



**Public Defender
Department
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

- KUYLER CROCKER
District One
- PETE VANDER POEL
District Two
- AMY SHUKLIAN
District Three
- EDDIE VALERO
District Four
- DENNIS TOWNSEND
District Five

AGENDA DATE: REVISED September 1, 2020

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>

CONTACT PERSON: Tom McGuire PHONE: (559) 636-4582

SUBJECT: Public Defender Department Presentation

REQUEST(S):

That the Board of Supervisors:
Receive a presentation and update from the Public Defender Department.

SUMMARY:

The Board of Supervisors has requested a presentation giving an overview of the Public Defender Department.

FISCAL IMPACT/FINANCING:

There is no fiscal impact associated with this request.

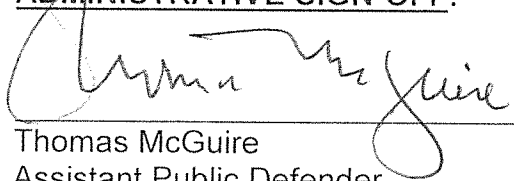
LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

This presentation furthers the County organizational performance goal of conducting business and operations in an open and transparent manner. The presentation will provide the Board with information from which the organizational structure of the Department can be evaluated, and service delivery can be reviewed.

SUBJECT: Public Defender Department Presentation

DATE: September 1, 2020

ADMINISTRATIVE SIGN-OFF:

A handwritten signature in black ink, appearing to read "Thomas McGuire", is written over a horizontal line. The signature is cursive and somewhat stylized.

Thomas McGuire
Assistant Public Defender

cc: County Administrative Office

Attachment(s) Public Defender Power Point Presentation

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF PUBLIC DEFENDER)
DEPARTMENT PRESENTATION) Resolution No. _____
) Agreement No. _____
)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

Received a presentation and update from the Public Defender Department.

TULARE COUNTY PUBLIC DEFENDER

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Mission Statement

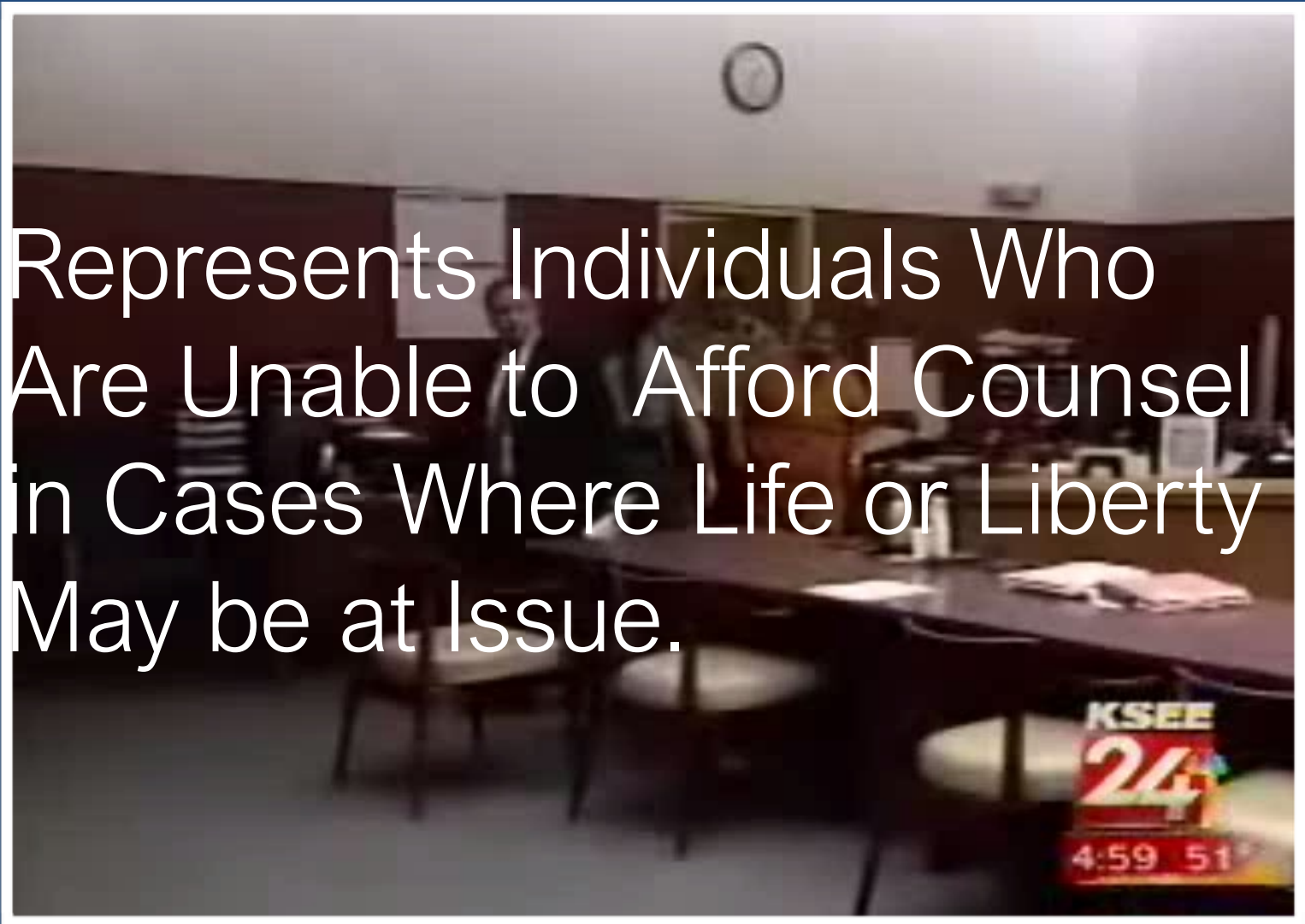
The Tulare County Public Defender is mandated by state law and the Constitution to provide competent, effective and ethical legal representation to people unable to afford private counsel in certain kinds of cases where life or liberty issues are at stake. Attorneys from the..

[Read More](#)



What Does A Public Defender Do?

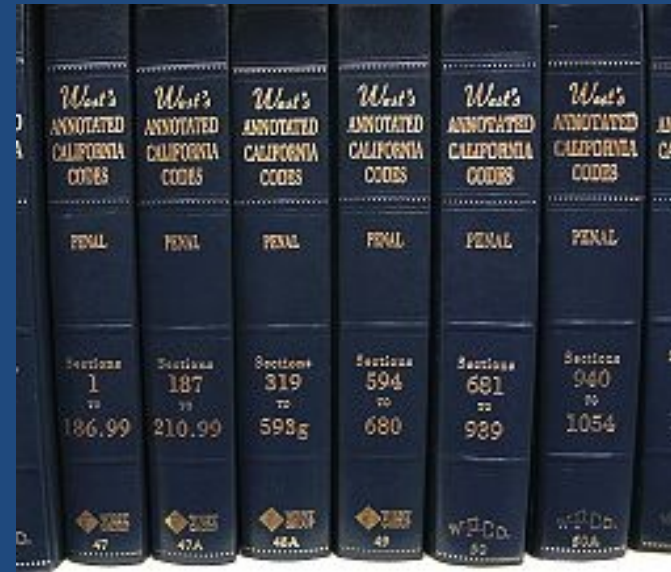
Represents Individuals Who Are Unable to Afford Counsel in Cases Where Life or Liberty May be at Issue.



Our services are Mandated by



United States Constitution



State Statutes

What Kinds of Cases Do We Handle?

- Adults Charged with:



Crimes



Contempt of Court

What Kinds of Cases Do We Handle?

- Adults Involuntarily Committed:



Mentally Ill



Conservatees

Developmentally disabled

What Kinds of Cases Do We Handle?

- Juveniles Charged with Crimes:



Juvenile Justice Center



Our
Caseload is
determined
by

**Court filings made by
our professional
adversaries:**

- District Attorney**
- County Counsel**
- DCSS**

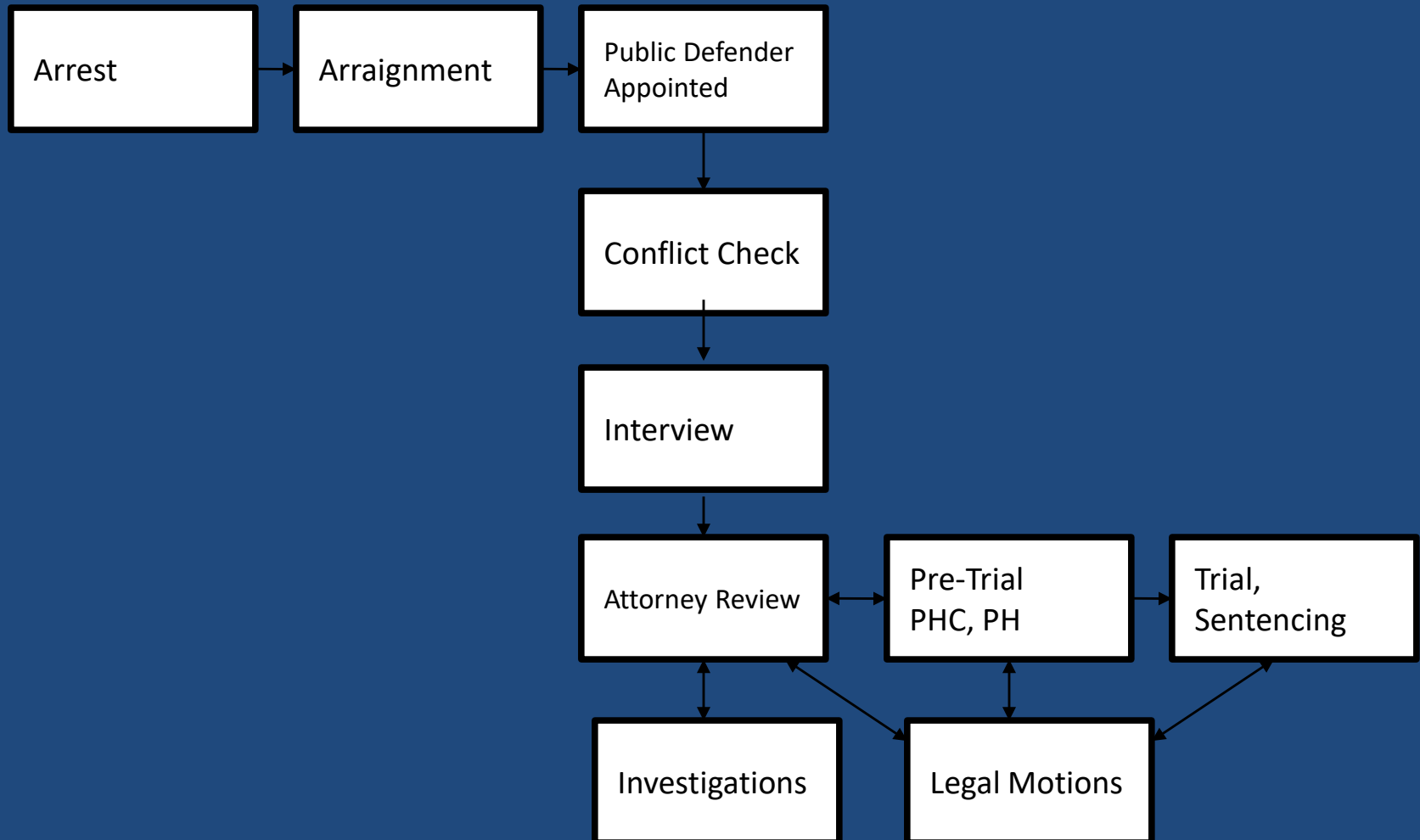
**New Cases are by Court
Appointment Only**

**We do not create the
cases we handle**

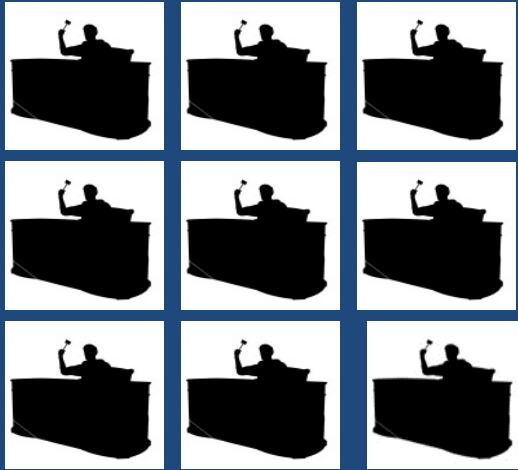
We do not solicit clients

How Do Our Clients Find Us?

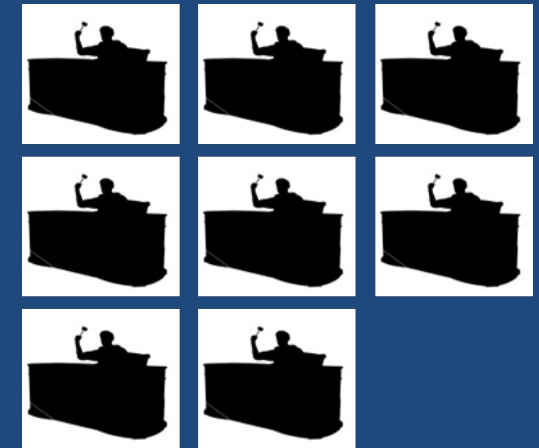
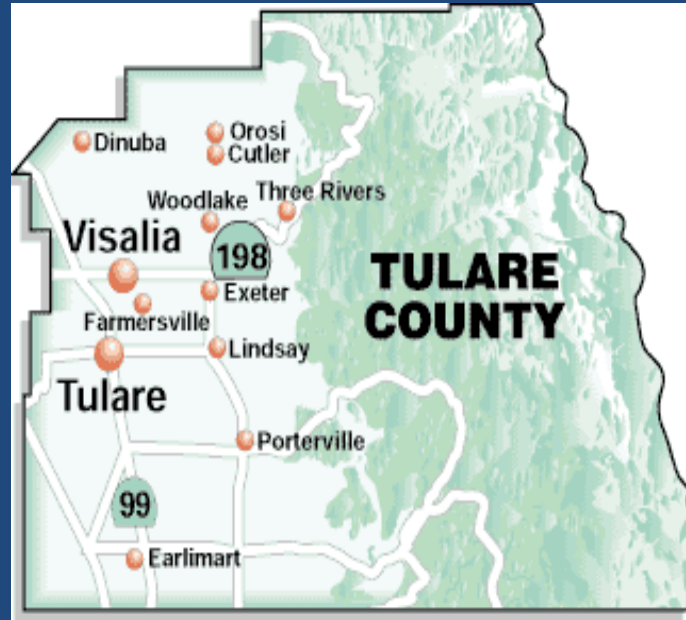
(a simplified view—and then what?)



Where Do We Work?



Visalia



Porterville

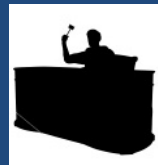


Juvenile

21 Courtrooms



Pretrial Facility



Dinuba

**In Addition
to Criminal
Cases we
Also Handle**

- Specialty Courts
 - Mental Health
 - Veterans
 - Recovery Court
 - Drug Court
- Civil Proceedings
 - OCS/Contempt Proceedings
 - Conservatorships
 - 6500
 - Adoption
 - Guardianship

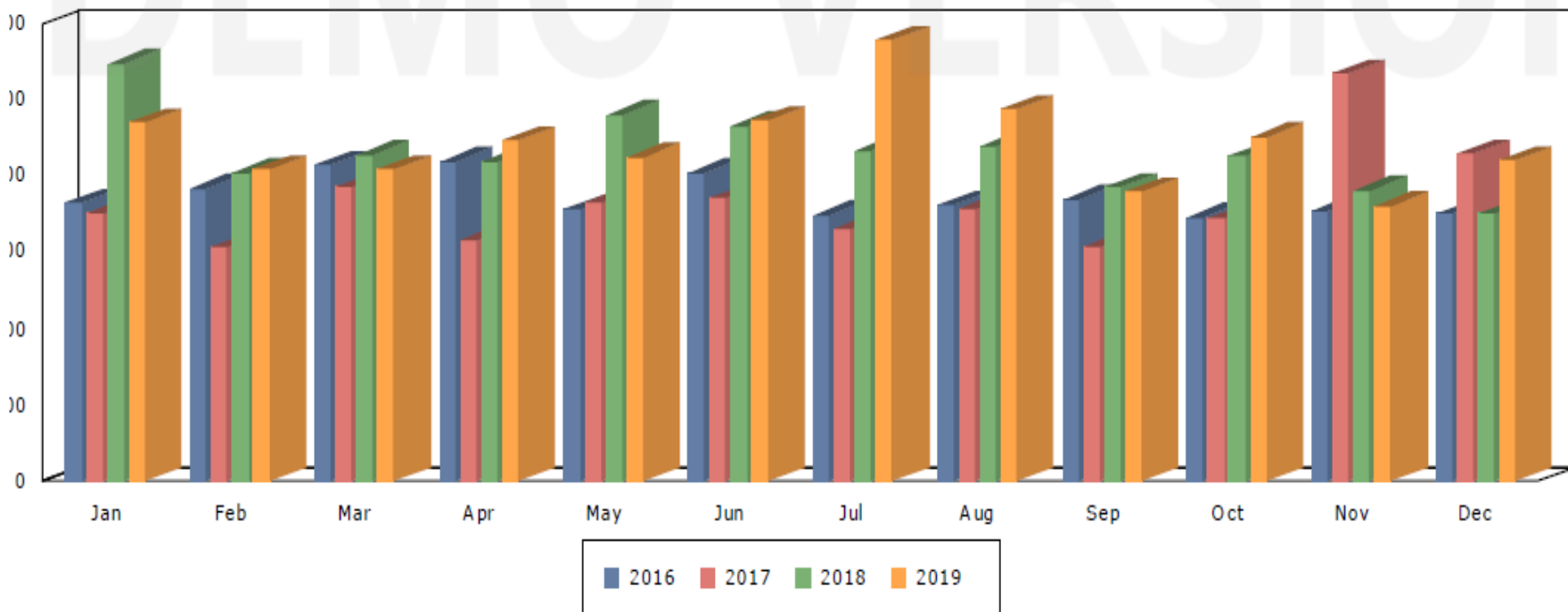
Case Summary - Year and Month (by Case Type)



Start Date 01/01/2016
End Date 12/31/2019
Use Case Type Grouping Yes

All Types

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	+/-
2016	1463	1543	1662	1683	1428	1623	1400	1454	1481	1390	1426	1404	17957	
2017	1413	1229	1549	1273	1468	1489	1329	1435	1234	1383	2141	1719	17662	-1.64%
2018	2195	1620	1715	1679	1928	1867	1741	1765	1544	1708	1528	1404	20694	17.17%
2019	1887	1639	1640	1792	1704	1896	2317	1958	1525	1809	1446	1685	21298	2.92%





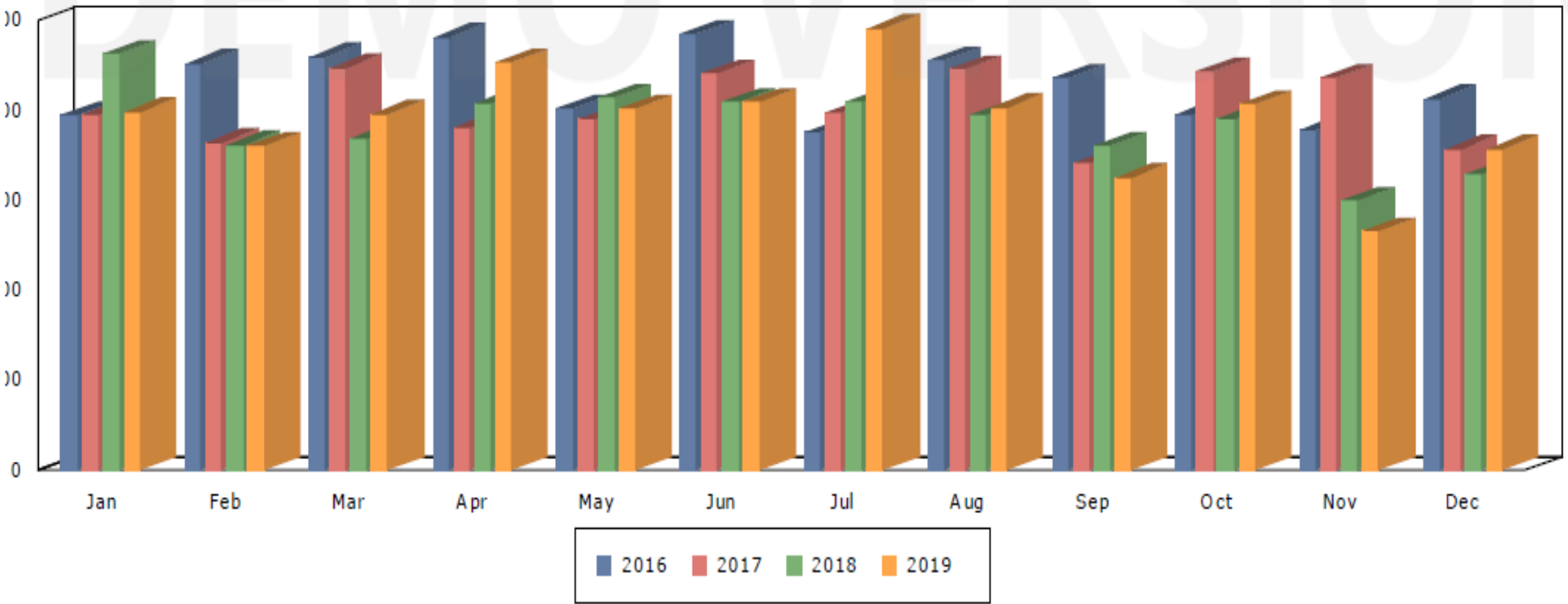
Case Summary - Year and Month (by Case Type)

Start Date 01/01/2016
End Date 12/31/2019
Use Case Type Grouping Yes

Felony

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	+/-
2016	395	453	460	482	403	485	376	456	437	396	380	414	5137	
2017	397	365	448	382	390	442	398	447	342	444	437	357	4849	-5.61%
2018	464	362	370	409	415	410	410	395	361	391	300	329	4616	-4.81%
2019	399	361	396	454	403	410	492	404	326	407	266	358	4676	1.30%

DEMO VERSION



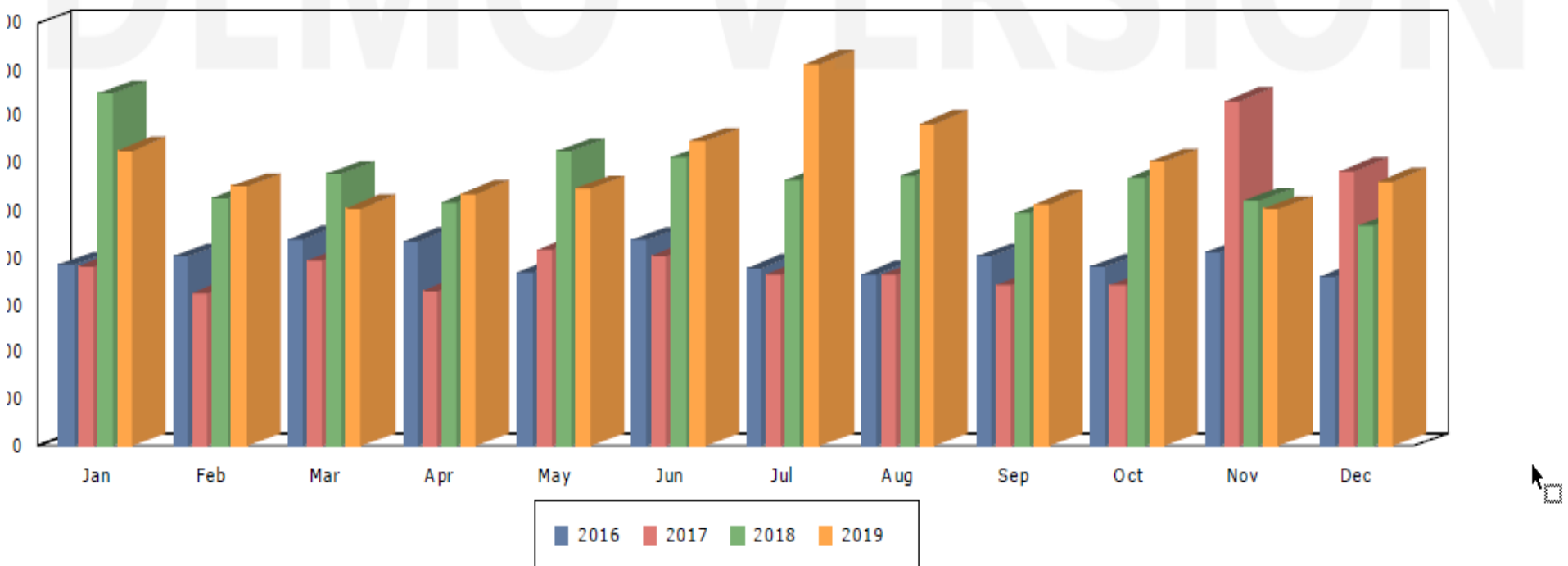
Case Summary - Year and Month (by Case Type)



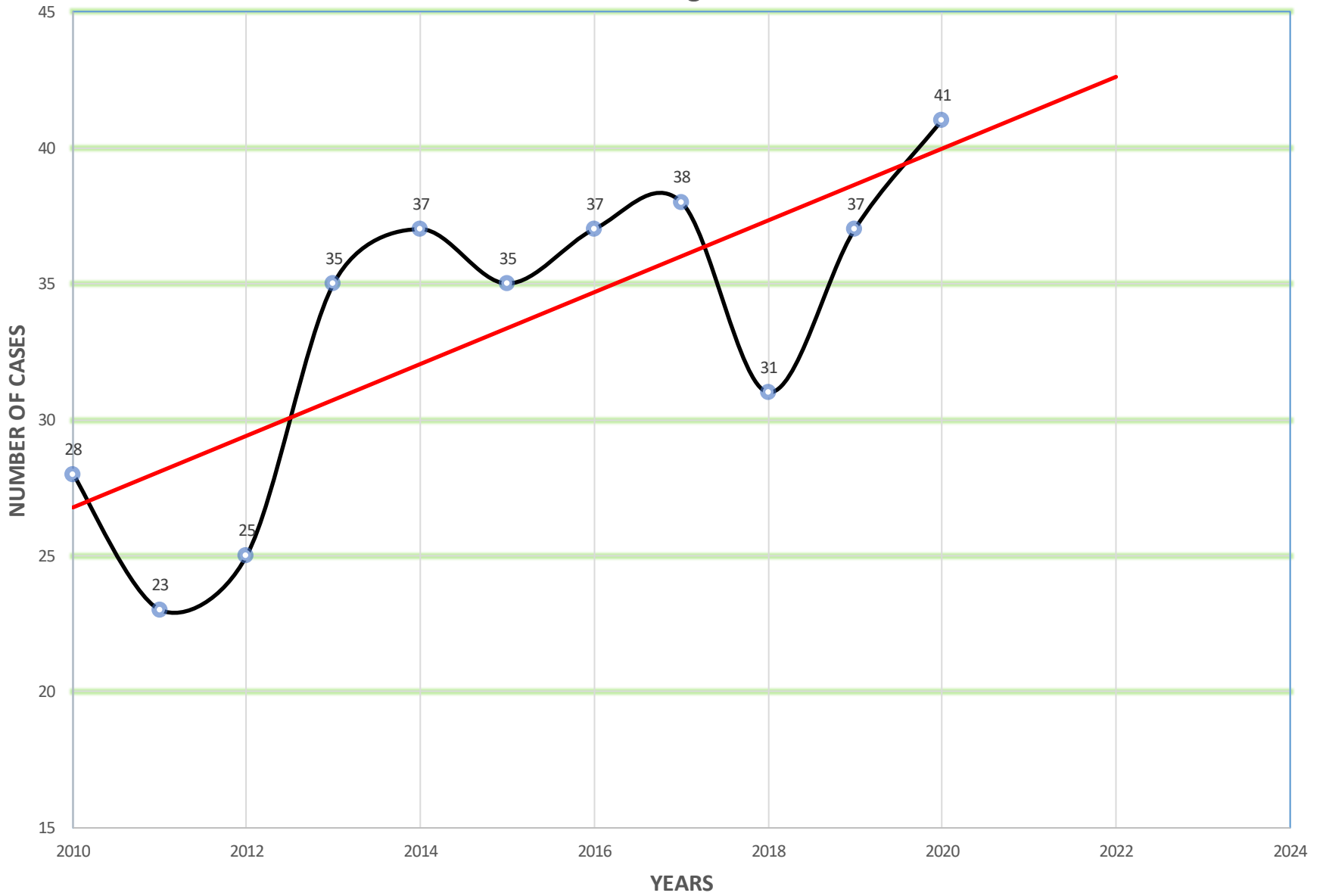
Start Date 01/01/2016
End Date 12/31/2019
Use Case Type Grouping Yes

Misdemeanor

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	+/-
2016	775	807	883	876	741	879	762	734	809	763	828	724	9581	
2017	768	655	793	665	838	812	735	728	686	688	1472	1175	10015	4.53%
2018	1502	1058	1159	1043	1258	1228	1134	1153	995	1146	1044	942	13662	36.42%
2019	1260	1107	1017	1076	1098	1301	1627	1376	1031	1214	1012	1130	14249	4.30%



187 Caseload Throughout the Years



The upward trend continues. This year, the average number of active homicide cases per month has been 41, with 3 of those being Death Penalty cases and 8 others being Potential Death Penalty cases

2020

American Bar Association Guidelines for Capital Cases

- Defense Teams are assembled and include
 - No fewer than two “qualified” attorneys
 - An investigator
 - A mitigation specialist
 - A member qualified to screen individuals for the presence of mental or psychological disorders or impairments
- National standards on defense services have consistently recognized that quality representation cannot be rendered unless assigned counsel have access to adequate “supporting services [including] secretaries[,] investigators[, and] . . . expert witnesses, as well as personnel skilled in social work and related disciplines to provide assistance at pretrial release hearings and at sentencings.” See ABA STANDARDS FOR CRIMINAL JUSTICE: PROVIDING DEFENSE SERVICES Standard 5-1.4 cmt. (3d ed. 1992).

Attorneys

Our Attorneys are the most visible members of our Public Defender Office. They are passionate, they are dedicated, and committed to achieving the best results for our clients. Their ability to handle the large caseload, to achieve the positive results that they achieve is also due to the support they receive from other members of the office.






TEAMWORK

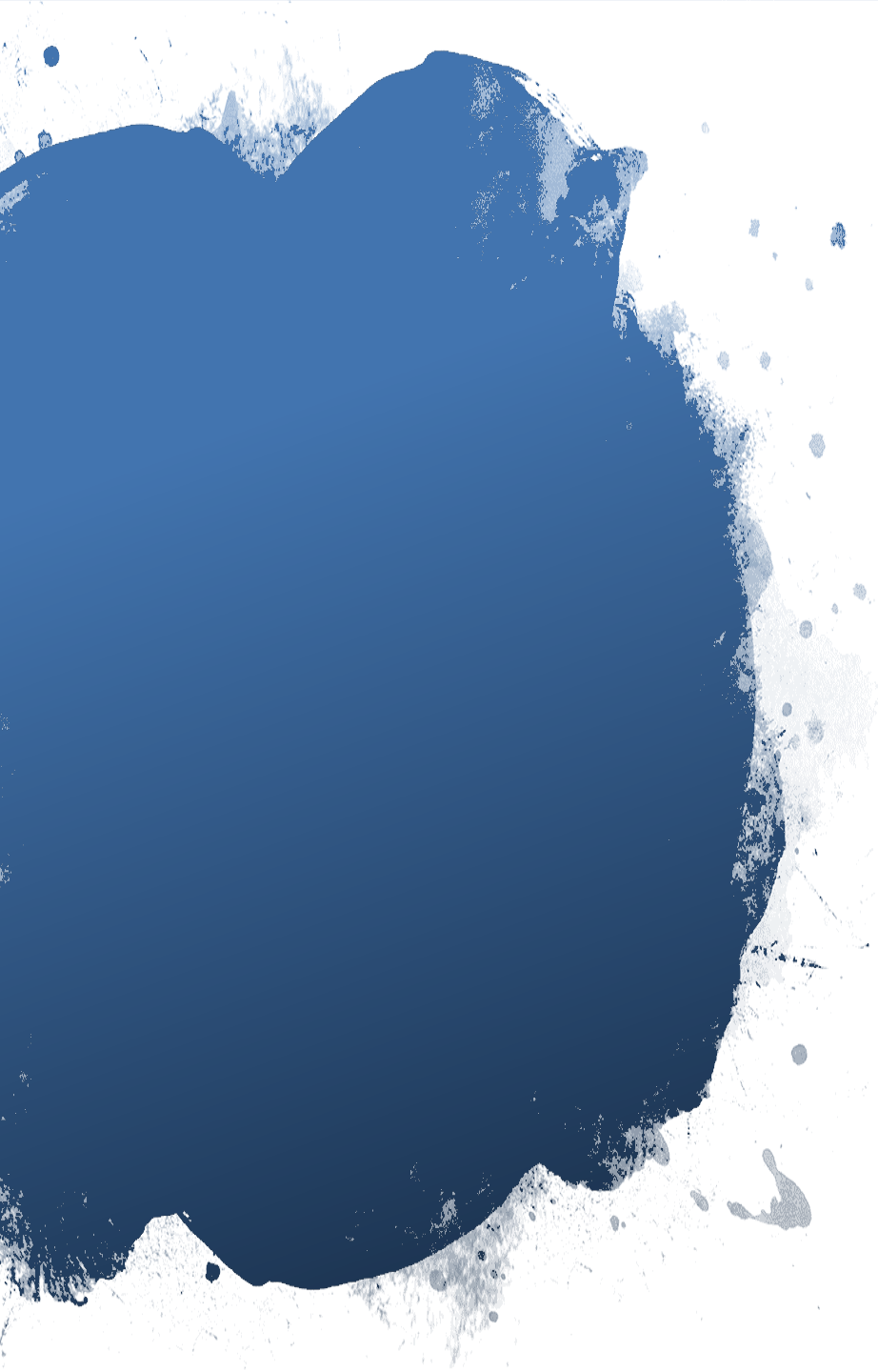


Interviewers

- 
- Check Case For a Conflict
 - If No Conflict Perform Interview
 - Enter Information Into Our Case Management System



Clerical Staff

- 
- Pull Electronic Calendar For Each Attorney
 - File Electronic Paperwork For Each File
 - Enter New Cases Into Case Management
 - Calendar Cases When Returned From Court
 - Close Out Cases
 - Answer Phones



Paralegals and Law Clerks

Civil/Criminal Functions

- Assist Attorneys in Court
- Interview Clients In Office and In Field
- Draft Comprehensive Reports
- Draft Motions
- Perform Legal Research
- Prepare Summaries of Cases
- Assemble Electronic Trial Binders
- Review Legal Documents
- Act as Liaison Between Other Agencies and Client



Special Note on Law Clerks

Our Paralegal Staff is supplemented by Law Students who assist with legal research and motion preparation. These students receive law school credit for performing these tasks and frequently become Public Defenders.

Student Interns

Management Attorneys have served on Advisory Boards for Law & Justice Programs throughout the County

Last year alone, 11 student interns were mentored, earning an Outstanding Partner in Education award from the Visalia Unified School District



Outstanding Partner in Education


This certificate is presented to

Lisa Bertolin-Muetting

by the Visalia Unified School District and Visalia Partners in Education, this 20th day of May 2019 in appreciation for your support and partnership in advancing Linked Learning and Career Technical Education in Visalia Unified. Your dedication to the staff and students of Visalia Unified is greatly appreciated.


Matt Seals
VPIE Chairman

Visalia
UNIFIED SCHOOL
DISTRICT
"We Create Futures"


Todd Otto, Ed.D.
Superintendent




Investigations



Investigators and Investigator Assistants

- Investigate The Most Serious Cases Including Death Penalty Cases
- Interview Witnesses
- Locate Witnesses
- Serve Subpoenas
- Write Interview Summaries
- Work With Experts Retained To Assist With Cases
- Investigate Misdemeanor and Low-Level Felony Cases (Investigator Assistants.)
- Assist in Obtaining Legal Documents
- Assist in the Civil Compromise Process
- Perform Forensic Extractions
- Testify in Court



Public Defender Social Worker

- Provide needs assessments before sentencing where creative alternatives or placements can be explored.
- Develop re-entry plans prior to release from custody
- Address medical care and mental health needs of incarcerated clients
- Assist clients to obtain housing, employment and education
- Assist clients to access medical, mental health, and substance abuse services.
- Assist attorneys in death penalty cases to develop a comprehensive historical picture of the client

Public Defender Web Presence



TULARE COUNTY PUBLIC DEFENDER

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Mission Statement



The Tulare County Public Defender is mandated by state law and the Constitution to provide competent, effective and ethical legal representation to people unable to afford private counsel in certain kinds of cases where life or liberty issues are at stake. Attorneys from the Public Defender office are court appointed to represent:

- defendants accused of crimes in misdemeanor and felony cases.
- juveniles in delinquency cases.
- mentally disabled individuals facing involuntary commitments to locked facilities (e.g., conservatorship proceedings).
- Defendants facing incarceration in contempt of court cases arising out of a failure to obey civil court orders.

These legal services are provided in a cost effective manner and at the same time ensures that the county criminal justice system operates efficiently and as much as possible achieves just results for Public Defender clients.

[↑ Back to top](#)

With Informative
Videos like “Never
Talk To The Police”

NEVER TALK TO THE POLICE!



Have Court Today?



New Laws That Impact The Office

❑ AB 1810 - Mental Health Diversion - PC 1001.36

- ❑ Effective June 27, 2018
- ❑ Provides for the diversion of individuals with Mental Disorders.
- ❑ Very vague
- ❑ No State Funding provided for Tulare County

❑ SB 1437 – New Felony Murder – PC 1170.95

- ❑ Effective January 1, 2019 & Fully Retroactive
- ❑ Limits 1st Degree Felony Murder liability for any aider and abettor who is not the actual killer
- ❑ Abolishes Non-Statutory 2nd Degree Felony Murder doctrine and the natural and probable consequences theory of aider/abettor liability for 2nd degree murder.
- ❑ Established a statutory mechanism [PC 1170.95] for previously convicted inmates to seek relief from prior convictions.
- ❑ No additional State Funding was provided to Tulare County to deal with the increased caseload caused by these cases

❑ SB 395 – Mandatory Attorney Consultation before a Youth may waive *Miranda* Rights

- ❑ Effective January 1, 2018
- ❑ Created ***Miranda Phone*** - Twenty-four hours a day, seven days a week an attorney from the Public Defender's office is available to receive calls from these youth who have been taken into custody by law enforcement.



Continuing Laws That Impact The Office

☐ Proposition 57 -The Public Safety and Rehabilitation Act of 2016

- ☐ Effective date is November 9,2016, and case law has established retroactive application
- ☐ For juvenile cases it eliminated direct filing by the prosecutor, and created a "Judicial Transfer Process" by which prosecutors can file a motion for transfer to adult criminal court in the case of a juvenile age 16 or 17 accused of any felony

☐ Proposition 64 -The Control, Regulation and Tax Use of Marijuana Act

- ☐ Effective November 9, 2016
- ☐ The Act has a resentencing provision which permits persons convicted of designated marijuana offenses to obtain a reduced conviction or sentence, if they would have received the benefits of the Act had it been in place when the crime was committed
- ☐ If the crime was for conduct now legal under the Act, there is a provision requiring the court to "dismiss and seal" the record of conviction

☐ Proposition 66 -The Death Penalty Procedures Initiative

- ☐ The effect of this proposition on this Public Defender's office is unknown
- ☐ if a trial court attempts to appoint this office to represent a defendant on Appeal, we have no personnel or funding to provide this representation
- ☐ This kind of representation is extremely difficult, costly and time-consuming

❑ AB Proposition 47 -The Safe Neighborhoods & Schools Act.

- ❑ Effective date is November 5, 2014, and it is fully retroactive
- ❑ The initiative created one new crime [PC459a shoplifting], reduces from felony to misdemeanor eight others, and set up a fully retroactive review and resentencing mechanism for those who are entitled to relief under its provisions
- ❑ sunset clause of, November 4, 2022, but Petitions for Resentencing may still be filed after the sunset date, upon a showing of good cause
- ❑ Caused increase in number of misdemeanors the DA files

❑ SB 261 -Penal Code section 3051 - Youth Offender Parole Hearings

- ❑ Effective January 1, 2016
- ❑ A youth offender parole hearing is a hearing by the Board of Parole Hearings for the purpose of reviewing the parole suitability of any prisoner who was 25 years of age or younger at the time of his or her controlling offense
- ❑ Adds to the attorney duties, as much of the evidence which would be useful and relevant for these hearings must be obtained at the time of the original state prison sentencing in the trial court.
- ❑ Statements and evidence from family members, friends, school personnel, faith leaders, and representatives from community-based organizations with knowledge about the individual before the crime should be preserved for review by the Parole board



Thank You