

Program #15204 - Pretrial 5/2/2022

Department: District Attorney **Program Contact:** Kirsten Snowden

Program Offer Type: Existing Operating Program Program Offer Stage: As Proposed

Related Programs:

Program Characteristics:

Executive Summary

The Pretrial Unit deputy district attorneys (DDAs) are responsible for reviewing and issuing all misdemeanor cases other than those involving domestic violence. The Pretrial Unit also coordinates all judicial appeal cases, civil litigation, post-conviction cases, felony arraignments, habeas proceedings, fugitive and extradition matters, out of state material witness cases, public records requests, and appeals. Pretrial also oversees the administration of the grand jury process and bodyworn camera review.

Program Summary

The Pretrial Unit handles the first and last contacts that most individuals accused of a crime have with the judicial system. MCDA is mindful of that role and view these important decisions through an equity lens, cognizant of the disparate impacts on different parts of the community as victims of crime and criminal defendants. Pretrial DDAs review all non-domestic violence misdemeanor charges referred to MCDA and determine whether or not to initiate prosecution. On average this is about 1,000 cases per month (when not artificially suppressed by the pandemic). On all felony matters, a Pretrial DDA appears at arraignment and presents the State's position as to what level of restraint on a defendant's liberty, if any, is appropriate prior to trial. MCDA recognizes this as an extraordinary responsibility and often the most critical point of a case in terms of immediate collateral consequences on defendants who may or may not ever be convicted. Pretrial DDAs work to promote consistency in positions on release and ensure just and fair outcomes.

After criminal case convictions, the Pretrial Unit evaluates and, where necessary, litigates post-conviction relief cases involving claims of wrongful conviction or ineffective assistance of counsel. Pretrial also manages the steadily increasing flow of applications to seal criminal records. MCDA works to expeditiously advance eligible applicants' motions to have their criminal records expunged. This allows people who have exited the criminal justice system without incident for several years to avoid numerous collateral consequences that flow from having a criminal record. MCDA has modified its policies to reduce the number of defendants who would be denied expungement based on an inability to pay fines and fees in other matters. The result is equitable social outcomes for populations that are over-represented in the criminal justice system, and thus inequitably disadvantaged by it.

Pretrial handles many other duties that do not fit neatly into a trial unit, including fugitive and extradition matters, public records requests and appeals, criminal appellate coordination, administration and training for all three grand jury panels in Multnomah County, and advice and legal consultation with other attorneys on a wide range of topics.

Performance Measures								
Measure Type	Primary Measure	FY21 Actual	FY22 Budgeted	FY22 Estimate	FY23 Offer			
Output	Misdemeanor cases reviewed for prosecution	8,120	13,000	6,780	8,594			
Outcome	Number of applications received to set aside criminal convictions	1,461	2,400	4,792	10,000			

Performance Measures Descriptions

Staffing shortages at the Portland Police Bureau in combination with the pandemic resulted in far fewer misdemeanor cases being referred in FY 2022 than originally estimated

Legal / Contractual Obligation

ORS 138.081 - Appeals; ORS Chapter 34 - Writs of Habeas Corpus; ORS Chapters 132 and 135 - Grand Jury and pre-trial and felony arraignments.

ORS 8.670 - Proceedings before magistrates and grand jury. The district attorney shall institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when the district attorney has information that any such offense has been committed, and attend upon and advise the grand jury when required.

Revenue/Expense Detail

	Adopted General Fund	Adopted Other Funds	Proposed General Fund	Proposed Other Funds
Program Expenses	2022	2022	2023	2023
Personnel	\$3,029,151	\$0	\$3,009,928	\$0
Contractual Services	\$34,000	\$0	\$34,000	\$0
Materials & Supplies	\$16,500	\$0	\$29,000	\$0
Internal Services	\$436,114	\$0	\$474,713	\$0
Total GF/non-GF	\$3,515,765	\$0	\$3,547,641	\$0
Program Total:	\$3,515,765		\$3,547,641	
Program FTE	21.10	0.00	21.10	0.00

Program Revenues						
Total Revenue	\$0	\$0	\$0	\$0		

Explanation of Revenues

Significant Program Changes

Last Year this program was: FY 2022: 15204 Pretrial

The expungement workflow is in crisis due to an over 500% year-over-year increase in incoming motions caused by SB 397. SB 397 has proved catastrophic from a workflow perspective since its effective date of January 1, 2022. In the month of January for the previous five years, MCDA received an average of 144 expungement motions--versus 733 in January 2022. The ability of MCDA to accommodate this surge is also limited by the strict timelines contained in SB 397 for responding to these motions. It is mandatory that MCDA files responsive motions and conducts hearings, even on all ineligible applicants. It should also be noted that staffing shortages at the Portland Police Bureau in combination with the pandemic have resulted in far fewer misdemeanor cases being referred to the office for prosecution.