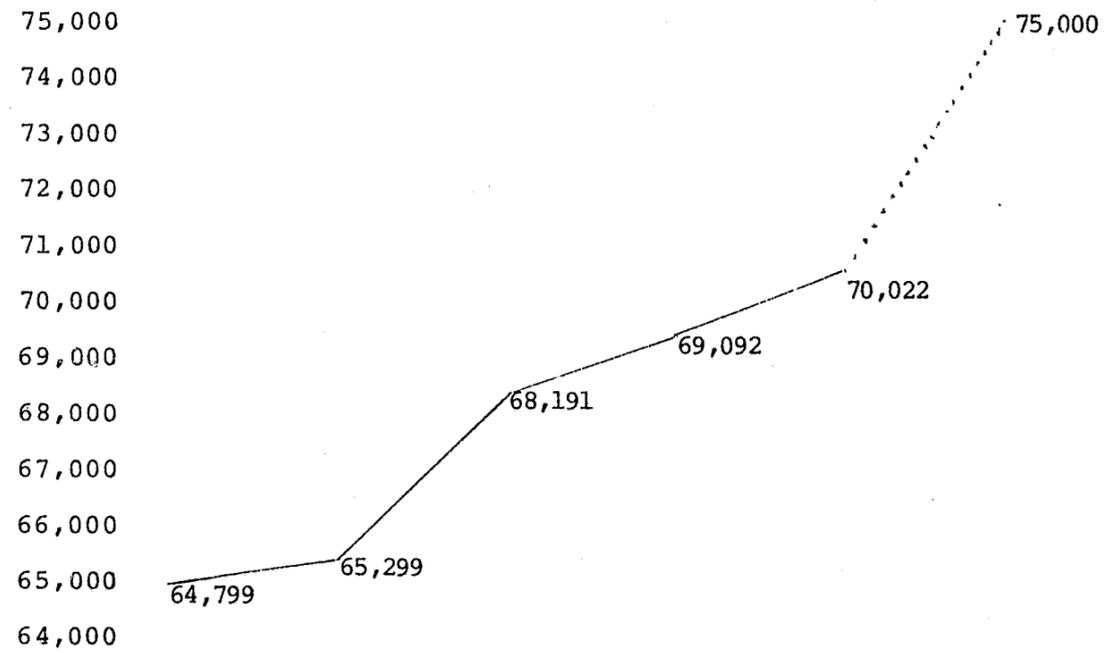
  
JERRY F. O'CONNELL  
Chief Investigator

APPENDIX F

CASES OPENED



COURT APPEARANCES



ACTUAL	ACTUAL	ACTUAL	ACTUAL	ACTUAL	PROJECTED
1975-76	1976-77	1977-78	1978-79	1979-80	1980-81

C A S E C O S T S

1979-80

<u>Case Categories</u>	<u>Number</u>	<u>Assigned Attorney Staff</u> (%)		<u>Total Cost</u>	<u>Cost Per Case</u>
Superior Ct. Felonies	2,635	15	(27.7)	\$1,055,040	\$ 400
187 & Extraordinary	37	4	(07.4)	440,590	11,907
Misdemeanor	9,368	18	(33.3)	1,108,706	118
Juvenile	4,419	7	(12.9)	434,635	98
Mental Health	4,017	3	(05.5)	223,714	56
Felony Prob. Violations	797	1 <sup>2/</sup>	--	26,295	33
Felonies in Muni Ct.	5,641	7	(12.9)	479,541	85
	<u>26,914<sup>1/</sup></u>	<u>54</u>	<u>(100.0)</u>	<u>\$3,768,541</u>	

<sup>1/</sup> Does not include persons who were financially ineligible, referred to the bar, secured private counsel, or cases in which conflict was declared.

<sup>2/</sup> Assistant Public Defender.

FIVE-YEAR PUBLIC DEFENDER ATTORNEY CASELOAD

TYPE CASES	FISCAL YEAR					5-Year Average Caseload
	75-76	76-77	77-78	78-79	79-80	
<u>Mixed Cases</u>	500	476	446	503	494	484
a. No. of Cases	24,262	25,936	25,854	27,140	26,914	
b. No. of Attys.	48.5	54.5	58	54	54.5	
<u>Felonies</u>	184	183	179	159	169	175
a. No. of Cases	4,796	5,492	5,564	4,620	4,804*	
b. No. of Attys.	26	30	31	29	28.5	
<u>Misdemeanors</u>	617	667	636	612	657	639
a. No. of Cases	10,186	10,998	10,805	9,484	10,518	
b. No. of Attys.	16.5	16.5	17	15.5	16	
<u>Juveniles</u>	669	549	537	776	631	632
a. No. of Cases	2,677	3,291	3,762	5,430	4,419	
b. No. of Attys.	4	6	7	7	7	
<u>Mental Health</u>	2,532	2,862	1,693	2,066	1,339	2,098
a. No. of Cases	5,064	5,723	5,078	6,198	4,017	
b. No. of Attys.	2	2	3	3	3	

\* This figure is the result of: subtracting the Superior Court "felony" total from the Municipal Court "felony" total, then adding Superior Court Probation Violations, Special Proceedings and Appeals and Writs.

M

**FULL TEXT OF CHARTER AMENDMENTS PROPOSED  
BY MEASURE A**

**SECTION 301**

The Board of Supervisors shall:

(a) Adopt a statement of the goals of the county reflecting the quality and direction of the activities of county government for the enhancement of human and physical resources of the county. The board shall annually during July review the adopted goals and may modify them as necessary.

(b) Appoint, suspend, or remove subject to the provisions of this Charter the County Executive, County Counsel, Public Defender and members of boards and commissions.

(c) Adopt an administrative code by ordinance which shall prescribe the powers and duties of appointive departments and officers and the procedures and rules of operation of all departments and officers of the county.

(d) Provide for the number and compensation of all officers and employees.

(e) Adopt such ordinances as may be necessary to establish and carry into effect the provisions of this Charter.

**SECTION 701.**

Employment by the county shall be divided into the unclassified and classified service.

(a) The unclassified service shall comprise the following officers and positions.

1. All elective county officers

2. County Executive

3. County Counsel

4. Public Defender

5. One confidential secretary and one administrative position to each elected county officer, the County Executive, the County Counsel and the Public Defender

6. All members of boards and commissions

7. Positions which are required to be filled by physicians, surgeons, or dentists

8. Persons employed to render professional, scientific, technical, or expert service of an occasional or exceptional character

9. Persons serving the county without compensation

10. Persons employed to conduct a special inquiry, investigation, examination or installation, if the Board of Supervisors or the County Executive certifies that such employment is temporary and that the work should not be performed by employees in the classified service

11. Temporary or seasonal employees as may be provided for by the Board of Supervisors under personnel rules

12. Superintendent of Schools

13. Chief Adult and Juvenile Probation Officers

14. Employees designated as unclassified pursuant to Section 506 or 507

15. Employees designated as unclassified pursuant to Section 704(h)

(b) The classified service shall comprise all positions not specifically included by this article in the unclassified service.

**SECTION 803**

Any person holding an office or employment, either elective or appointive, on the effective date of this Charter shall continue in office or employment pursuant to the provisions of this Charter.

Any person holding the position of Public Defender as of the effective dates of the amendments of sections 301 and 701 relating to the office of Public Defender shall continue in such position subject to the provisions of section 301. Any other incumbent holding a position in the classified service of such office as of such effective date shall not be affected by such amendment.

H

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COUNTY COUNSEL'S ANALYSIS OF MEASURE A

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**GENERAL**

A "YES" vote on this measure would be a vote to amend the Santa Clara County Charter to (i) authorize the County Board of Supervisors, rather than the County Executive, to appoint, suspend or remove the Public Defender from office; (ii) transfer the position of Public Defender from the classified service to the unclassified service; (iii) authorize the Public Defender and Board of Supervisors to communicate directly with each other for purposes other than inquiry and information; and (iv) authorize two unclassified positions for the Office of Public Defender. The current Public Defender would be retained in office, subject to the authority of the Board of Supervisors to remove or suspend. No current classified employee of the office, other than the Public Defender, would be affected by this amendment.

A "NO" vote would be a vote to retain the current status of the Public Defender.

**DETAIL**

The Charter currently authorizes the Board of Supervisors to directly appoint, suspend or remove the County Executive, County Counsel and members of boards and commissions. This measure would include the Public Defender, removing such authority from the County Executive. The incumbent Public Defender would remain in office subject to Board of Supervisors authority to suspend or remove.

The Charter divides county employment into the classified service and the unclassified service, based on merit and equal opportunity.

Currently, the position of Public Defender is a management position in the classified service. As such, (i) the position is filled by the County Executive after Personnel Department examination and certification procedures; (ii) any disciplinary action would be imposed by the County Executive for cause only after a hearing and advisory decision by the Personnel Board; and (iii) except for purposes of inquiry and information, the Board of Supervisors is precluded by Charter from dealing directly with or giving orders to the Public Defender except through the County Executive.

This measure also transfers the position of Public Defender to the unclassified service. Employment in the unclassified service is governed by County Charter. The Charter specifies those positions that constitute that service, including all elective county officers, County Executive, County Counsel, all members of boards and commissions, positions required to be filled by physicians, surgeons or dentists, and Chief Adult and Juvenile Probation Officers (in addition to certain other classes of employment not here relevant).

There are currently no charter or ordinance requirements relating to (i) examination and certification procedures for the selection of unclassified employees or (ii) procedures for discipline of unclassified employees except the County Executive.

As with other unclassified positions, the Public Defender and the Board of Supervisors would be authorized to communicate directly with each other for all purposes.

Under the current Charter, each elected county officer, the County Executive and the County Counsel are each authorized one unclassified confidential secretary and one unclassified administrative position. This measure would extend that authorization to the Public Defender. This measure also provides that no current classified employee holding a position in the Public Defender's Office would be affected by such authorization.

SELBY BROWN, JR.  
County Counsel  
County of Santa Clara

### ARGUMENT IN FAVOR OF MEASURE A

We urge a "Yes" vote on Measure A in order to conform the provisions of the Santa Clara County Charter to State law by providing that the Public Defender of Santa Clara County be appointed by the Board of Supervisors.

Section 27703 of the California Government Code provides that an appointed public defender be "appointed by the board of supervisors." However, in Santa Clara County, under the general terms of the County Charter, the Public Defender is not appointed by the Board of Supervisors but is appointed by another appointed official—the County Executive.

No other county public defender in the State is appointed by a county executive. Nor is any other county justice official in Santa Clara County—including the District Attorney, the County Counsel, the Sheriff, and the Adult and Juvenile Probation Officers—so appointed.

The direct appointment and supervision of the Public Defender by the Board of Supervisors will provide greater public accountability for the operations of this important office—similar to that of the county's other justice agencies. It will also improve communication between the Board of Supervisors and the Public Defender which is now forbidden without the consent of the County Executive. This will permit the Board of Supervisors to have the benefit of the Public Defender's recommendations on important criminal justice issues.

Approval of Measure A will not result in any additional costs but will promote economy and efficiency in county government by reducing unnecessary levels of administration.

Measure A is supported by the Santa Clara County Bar Association and by other legal and community groups, and by the Public Defender. It was also approved by majority vote of the Board of Supervisors in accordance with the report and recommendations of a special task force.

The undersigned authors of the primary argument in favor of ballot Measure A at the general election for the County of Santa Clara to be held on November 4, 1980, hereby state that such argument is true and correct to the best of their knowledge and belief.

Signed:

SANTA CLARA COUNTY BAR ASSOCIATION

Nordin F. Blacker, I President

AFL-CIO CENTRAL LABOR COUNCIL OF SANTA CLARA COUNTY

Michael Nye, Business Representative

James M. Geary, Former Sheriff, Santa Clara County

W. Robert Morgan, Member, Board of Governors of the State Bar of California

Leslie C. Nichols, Councilman, City of Mountain View

Chairman, Santa Clara County Intergovernmental Council

### ARGUMENT AGAINST MEASURE A

Vote NO on Measure A. It is a risky proposal!

Our county charter now requires that department heads and their chief assistants be selected on their merit—free from political influence.

Measure A strips away these protections that now assure us of quality and independence in the top two positions in the office of the Public Defender.

This risky proposal allows the Board of Supervisors to appoint the Public Defender without competitive examination and opens up the possibility that the appointment will be based on political influence. It allows the Board to fire the Public Defender without being required to give a reason or hold a hearing. This power could lead to inappropriate influence on the independence of the office.

Our county charter now provides a separation of powers between the Board of Supervisors, who establish policy, and the County Executive, who manages the county.

Measure A transfers the appointment and supervision of the Public Defender from the County Executive to the Board of Supervisors. This involves the Supervisors in an inappropriate function—weakens the County Executive, and threatens the independence of the office of the Public Defender.

It is too risky to take chances on this amendment. This is not an appropriate responsibility to place with the Supervisors and risk the possibility of inappropriate political influence in the office of Public Defender.

Vote NO. Our home rule charter should not be meddled with in this manner.

The undersigned authors of the primary argument against ballot Measure A at the General Election for the County of Santa Clara, to be held on November 4, 1980, hereby state that such argument is true and correct to the best of their knowledge and belief.

Signed:

Geraldine F. Steinberg, Santa Clara County Supervisor, 5th District

Howard W. Campen, Former County Executive

Dale S. Hill, Former Chairman, S.C.Co. Charter Review Committee

APPENDIX J-3

### REBUTTAL TO ARGUMENT AGAINST MEASURE A

Measure A is *not* "risky." Actually, it eliminates a major risk in our present public defense system.

Now, the Public Defender can be fired by a single official — the County Executive — who is not elected and is not accountable to the voters. If fired, the Public Defender is entitled to a Personnel Board hearing, but that Board's decision is merely "advisory" and the County Executive can ignore it.

No other justice system department head faces this risk of arbitrary firing by a non-elected official — nor does any other public defender in the State!

Measure A will remedy this by transferring the authority to hire and fire the Public Defender to *elected* officials — the Board of Supervisors — who are directly accountable to the voters.

Board action must be taken at public sessions. Judges, bar association representatives, public interest groups, and private citizens can speak in defense of the Public Defender. Firing the Public Defender would require the vote of at least *three* Supervisors — *not* just a *single* official as is now the case.

Measure A will not change the requirement that the Public Defender be selected on the basis of "merit and equal opportunity." The County Charter specifically requires this for *all* personnel — *both* "classified" and "non-classified." Although a competitive examination need not be given, nothing prevents the Supervisors from requiring one. In fact, that is customarily done in other counties where boards of supervisors appoint public defenders.

Vote YES on Measure A!

The undersigned authors of the rebuttal to the argument against Measure A at the General Election for the County of Santa Clara, to be held on November 4, 1980, hereby state that such rebuttal is true and correct to the best of their knowledge and belief.

SANTA CLARA COUNTY BAR ASSOCIATION

Nordin F. Blacker, President

AFL-CIO CENTRAL LABOR COUNCIL

Michael Nye, Business Representative

James M. Geary,

Former Sheriff of the County of Santa Clara

### NO REBUTTAL TO THE ARGUMENT IN FAVOR OF MEASURE A WAS SUBMITTED

**END**