



Unequal Scales: California's Investment Disparity Between Prosecution and Public Defense



Office of the State Public Defender
Indigent Defense Improvement Division

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Introduction

California's criminal legal system relies upon the work of prosecutors and public defense attorneys. For every case filed by a prosecutor, a defense attorney takes on a commensurate – or greater – workload to defend the case. When an indigent person is criminally charged and faces the threat of incarceration both the United States and California Constitutions require the appointment of counsel. Duties of court appointed counsel – referred to as public defenders or indigent defense counsel throughout this report – include reviewing law enforcement reports, analyzing evidence, advising clients on direct and collateral consequences, and providing a legal defense throughout the litigation process. While prosecutors receive cases with significant investigation already completed by law enforcement, public defenders must undertake their own, separate investigation, requiring additional resources and effort. In addition to managing cases both in and out of court, public defenders must develop relationships of trust and competence with a large number of clients.

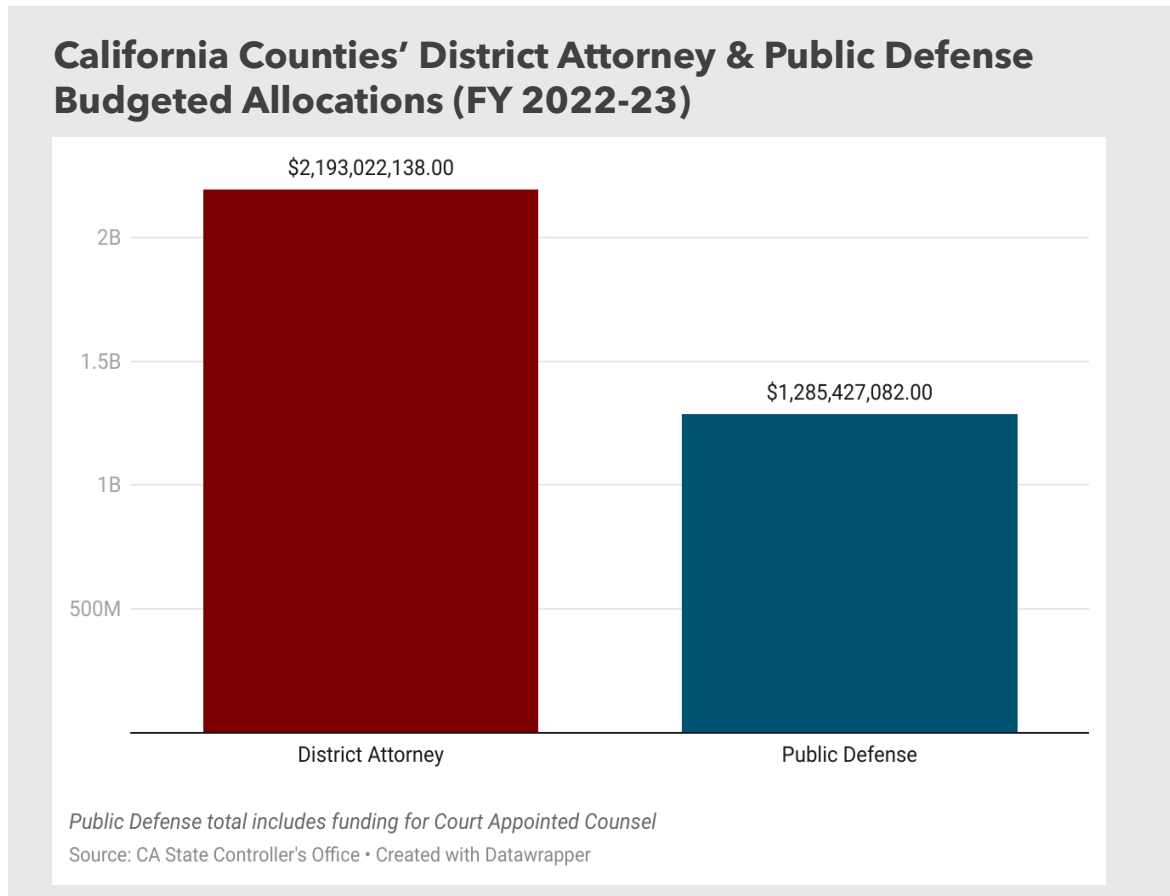
A well-functioning criminal legal system requires functional parity in the resources allocated to the prosecution and the defense; imbalanced resourcing risks skewing the adversarial process. In California, the state has delegated the provision of trial level indigent defense services to the counties, and each county independently designs and funds its own defense budget. Significant structural and funding imbalances have evolved between prosecutors and indigent defense providers with prosecution work consistently funded at significantly higher rates than public defense. While the primary funding of these systems is county based, the State does play a role in what additional funds it makes available to counties for these services.

This report reviews the current funding landscape for trial level prosecution and public defense in California, beginning with an overview of county-level allocations to these respective services and an examination of state-controlled revenue streams that support these functions. It then presents award amounts distributed through select state-administered grant programs between 2019 and 2025, comparing how these funds have been made available to prosecution and defense functions. The report concludes by highlighting how a small number of grant programs have demonstrated a more balanced funding model—and points to these examples as evidence that greater parity is possible.

By identifying and then addressing this imbalance in funding and resources, California can take a meaningful step towards a more just criminal legal system, where all individuals receive the promise of equal justice under the law, regardless of their financial means.

The Current Landscape: County Budgets

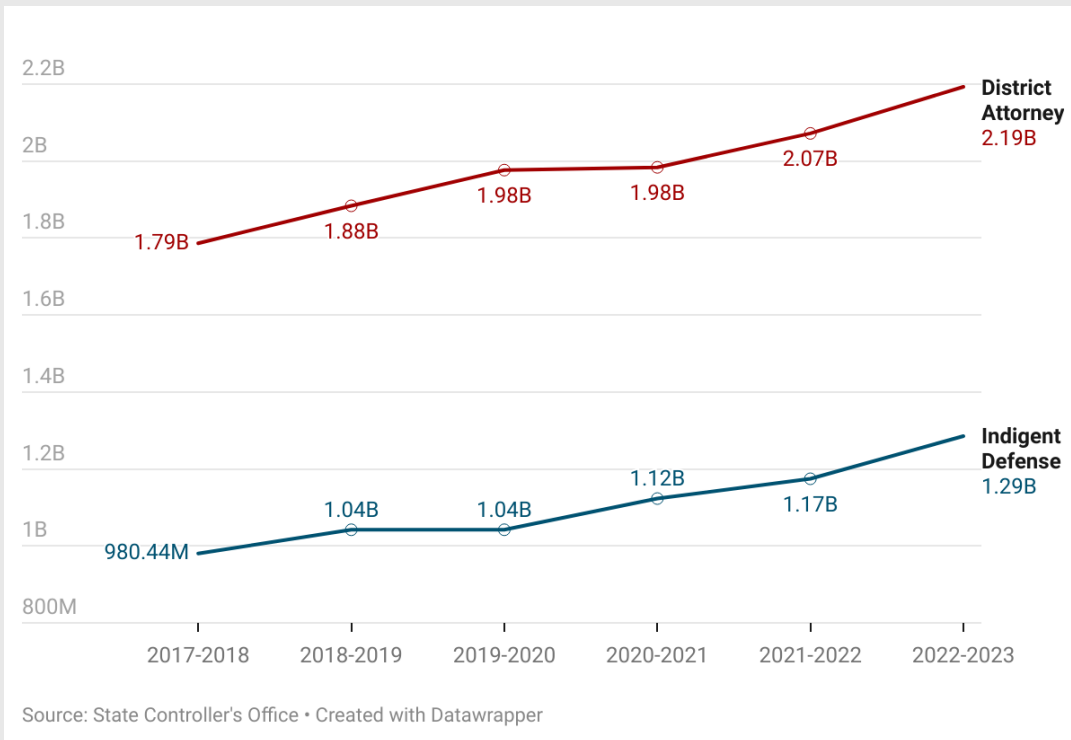
In California, the responsibility of funding prosecution and public defense falls to the counties. According to budgeted allocations, counties in California fund the prosecution at much higher levels than they do public defense. For fiscal year 2022-23, counties allocated almost \$2.2 billion in total funding to local district attorney offices and nearly *one billion dollars less* in funding for public defense.¹



This stark funding disparity between prosecution and defense in fiscal year 2022-23 is not an isolated occurrence but part of a longstanding historical trend. Between fiscal years 2017 and 2023, the annual disparity in total funding allocations for prosecution and defense across all California counties ranged between \$809 million (FY 2017-18) and \$940 million (FY 2019-20).

¹ See also <https://lao.ca.gov/Publications/Report/4623>.

California Counties' District Attorney & Public Defense Budgeted Allocations by Year



The chronic, significant disparity in how counties fund prosecution versus defense raises a critical question: how did we get here? These numbers reflect budgetary allocations based on all local, state, and federal resources available to counties. While much of this is driven by local politics and priorities, county budgets also rely upon external funding—such as state-provided revenue and competitive or discretionary grants. This makes it important to understand the broader state funding landscape that shapes these county-level allocations.

Prosecutors Have Access to a Larger Pool of State-Controlled Funds

Counties in California have access to several state-controlled funds that can be used to support prosecution or public defense. One key factor in understanding the disparities seen in county budgets is the way these state resources are structured and distributed.

The table below shows the amounts available, distributed, or reimbursed to counties under each identified state-controlled fund for the most recent year data was

available.² Ongoing state revenue streams include over \$115.9 million available to fund prosecution work that is not available for defense services (COPS, Asset Forfeiture, and CalWRAP), and almost \$5 billion raised under Proposition 172 that overwhelmingly supports local prosecution and law enforcement.³

Fund	Description	Amount Available/ Distributed	Prosecution	Public Defense
Proposition 172	Half-cent sales tax for public safety services. Primarily funds DA offices	\$4,740,432,520	✓	? ³
Citizens' Option for Public Safety (COPS) (LRF 2011)	Supports law enforcement, may be used for prosecutorial activities	\$109,503,573	✓	✗
District Attorney/Public Defender (LRF 2011)	Funds revocation proceedings for parole/post-release cases	\$81,149,669	✓	✓
Penal Code § 4750 Reimbursement Program	Reimburses counties for adjudication costs related to crimes committed in state prisons or by individuals in state custody	\$46,984,725	✓	✓
State Mandated Cost Reimbursement (SB 90)	Reimburses counties for certain state-mandated prosecution and defense costs (e.g., Sexually Violent Predator cases)	\$28,263,518	✓	✓
Asset Forfeiture	Counties receive a portion of proceeds from seized assets, with 10% directed to the prosecutorial agency responsible for processing forfeiture cases	\$4,128,437	✓	✗
CalWRAP	Reimburses prosecutorial agencies for costs related to the relocation and protection of witnesses deemed material to criminal prosecutions	\$2,354,000	✓	✗

Together, these state-controlled revenue streams form a key part of the broader funding landscape reflected in county budgets. The amounts shown in the table above represent distributions for a single fiscal year, but over time, the cumulative

² Note that the amounts shown represent sums allocated to a program's fund or reimbursed to counties for the most recent year data was available. Except for asset forfeiture, these totals do not represent the actual amount of funding flowing to district attorney or public defender offices but rather what is available within that fund to qualifying offices (e.g. the COPS \$109,503,573 represents dollars available to counties for prosecution work but from which county defense function was excluded).

³ The enabling language for the Proposition 172 fund requires monies be allocated to "public safety" departments, which would include public defense. The statute goes on to expressly identify some eligible departments, including district attorney offices, but does not explicitly list public defense. Given this ambiguous language, counties may interpret the fund as earmarked exclusively for prosecution and law enforcement. Here it is included as a prosecution/law enforcement focused fund based on current realities of its use, though there is a possibility that counties could allocate some of these funds to the defense.

effect of these allocations reinforces the imbalance seen at the local level. Understanding this structure is essential to understanding how counties arrive at persistent disparities in legal system funding—and why targeted state interventions may be necessary to correct course.

State-Administered Grant Programs Favor Prosecutorial Functions

While ongoing state revenue streams play a significant role in shaping county funding priorities, they are only part of the picture. Another key factor is the availability of state-administered grant programs, which counties can apply for to supplement prosecution and defense budgets.

This section identifies those state and pass-through grant programs that exclusively support the work of either prosecutors or indigent defense providers to demonstrate the role these grants may play in contributing to or reinforcing county level funding disparities between the prosecution and the defense.⁴

Between 2019 and 2025, a total of three indigent defense-exclusive grant programs were identified, representing a total of \$150.2 million available in defense grant funding. During this same period, 12 grant programs were identified that exclusively support prosecution work, totaling approximately \$1 billion in prosecution-only awards.

Notably, while the great majority of prosecution grants renew annually with no expiration, all available defense-related state grants have finite terms and all are set to expire by 2026.⁵ Absent the development of new, state-funded defense grants, the significant disparity between the state’s investment in prosecution versus defense services is likely to grow in upcoming years.

Grant Programs that Fund Defense

A total of three state-administered grant programs were identified in support of defense-related work during calendar years 2019-2025, representing just over \$150 million dollars of state investment in designated areas of indigent defense. These funds are all set to expire by 2026. The table below identifies these programs and the total amounts awarded. See the appendix for descriptions of each program.

⁴ The grant identification process included survey responses from the defense community, county budgets, web searches, and searches of common grant-related resources. Grant fund amounts were collected from state agency annual reports, requests for proposals, and/or via the California Public Records Act (CPRA).

⁵ The PDPP grant service period ended March 1, 2025, and the Racial Justice for All implementation grant service period ends February 2026. The grant service for the IDGP ended June 30, 2024.

Administrator	Grant Program	Total Award
BSCC	Indigent Defense Grant Program	\$9,800,000
BSCC	Public Defense Pilot Program	\$138,300,000
OSPD	Racial Justice for All Implementation grant	\$1,975,000
Total		\$150,075,000

Grant Programs that Fund Prosecution

A total of 12 state-administered grant programs were identified in exclusive support of prosecutorial work between 2019 and 2025, demonstrating an over one billion dollar investment by the state in prosecution programs.⁶ Notably, the majority of these programs fund and support specialized prosecutions, however, these grants provide no corresponding resources to indigent defense providers to address the resultant rise in defense workloads created by these increased prosecutions.

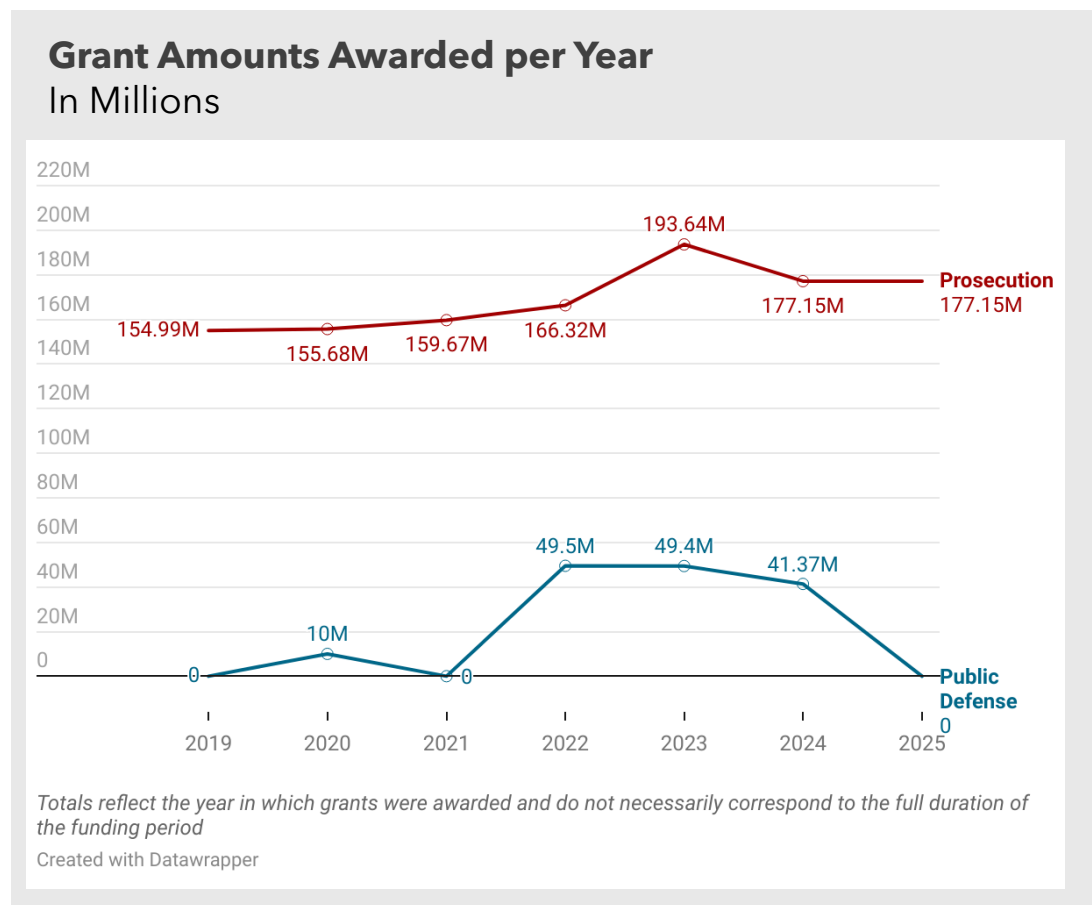
Administrator	Grant Program	Total Award
Office of Traffic Safety	Drug-Impaired Vertical Prosecution Program	\$58,549,853
BSCC	Organized Retail Theft Vertical Prosecution Program	\$24,868,293
Dept. of Industrial Relations	Workers' Rights Enforcement Grant	\$8,550,000
Dept. of Insurance	Workers' Compensation Insurance Fraud Program (WC)	\$293,346,305
Dept. of Insurance	Automobile Insurance Fraud Program (AUTO)	\$94,741,621
Dept. of Insurance	Organized Automobile Fraud Activity Interdiction Program (URBAN)	\$43,996,776
Dept. of Insurance	Disability and Healthcare Insurance Fraud Program (DHC)	\$35,031,000
Dept. of Insurance	High Impact Insurance Fraud Program (HIIFP)	\$3,000,000
Dept. of Insurance	Life and Annuity Consumer Protection Program (LACPP)	\$2,839,827
Cal OES	Violence Against Women Vertical Prosecution Program*	\$11,139,970
Cal OES	Victim Witness Assistance Program*	\$331,437,499
Cal OES	County Victim Services (XE) program*	\$99,941,442
Total		\$1,007,442,586

Distribution of Grant Funding

The chart below illustrates the distribution of state-administered prosecution and defense grants by year of award among the sample of grant programs included in

⁶ Given the structural differences between calendar years, and federal and state fiscal years, some totals may include amounts awarded in late 2018 or 2019. See the Appendix for information on distributions by year. A * denotes amounts distributed during calendar year 2025 were not available at the time of this report and are not included.

this report. There is a stark disparity in the amounts awarded for prosecution and public defense each year between 2019 and 2025, with annual gaps in grant funding ranging from \$116 million to \$155 million in favor of the prosecution.⁷



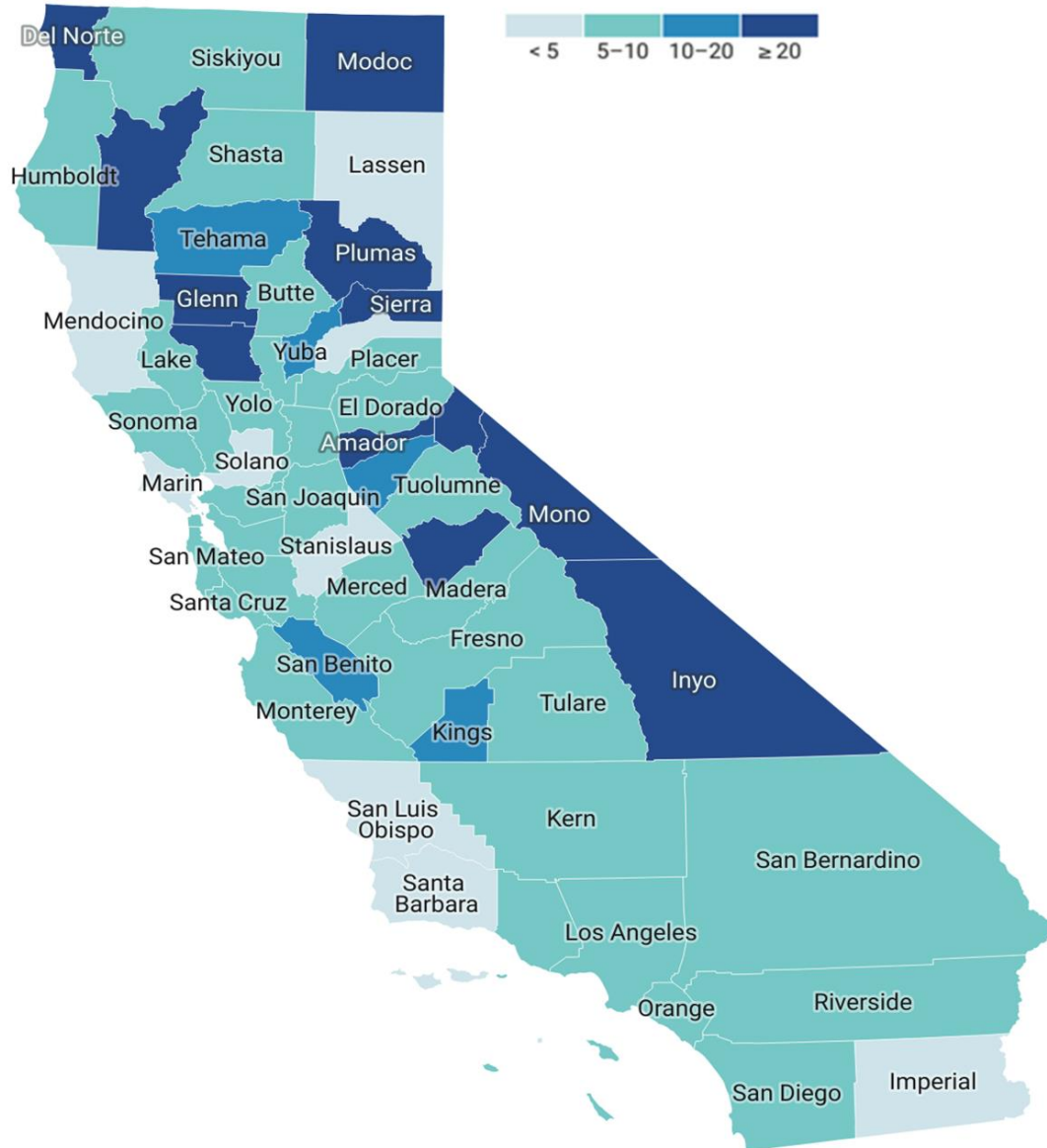
The following map illustrates the distribution of state-administered grant funding identified in this report, expressed as the ratio of funding awarded to prosecution versus defense. Thirty-two counties had ratios between five and 10, meaning that in each of those counties, prosecution services received five to 10 times more grant funding than indigent defense. In five counties, prosecution functions received between 10 and 20 times more grant funding than public defense. The remaining 12 counties had ratios of 20 or more – indicating that prosecution received at least 20 times more grant funding than indigent defense in each of those counties.⁸

⁷ Prosecution-designated grant program awards for 2025 were unavailable. Prior year allocations were used as an estimate given the stable nature of grant funding for prosecution-designated programs.

⁸ Note that this disparity map only relates to *grant funding* and not to overall funds allocated to either prosecution or defense. A county may have a low disparity rate in this map simply because it does not receive any grant funds, but there may remain a significant disparity in the total funding allocated to the prosecution versus the defense in that jurisdiction.

Ratio of Prosecution to Defense Grant Funding by County

This map shows how much more grant funding is directed toward prosecution compared to defense functions in each California county, based on grant programs identified in this report. Higher ratios reflect greater funding imbalances. For example, a ratio of 10 means that prosecution received ten times more grant funding than defense.



Created with Datawrapper

Many of the grant programs identified in this report fund specialized prosecution in areas such as insurance fraud or retail theft, and/or endorse specific models of prosecution (e.g. domestic violence and DUI vertical prosecution). Presumably this is to encourage and increase prosecution in these areas or in recognition of the specialized skills needed in these kinds of cases. However, no corresponding grants are available to indigent defense to investigate and then defend these increased and specialized prosecutions. This widens the disparity in resources and workloads as indigent defense providers must respond to greater numbers of prosecutions and/or more complicated prosecutions without any commensurate increase in resources or staffing to meet their constitutional and statutory obligations to provide a defense.

Spotlight: Grant Programs that Fund Prosecution & Defense

Some state-administered grant programs are available to both prosecution and defense offices. By making funds explicitly available to both sides of the criminal legal system, these programs create the opportunity for more balanced resource distribution and the development of initiatives that improve justice outcomes. Expanding such dual-purpose grants or establishing grant funds intended to provide balanced funding across prosecution and defense operations could generate system-wide efficiencies and strengthen the effectiveness and efficacy of the criminal legal system.

Proposition 47 Grant Program

Administered by the Board of State and Community Corrections (BSCC), the Proposition 47 Grant Program funds mental health treatment, substance use disorder services, and diversion programs for individuals involved in the criminal legal system. Public agencies - *including both prosecution and public defense offices* - are eligible to apply and must partner with community-based organizations, passing through at least 50 percent of awarded funds.

As of 2024, the BSCC has awarded funding across four cohorts. In Cohort II (2019), the program awarded approximately \$2.7 million for prosecution and \$2.1 million for defense. In Cohort III (2022), prosecution received approximately \$4.6 million, while defense received approximately \$6.3 million. In Cohort IV (2024), approximately \$6.20 million was awarded for prosecution and \$4.1 million for defense.⁹

⁹ Amounts were approximated based on available data. Where subrecipient distributions were unclear, estimates were used and may not reflect final expenditures. See the appendix for estimated allocations.

County Resentencing Pilot Program

The County Resentencing Pilot Program, launched in 2021, is a three-year initiative supporting prosecutor-initiated resentencing efforts under Penal Code section 1172.1. Administered through the Corrections Planning and Grants Program, the pilot funded nine counties from 2021-2024. *Each participating site included both a district attorney's office and a public defender's office, with the option to involve a community-based organization.* District attorneys were required to develop written policies outlining the criteria and process for identifying and recommending cases for resentencing. A total of \$18 million was appropriated to support implementation across the nine counties. Approximately \$9.1 million was awarded for prosecution and \$5.3 million for defense.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is a federally funded initiative administered by the BSCC to support a wide range of criminal justice strategies in California, including prosecution, public defense, law enforcement, mental health, substance use disorder treatment, prevention, and reentry. The BSCC has administered JAG funds through multiple award cycles, including a 2019-2022 cycle and the current 2023-2026 cycle, which includes 25 counties. Awards are implemented over a three-year period with an additional six months for final reporting. In the current cycle, large counties received up to \$6 million, while smaller counties received approximately \$660,000 each. In 2019, we estimated the Byrne JAG Program awarded approximately \$1.6 million for prosecution and \$179,000 for defense. In 2023, an estimated \$6.4 million was awarded for prosecution and \$18.4 million for defense.

Balanced Investment Is Possible

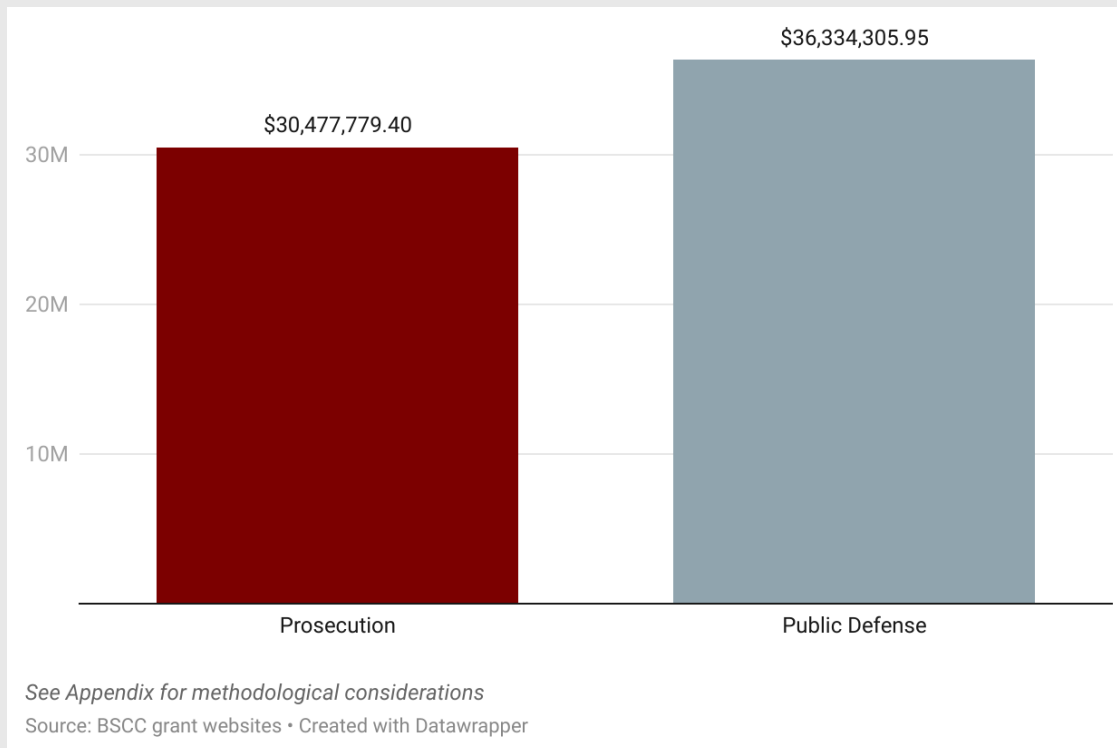
The chart below reflects approximate total funding awarded to prosecution and indigent defense across these three major, equally available state-administered grant programs – Byrne JAG, Proposition 47, and the County Resentencing Pilot Program – between 2019 and 2024. Award amounts were categorized based on lead agency type and documented use. When mixed or collaborative projects were identified, funding was proportionally divided.¹⁰

While these programs may not have been originally designed to achieve parity, the combined totals – \$30.5 million for prosecution and \$36.3 million for indigent

¹⁰ See the Appendix for estimated award distributions for each program and function.

defense – demonstrate that balanced investment is possible when state resources are structured to include both sides of the legal system.

Total Award Amounts Across Equally Available Grant Programs (2019-2024)



Conclusion

California counties, who are responsible for funding their public defense systems, consistently structure their criminal legal system budgets to produce an annual statewide disparity of nearly one billion dollars between prosecution and defense through their funding allocations. While a critical part of addressing this imbalance lies at the county level, an examination of how state-controlled funds and grant programs either perpetuate or mitigate this inequity can help to identify solutions. The data collected here demonstrates how systemic funding disparities between prosecution and defense at the county level are in-part shaped and reinforced by state-level funding structures.

Prosecution offices benefit from a well-established state funding infrastructure that includes dedicated state revenue streams and broad access to at least one dozen renewing grant opportunities. These state-supported mechanisms allow prosecutors

to hire additional personnel, develop specialized units, and access technical assistance and training.

By contrast, indigent defense providers remain comparatively underfunded and under-resourced. They are excluded from key state funding streams and face limited access to state-administered grant programs. Without equal resources, public defenders operate at a structural disadvantage in an adversarial legal system – required to perform parallel functions with fewer tools, smaller staff, and consistently rising workloads.

This disparity is visible in every county across the state. Among the grant programs analyzed, 32 counties were awarded between five and 10 times more in grant funding for prosecution than defense, and in 12 counties, the prosecution received at least 20 times as much as indigent defense in state grant monies.

By contrast, this report also highlights one promising alternative: state administered grants equally open to the prosecution and the defense. The combined funding totals across Byrne JAG, Proposition 47, and the County Resentencing Pilot Program - three such equally available programs - demonstrate that more balanced investment is possible when funding is expressly open to both the prosecution and the defense. While these programs may not have been originally designed to achieve parity, they provide one piece of a roadmap toward more equitable funding design that also allow counties flexibility to tailor funding to local needs. Another step toward greater equity would be corresponding funding – for every state grant allocating resources to increase or deepen prosecution, the state concurrently allocates funding to address the defense needs resulting from the same, in this way covering the true cost of the measure.

The U.S. and California Constitution create a duty to ensure that every indigent person who is prosecuted has competent counsel and due process. For California to uphold its commitment to access to justice for all, it must ensure that state funding structures do not contribute to inequities that may exist at the local level. Equitable state funding structures and awards can ensure that justice is available to all Californians, regardless of where they live or how much money they make.

Appendix

Content Area	Data Description / Source	Link / Visualization
Methodology Overview	An overview of methodological considerations for grant program identification and selection.	See Methodology
County Budgets	Data retrieved from the State Controller’s published county raw data spreadsheets. Total governmental funds for district attorney, public defense, and court appointed counsel (Tab 24).	SCO County Data
State-Controlled Revenues	Revenue streams like Proposition 172, PC 4750, Asset Forfeiture, etc. included for their impact on county-level DA and PD budgets.	View Summary
Indigent Defense Grants	Grant programs limited to public defender or indigent defense offices (e.g., PDPP or Racial Justice Act Grants).	See Grant Programs
Prosecution Grants	Grant programs awarded only to district attorney or prosecutorial offices (e.g., Vertical Prosecution Grant).	See Grant Programs
Mapping Data	Data used to populate the values for the map on Page 11 and an additional map visualizing both the ratio and magnitude of disparity.	Alternate Map and Mapping Data
Spotlight Programs	Selected dual-eligible or balanced-access grants, such as Prop 47 or the County Resentencing Pilot (includes award estimates approximated by OSPD where applicable).	Prop 47 County Resentencing Pilot Program Byrne JAG
Excluded Programs	List of programs excluded from report.	See List