

PUBLIC DEFENDER'S OFFICE

REASON FOR INVESTIGATION

This report was not complaint driven, but rather it has been several years since the Tuolumne County Civil Grand Jury reviewed the office. A new Public Defender has been appointed since the last Grand Jury's review in 2002.

METHODOLOGY

The Tuolumne County Civil Grand Jury had three (3) separate contacts with the Public Defender's Office for a total of approximately six (6) hours. The first meeting was held before all 19 members of the Grand Jury. The second meeting consisted of several jurors who toured the Public Defender's Office where each Deputy Public Defender and support staff was interviewed. The final meeting was with the Public Defender for an extensive question and answer period.

COMMENDATIONS & REMARKS

Under the Sixth Amendment to the United States Constitution all individuals charged with a Federal crime shall "have the assistance of counsel for his defense." "The Supreme court has applied the protection of this amendment to the States through the Due Process Clause of the Fourteenth Amendment." As a result of these two (2) amendments, Federal, State, and local prosecutions must provide legal assistance to all individuals who can not afford legal representation.

There are two (2) systems widely used throughout the United States to represent those defendants who qualify for public assistance. The first system is for Federal, State, or local jurisdictions to hire private attorneys to represent defendants. The attorneys are paid for by that jurisdiction on an hourly basis.

The second system is a Public Defender's Office which is paid for by the jurisdiction in which the criminal prosecution is held. Tuolumne County uses this system and financially maintains the Public Defender's Office for legal assistance for those individuals who qualify. Occasionally both systems are used when there is more than one defendant involved with a single crime. The court will assign one defendant a public defender and then assign a private attorney to represent the other defendant. Under these circumstances the two systems avoids any conflict of interest with legal representation for the two defendants.

The Public Defender's Office is an integral part of the criminal justice system. The Public Defender's Office oversees court proceedings and attempts to assure impartial treatment of a defendant without regard for payment or fee. Attorneys in the Public Defender's Office do not get the opportunity to choose the clients they represent but rather the court appoints the Public Defender to represent the client. According to the Public Defender's Office the vast majority of their cases are adjudicated without trial. Attorneys in the Public Defender's Office are more interested in the fairness of the criminal process than the guilt of the defendant. They often work closely with, and

represent individuals the average citizen might avoid in public. On more than one occasion these attorneys have thwarted violent assaults from their clients.

Collectively, the Civil Grand Jury appreciates and commends the Public Defender, Deputy Public Defenders, and support staff for their unwavering ideology that supports and advances the judicial system in Tuolumne County.

FINDINGS

1. During the tour of the Public Defender's Office jurors found the office to be very organized. Each Deputy Public Defender had their own office with many case files either ready for court or in preparation for future court appearances. High morale and enthusiasm in the office was apparent. Each deputy was eager to discuss the particular type of cases they handled while maintaining a high degree of confidentiality for their clients. Several of the grand jurors noted the deputies made persuasive arguments relative to the particular cases the deputies handled. In the relatively short time with the Public Defender and deputies, several jurors either changed their views or accepted that legal arguments were not as black or white as they originally thought. All jurors felt the visits and interviews were highly informative and educational.
2. One member of the support staff spoke fluent Spanish which the Deputy Public Defenders found to be helpful with some of their clients. This member aspires to become court approved and recognized to legally interpret Spanish in a court of law.

RECOMMENDATIONS

1. For Finding 1, the Civil Grand Jury recommends Tuolumne County establish a competitive salary so the County can retain the high level of competence the Public Defender's Office currently maintains.
2. There is no recommendation for Finding 2.