

## State of California – Office of the State Public Defender

## Racial Justice Act Grant Application (Aug. 2023)



## Section I – Project Profile

## 1. Applicant Contact Information

Santa Clara County Office of the Public Defender		94-6000533	
Name of Applicant <Organization> 120 W. Mission St.		Tax Identification Number CA 95110	
Street Address	City	State	Zip Code
Mailing Address (if different) Karina Alvarez	City 408-299-7813	State karina.alvarez@pdo.sccgov.org	Zip Code
Name of the Person Completing the Application	Phone Number	Email Address	

## 2. Project Information

Project Title	RJA for All	Grant Funds Requested See Budget Worksheet	\$375,000.
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Project Summary (100-150 words)

The Santa Clara County Public Defender's Office (SCCPDO), as the largest of the County's three indigent defense offices – Public Defender's Office (PDO), Alternate Defender (ADO), and Independent Defense Counsel Office (IDO) – is seeking grant funds, \$375,000, to provide legal services for indigent clients who may have retroactive RJA claims in cases to be handled by the County's three indigent defense offices. Each office will manage the intake, review, analysis, data tracking, and training to indigent defense attorneys handling claims under the Act, as well as represent clients in such cases, and refer cases to ADO and IDO as needed.

## 3. Project Director

Deedrea Edgar		Post Conviction Unit Supervisor	
Name (408) 299-7826		Title deedrea.edgar@pdo.sccgov.org	
Phone Number		Email Address	
120 W. Mission St.	San Jose	CA	95110
Street Address	City	State	Zip Code

## 4. Financial Officer

Hong Cao		Department Fiscal Officer	
Name 408-299-7777		Title hong.cao01@pdo.sccgov.org	
Phone Number		Email Address	

Payment Mailing Address (if different)	City	State	Zip Code
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## 5. Day-to-Day Program Contact (if different than project director)

Name Same as above.		Title	
Phone Number		Email Address	
Street Address	City	State	Zip Code

6. Day-to-Day Fiscal Contact			
Li-Zone Wang		Sr. Accountant	
Name		Title	
408-299-7177		Li-Zone.Wang@pdo.sccgov.org	
Phone Number		Email Address	
120 W. Mission St.		San Jose	CA 95110
Street Address		City	State Zip Code

7. County Served		
<b>Northern California</b>	<b>Central Valley</b>	<b>Bay Area</b>
<input type="checkbox"/> Alpine	<input type="checkbox"/> Fresno	<input type="checkbox"/> Alameda
<input type="checkbox"/> Amador	<input type="checkbox"/> Kern	<input type="checkbox"/> Contra Costa
<input type="checkbox"/> Butte	<input type="checkbox"/> Kings	<input type="checkbox"/> Marin
<input type="checkbox"/> Calaveras	<input type="checkbox"/> Madera	<input type="checkbox"/> Napa
<input type="checkbox"/> Colusa	<input type="checkbox"/> Mariposa	<input type="checkbox"/> San Francisco
<input type="checkbox"/> Del Norte	<input type="checkbox"/> Merced	<input type="checkbox"/> San Mateo
<input type="checkbox"/> El Dorado	<input type="checkbox"/> Mono	<input checked="" type="checkbox"/> Santa Clara
<input type="checkbox"/> Glenn	<input type="checkbox"/> Sacramento	<input type="checkbox"/> Solano
<input type="checkbox"/> Humboldt	<input type="checkbox"/> San Joaquin	<input type="checkbox"/> Sonoma
<input type="checkbox"/> Lake	<input type="checkbox"/> Stanislaus	<b>Los Angeles</b>
<input type="checkbox"/> Lassen	<input type="checkbox"/> Sutter	<input type="checkbox"/> Los Angeles
<input type="checkbox"/> Mendocino	<input type="checkbox"/> Tulare	<b>Southern California</b>
<input type="checkbox"/> Modoc	<input type="checkbox"/> Tuolumne	<input type="checkbox"/> Orange Inyo
<input type="checkbox"/> Nevada	<input type="checkbox"/> Yolo	<input type="checkbox"/> Riverside
<input type="checkbox"/> Placer	<input type="checkbox"/> Yuba	<input type="checkbox"/> San Bernardino
<input type="checkbox"/> Plumas	<b>Central Coast</b>	<input type="checkbox"/> Imperial
<input type="checkbox"/> Shasta Sierra	<input type="checkbox"/> Monterey	<input type="checkbox"/> San Diego
<input type="checkbox"/> Siskiyou	<input type="checkbox"/> San Benito	
<input type="checkbox"/> Tehama	<input type="checkbox"/> San Luis Obispo	
<input type="checkbox"/> Trinity	<input type="checkbox"/> Santa Barbara	
<input type="checkbox"/>	<input type="checkbox"/> Santa Cruz	
	<input type="checkbox"/> Ventura	

List all the applicant’s office locations in California, beginning with the applicant’s headquarters. Attach a separate sheet if more space is needed:

Office Location(s) City/County	Name	Provides Legal Services (Y/N)
San Jose	Santa Clara County Office of the Public Defender and Alternate Defender, San Jose	Y
Palo Alto	Santa Clara County Office of the Public Dender, Palo Alto	Y
Morgan Hill	Santa Clara County Office of the Public Dender, Morgan Hill	Y
San Jose	Santa Clara County Independent Defense Council Office San Jose	Y

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**Section II – Organization Information**

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**1. Describe your organization. (250 words max)**

The County of Santa Clara is the sixth largest County in California, and home to the third largest city, the City of San Jose. With a population of approximately two million, and one of the most diverse in the state, we must provide culturally competent and responsive services through all aspects of our legal system. This includes post-conviction relief for our local population of people currently incarcerated in CDCR who are disproportionately persons of color, and from lower income communities. It is the goal of our three indigent defense offices to provide the best defense possible to all clients, whether charged with misdemeanors or more serious crimes. To do so, we have three indigent defense offices, the largest of which, the Public Defender's Office, was founded in 1965, and accepts all clients who need representation and cannot afford a lawyer. When the PDO has a conflict of interest, a client is represented either by ADO or IDO. The SCCPDO has a team of 150 lawyers, 30 investigators, 30 paralegals, and 30 clerical staff who tailor our services to clients' needs. SCCPDO is dedicated to a holistic defense model with consideration for a client's individual needs. SCCPDO staff prepare cases for jury trial, take social histories, do community outreach, link clients with services, and explain how the system works.

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**2. Describe your organization's current experience working with incarcerated individuals. (500 words max)**

The SCCPDO Post Conviction Unit represents Santa Clara County CDCR incarcerated people in all criminal recall, resentencing, youthful offender parole and statutory reform litigation. Santa Clara County has over 3,100 people incarcerated in state prisons. Post-conviction cases are received by court appointments, CDCR requests, client requests, and by a comprehensive case review process. SCCPDO is the principal receiving agency for all post-conviction cases in the County and analyzes all requests received within the County to determine and refer cases, as necessary, to ADO or IDO for representation. Additionally, SCCPDO receives referrals from other agencies, community organizations, and counties that advocate for post-conviction relief for incarcerated people in Santa Clara County. The SCCPDO Post Conviction Unit provides outreach to potentially eligible incarcerated people through in-person, written, and phone communications throughout our state. They also provide legal seminars, mentorship, and consultation to other practitioners in the state to develop post-conviction services. In addition to litigation services, SCCPDO is responsible for the development and execution of intentional and functional re-entry plans to ensure client transitions into the community.

3. Describe your organization's current experience with litigating the Racial Justice Act and/or litigating habeas corpus claims. (500 words max)

Each defender agency in the County has experience with RJA Litigation. The Board of Supervisors approved the creation of the SCCPDO Racial Justice Attorney position in July 2022. Since then, the dedicated RJA attorney reviews cases for potential claims, analyzes data, drafts, and argues motions, provides consultations for attorneys on an ongoing basis, and conducts periodic trainings internally and externally. PDO experience in using the RJA in litigation has included using the RJA as leverage in plea negotiations, building data claims, and litigating bias claims. To date, SCCPDO has had approximately 65 referrals for RJA review and many of those cases have benefited from an RJA analysis. SCCPDO has noted that the even raising the RJA issues they observe with the prosecution and/or court has resulted in positive outcomes for their clients. They have observed dismissals, reductions in charge, and reductions in jail time.

Shortly after the creation of the position, SCCPDO began making requests under the California Public Records Request Act (CPRA) to various agencies. In these requests, they often partner with a local law firm, the University of San Francisco's Racial Justice Clinic, the community organization Debug, and professors at Santa Clara University of Law. Recently, in a burden of proof in a 745(d) motion SCCPDO had been litigating the for month, they were notified that the court is inclined to issue an OSC and rule in their favor. While the SCCDAO has agreed to send all the data requested, SCCPDO has continued to seek data through other agencies including law enforcement agencies, the ACLU, CDCR, and CA-DOJ.

SCCPDO has litigated four prima facie hearings for bias claims and out of those four, two evidentiary hearings have been granted and scheduled later this month. They also have five more prima facie hearings scheduled in December and January. The SCCPDO RJA Attorney has cultivated relationships with professionals in various disciplines ranging from data engineering, linguist, psychologists, community organizers, sociologists, and law professors. Through these relationships, they have sharpened their understanding of what constitutes bias in the academic sense but also in the community sense. The declarations drafted by these experts have tremendously assisted litigation as they are designed to explain the specific bias in each case but also educate the bench on these important and often sensitive concepts.

Furthermore, SCCPDO built a data tool to assist lawyers in visualizing data and determining whether a disparity might be at play. This data tool contains data received via the CPRA and is available to all lawyers. In addition, IDO, the county's conflict's program, has highly qualified research attorneys with expertise in habeas litigation.

The SCCPDO has created a robust infrastructure for the analysis and litigation of Racial Justice Act work. Through numerous trainings and monthly meetings, each lawyer in the office is prepared to issue spot Racial Justice issues and can competently act.

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4. Please describe the team that will be working to support or utilize grant resources, even if they are not grant funded. (250 words max)

The SCCPDO Post-Conviction and Research units are comprised of senior attorneys, forensic social workers, defense investigators, paralegals, legal clerks, and student interns who review and prepare post-conviction cases for recall, resentencing, and youthful offender parole. These units also review cases for Racial Justice Act (Act) Claims and provide litigation support to trial attorneys and post-conviction attorneys who have cases under review for all types of relief that a client may be eligible for. The supervising attorneys for these units will be responsible for receiving, analyzing, litigating, and assigning cases to attorneys to investigate claims for relief under the Act. The office will provide training to the attorneys and staff on how

to review cases for relief under the Act, prepare cases for litigation and support the needs of the clients upon re-entry when relief is granted. Supervising attorneys will ensure accurate data tracking of cases and case outcomes, advocate and obtain necessary resources to ensure clients are receiving competent and quality legal services while providing meaningful supervision and collaboration with the attorneys. Paralegals will manage intake and case management, legal clerks will track and monitor data, lead attorneys will manage case reviews and substantive law changes, investigators and forensic social workers will provide the necessary mitigation and re-entry needs of our clients. The robust post-conviction student internship program will also learn and assist, and community partnerships include but are not limited to Debug of Silicon Valley, Anti-Recidivism Collation, GEO Re-Entry Services, and Veteran Services Offices.

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**Section III – Project Information****1. Describe the grant project being proposed (1000 words max)**

The Santa Clara County Indigent Defense Offices believe that the Racial Justice Act is one of the most important laws to have passed in recent times. To properly effectuate the spirit of the Racial Justice Act, we must work hard to provide excellent representation to all clients that seek retroactive relief.

On behalf of the three Santa Clara County Indigent Defense Office, the SCCPDO is seeking grant funds to support a portion of the costs for two senior attorney positions that will serve as lead attorneys for indigent clients who may have retroactive RJA claims in cases that will be handled by the Public Defender, Alternate Defender, or Independent Defender agencies in Santa Clara County. The PDO and ADO lead attorneys will manage the intake, review, analysis, data tracking, and training to indigent defense attorneys handling claims under the Act, as well as represent clients in such cases. Contracted service providers available through the IDO panel will represent clients in RJA cases.

Currently, all defender agencies represent clients in recall and resentencing cases. The Public Defender's Office receives or identifies cases that may be eligible for post-conviction relief, gathers necessary initial case documents, communicates with potential clients, analyzes potential cases for eligibility and attorney assignments or refers cases to the appropriate alternate defender agency for representation and manages case data. Grant funded lead attorneys will review cases for claims under the Act, assign eligible cases to an attorney in our defender agencies, and have each defender agency track cases and case outcomes. All Santa Clara County Indigent Defense Offices will continue to promote all our outreach efforts of receiving requests for relief from clients, families, agencies, internal case reviews, and community advocates. They will continue to work collaboratively to develop priority criteria to identify a case summary and intake inventory of potential case claims targeting cases that appear to have potential for early release or a reasonable settlement to expedite favorable case outcomes. SCCPDO recently developed an early review process that we are hopeful will simplify and expedite cases to good settlement outcomes avoiding unnecessary delays to case resolution. It is a program goal to prepare and advance cases with potential claims under the Act to submit through our newly formed early review process and work collaboratively with the District Attorney's Office and the Court to resolve cases favorably and swiftly when able.

2. Describe any anticipated obstacles and what plans you have in place to manage them (250 words max)

The main obstacle that we have identified is unknown caseload numbers. Santa Clara County currently has 3,000 clients in CDCR, disproportionately people of color. The volume and timing of requests that we will have to manage is unknown. We are in communication with groups that are providing RJA information to those in custody, however this communication is happening at different intervals. Logistical challenges of managing retroactive cases are also unpredictable.

Our plan to manage these obstacles is to stay malleable and have multiple lawyers ready to share in the workload should the numbers become very high. The SCCPDO RJA Attorney is ready to train other attorneys with all County indigent defense office lawyers in how to effectively triage cases and will be working closely with the Retroactive RJA lawyer.

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**Section IV – Project Budget***Note: Project Budget Period is 24 Months*

Budget Line-Item	Total
1. Salaries and Benefits	\$279,798.00
2. Services and Supplies	\$0
3. Professional Services or Public Agency Subcontracts	\$87,360.00
4. Equipment/Fixed Assets	\$0
5. Other (Travel, Training, etc.)	\$7,842.00
6. Indirect Costs	\$0
Total	\$375,000.00

**1a. Salaries and Benefits**

Staff Title/Role (Please specify staff role in the project)	Salary (Show as either % FTE or hourly rate) +Benefits	Total
Attorney IV - Public Defender	Annual Cost of \$349, 748 (Salary + Benefits) x .25 FTE x 2 Years	\$174,874.00
Attorney IV – Alternate Defender	Annual Cost of \$349, 748 (Salary + Benefits) x .10 FTE x 2 Years	\$104,924.00
Total Salaries and Benefits		\$279,798.00

**1b. Salaries and Benefit Narrative**

PDO/ADO are seeking funds to support a percentage of the FTE for one senior attorney for each team. The lead attorneys will manage the intake, review, analysis, data tracking, and training to indigent defense attorneys handling claims under the Act, as well as represent clients in such cases. Currently, all defender agencies represent clients in recall and resentencing cases.

**2a. Services and Supplies**

Description of Services or Supplies	Calculation for Expenditure	Total
		\$0
Total Services and Supplies		\$0

**2b. Services and Supplies Narrative**

None. The cost of services and supplies will be absorbed by the indigent defense offices.

**3a. Professional Services**

Description of Professional Service(s)	Calculation for Expenditure	Total
IDO contracted panel attorneys and their support service vendors	\$140 per/hr. x 6 hours per week x 52 weeks per year x 2 years	\$87,360.00
Total Professional Services		\$87,360.00

**3b. Professional Services Narrative**

None for PDO/ADO. All contractors, consultants, or experts would be absorbed by the defender agency offices as the lead attorney positions are the most significant to be funded by the grant. For IDO, considering how unpredictable the workload will be for all defense agencies and to ensure funds are flexibly available as needed for case screening and/or direct client representation, the IDO seeks funds to compensate panel attorneys and/or support services vendors (such as paralegals, experts, investigators etc.) for record collection, case review, and direct representation in retroactive RJA cases.

**4a. Equipment/Fixed Assets**

Description of Equipment/Fixed Assets	Calculation for Expense	Total: \$0
Total Equipment/Fixed Assets		\$0

**4b. Equipment/Fixed Assets Narrative**

None. All equipment would be absorbed by the indigent defender offices as the lead attorney positions and contracted defense services are the most significant to be funded by the grant.

**5a. Other (Travel, Training, etc.)**

Description	Calculation for Expense	Total
Training and travel costs for necessary and relevant RJA training for the lead attorneys and contracted services providers.	\$1307.00 per year x 3 indigent defense offices x 2 years	\$7842.00
Total Other		\$7842.00

**5b. Other (Travel, Training, etc.) Narrative**

Santa Clara County indigent defense offices request minimal funds for each office, PDO, ADO and IDO, to cover the costs of necessary and anticipated training and travel for the lead attorney positions, and contracted service providers.

**6a. Indirect Costs**

***Indirect costs may be charged to grant funds at no more than 10% of the project amount***

If agency seeks indirect costs, select percentage amount up to 10%	Percentage	Total Indirect Costs
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**Section IV – Project Assurances**

By submitting this application, the applicant agrees that if it is awarded a grant by the Office of the State Public Defender, the applicant will abide by the following:

- It will use any funds it receives from a 2023 RJA Implementation grant only for the purposes stated in its application. Should the OSPD determine in its sole discretion that the applicant is unlikely to use all funds received for these purposes within the grant period, the applicant will return funds to the OSPD, as directed by OSPD.
- It will not discriminate based on race, color, national origin, religion, gender, disability, age, marital or domestic partnership status, medical condition, or sexual orientation.
- It will permit reasonable site visits and will present additional information deemed reasonably necessary to determine compliance with the terms of the grant.
- It will comply with fiscal management and control procedures adopted by OSPD.
- It understands that any proposal submitted for a 2023 RJA Implementation grant, and all documents submitted pursuant to issuance of 2023 RJA Implementation grant, are public documents, and may be disclosed to any person.
- It agrees it will file regular program and financial reports, as may be required by the OSPD, and cooperate with other data collection requests by the OSPD for this grant.
- The OSPD is permitted, in its sole discretion, to adjust Applicant's award at any time to reflect the actual amount of funding available for the 2023 RJA Implementation grant. Consequently, grantees shall not be guaranteed any specific dollar amount in grant funds, or any grant funds at all, if funds received are insufficient or unavailable to OSPD for this purpose.

**Authorized Signature**

*By signing this application, I hereby certify that:*

- ☒ I understand and agree with the terms and conditions above.
- ☒ All information provided is true and accurate.
- ☒ I am vested by the Applicant Organization with the authority to enter into contract with the OSPD, and that the grantee and any subcontractors will abide by the laws, policies and procedures governing this funding.

James R. Williams

County Executive, County of Santa Clara

Name

Title

(408) 299 – 5102

james.williams@ceo.sccgov.org

Telephone Number

Email Address

70 West Hedding, East Wing, 11<sup>th</sup> Floor  
San Jose, CA 95110

Street Address

City

State

Zip Code

**APPLICANT'S SIGNATURE** (Signed by the authorized signatory with a digital signature OR a wet signature in blue ink.)

**DATE**

DocuSigned by:

James R. Williams

11/30/2023

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