

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM: 3.28
(ID # 23177)

MEETING DATE:
Tuesday, October 17, 2023

FROM : PUBLIC DEFENDER:

SUBJECT: PUBLIC DEFENDER'S OFFICE: Ratify and Approve the Agreement with the State Bar of California for CARE COURT Program and Authorize the Public Defender to sign the Agreement, All Districts. [Total \$4,981,940, 100% State Funds] (4/5 vote required)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Ratify and Approve the Standard Agreement with the State Bar of California to accept funds for the Community Assistance, Recovery, and Empowerment (CARE) Court Program in the total amount of \$4,981,940 (Grant Agreement) for two years through June 30, 2025;
2. Authorize the Public Defender to sign the Agreement on behalf of the County and administer all actions necessary to accept funds related to the administration of this grant, and sign any necessary related documents, certifications, reports, and future ministerial amendments to the Grant Agreement, based on the availability of fiscal funding and as approved as to form by County Counsel.
3. Direct the Auditor Controller to make the budget adjustments detailed in Schedule A.

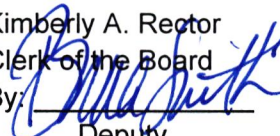
ACTION: 4/5 Vote Required


Steven Harmon, Public Defender 9/27/2023

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Washington, seconded by Supervisor Spiegel and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Gutierrez
Nays: None
Absent: None
Date: October 17, 2023
xc: Public Defender

Kimberly A. Rector
Clerk of the Board
By: 
Deputy

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STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$2,490,970	\$2,490,970	\$4,981,940	\$0
NET COUNTY COST	\$0	\$0	\$0	\$0
SOURCE OF FUNDS: 100% State Bar Funds			Budget Adjustment: Yes	
			For Fiscal Year: 23/24-24/25	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Community Assistance, Recovery, and Empowerment Act (CARE Act) established a new non-criminal court proceeding in which judges may order mental health treatment and support services (behavioral health counseling, housing assistance, medically necessary stabilizing medication, and other social services) to those with untreated schizophrenia and other psychotic disorders. CARE Court or CARE process is the name given to these civil proceedings. The Public Defender’s Office represents those ordered to participate in CARE Court.

The CARE Act took effect on January 1, 2023. Implementation by the counties is set to take place in 2 stages. The first 7 counties must begin implementation by October 1, 2023. Riverside County is one of the first 7 counties. Implementation for all other counties is required by December 1, 2024.

A person qualifies for CARE Court process if they meet all the following criteria:

- Over 18 years old.
- Currently experiencing a severe mental illness. Has a diagnosis identified in the disorder class: schizophrenia spectrum and other psychotic disorders.
- Not clinically stabilized in an on-going voluntary treatment.
- Participation in a CARE plan or CARE agreement would be the least restrictive alternative necessary to ensure the person’s recovery and stability.
- It is likely that the person will benefit from participation in a CARE plan or CARE agreement.
- And, at least one of the following is true:
 - (1) The person is unlikely to survive safely in the community without supervision and the person’s condition is substantially deteriorating.
 - (2) The person is in need of services and support in order to prevent a relapse or deterioration that would likely result in grave disability or serious harm to the person or others.

A respondent in CARE Court proceedings has the right to be represented by counsel at all stages of the proceeding, regardless of ability to pay. The court should first look to appoint a

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nonprofit qualified legal services project and support center that has agreed to accept appointments for CARE Court. However, in instances where no legal services project and support center has agreed to accept these appointments, the statute calls for the appointment of a public defender.

A public defender appointed to represent a respondent is responsible for representing the respondent and *their stated interests*. Unless replaced by respondent's own counsel, the appointment of a public defender for representation includes representing the respondent in any CARE Court proceedings, matters related to CARE agreements and CARE plans, and appeals.

Impact on Residents and Businesses

There is no impact on residents and businesses.

Additional Fiscal Information

This grant is State Bar funded through the Legal Services Trust Commission. The Department did not include funding for this grant in the FY 23/24 budget; therefore, a Schedule A budget adjustment is attached to add \$2,490,970 in expenditures and revenue to the budget. To support the grant, the Public Defender's Office intends to hire one Supervising Deputy Public Defender, two Deputy Public Defenders, four Social Services Practitioners, four Legal Support Assistants, and two Paralegals. The Social Service Practitioners will be out in the field, contacting the respondents which would require four vehicles and mobile office/computer equipment. No additional County general funds will be required.

ATTACHMENTS:

- **Schedule A** – Budget Adjustment
Program Agreement - Riverside County Public Defender CARE COURT Program Agreement with the State Bar of California


Heydee Koury, Sr Accountant - Auditor 10/4/2023


Rebecca S Cortez, Principal Management Analyst 10/5/2023


Michelle Paradise, ACEO 10/8/2023

FUNDS AGREEMENT

THE STATE BAR OF CALIFORNIA

**OFFICE OF ACCESS & INCLUSION – CARE COURT FUNDS
2023 – 2024**

This Funds Agreement (“Agreement”) is made as of October 1, 2023, (“Effective Date”) between The State Bar of California, a California public corporation, with a principal place of business at 180 Howard Street, San Francisco, CA 94105 (“State Bar”), and Law Offices of the Public Defender, County of Riverside, a county public defender office or equivalent entity funding public defender services on behalf of a county, with a principal place of business at 4075 Main Street Suite 100, Riverside, CA 92501 (“Recipient”). This Agreement sets forth the terms and conditions for receiving the Funds. State Bar and Recipient are sometimes hereinafter referred to individually as a “Party,” and together as the “Parties.”

RECITALS

- A. Pursuant to California Business and Professions Code Section 6210-6228 (“Act”), and Title 3, Division 5, Chapter 2 of the Rules of the State Bar of California (“Rules”), a Legal Services Trust Fund Program (“Program”) has been established in the State of California. The Office of Access & Inclusion administers the Program. The Program includes an Equal Access Fund (“Fund”) that is funded pursuant to the annual California Budget Act and the Uniform Civil Fees and Standard Fee Schedule Act of 2005 (“Fee Schedule Act”).
- B. In 2022, Senate Bill 1338 (“S.B. 1338”) was enacted, creating the Community Assistance, Recovery, and Empowerment (CARE) Court Program (Welfare and Institutions Code sections 5970-5987). In 2023, Senate Bill No. 101 (“S.B. 101”) was enacted, allocating \$20,400,000 (“CARE Court Fund”), as amended in 2023 by Senate Bill No. 104 (“S.B. 104”), to be distributed by the Judicial Council of California through the State Bar via grant awards to qualified legal services projects and unawarded funds, if any, to public defenders to provide legal counsel pursuant to subdivision (c) of Section 5976 of the Welfare and Institutions Code for representation in CARE Act proceedings, matters related to CARE agreements, and CARE plans by October 1, 2023 (“CARE Court Legal Services”). The CARE Court Fund was to be distributed by the State Bar to qualified legal services projects who were found to be eligible through a competitive grant process. After which, the Legal Services Trust Fund Commission shall provide any funds not awarded to qualified legal services projects for representation in CARE Act proceedings, matters related to CARE agreements, and CARE plans in each county to that county’s public defender office to provide those services.
- C. Recipient is a county public defender office—or, where a county has no public defender office, an equivalent entity designated by a county—that will provide representation in CARE Act proceedings, matters related to CARE agreements, and CARE plans.
- D. NOW, THEREFORE, in consideration of covenants and agreements herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound hereby, agree as follows:

AGREEMENTS

1. Pursuant to S.B. 101, S.B. 104, S.B. 1338, the Act, Rules, and Fund, and in reliance upon the promises and representations made by Recipient, the State Bar provides to Recipient \$2,490,970 ("Funding Amount").
2. The funding period will commence on October 1, 2023 ("Start Date") and end on June 30, 2024 ("End Date," with the period from the Start Date to the End Date known as the "Funding Period"). Recipient may, however, report qualifying spending retroactive to August 1, 2023. Recipient must be available to be appointed to represent respondents in CARE Act proceedings in the County of Riverside for the period of October 1, 2023, to June 30, 2024.
3. The Act, S.B. 101, S.B. 104, S.B. 1338, Fee Schedule Act, Rules, are incorporated into this Agreement as if set forth in their entirety in this Agreement. Recipient agrees to comply with the Act, S.B. 101, S.B. 1338, Fee Schedule Act, Rules, including reporting to the State Bar all expenditures, outcomes, and other data necessary pursuant to Welfare and Institutions Code sections 5984, 5985, and 5986. Recipient agrees to comply with all lawful statutes, rules, regulations, guidelines, policies, instructions, and similar directives pertaining to the Program and the Fund (collectively, "Directives") including without limitation, any Directive adopted after the Effective Date. Recipient further agrees to comply with all applicable state and federal civil rights and anti-discrimination laws, including but not limited to the Fair Employment and Housing Act, the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990.
4. Recipient represents and warrants that its Chief Public Defender or similarly empowered staff have read and understand this Agreement, the Act, S.B. 101, S.B. 1338, and Rules. Recipient has familiarized appropriate staff with the requirements of this Agreement, the Act, S.B. 101, S.B. 1338, and the Rules.
5. Pursuant to Welfare and Institutions Code section 5981.5(b), the State Bar will retain control over the distribution of the Funding Amount to Recipient. It will pay the Funding Amount in one installment to be paid as soon as reasonably practicable after October 1, 2023. However, under no circumstances will the State Bar bear any liability to Recipient or to other persons or entities for delays in payments.
6. Termination.
 - a) Notwithstanding any other provision of this Agreement regarding the payment of the Funds, Recipient acknowledges that the Funding Amount and all payments thereof shall be made from funds received by the State Bar pursuant to S.B. 101 ("State Funding"), and are contingent upon the availability and sufficiency of such funds, as determined by the State Bar in its sole discretion. Consequently, Recipient shall not be guaranteed any specific dollar amount in funds, or any funds at all, if funds received pursuant to State Funding are insufficient or unavailable to the State Bar. This Agreement shall terminate automatically if State Funding becomes unavailable. The State Bar will not assume any liability whatsoever to Recipient for any failure to pay the Funding Amount or any part thereof that results because funds are insufficient or unavailable.

- b) The State Bar may terminate for cause, without prejudice to State Bar's right to recover any Funding Amount previously paid, if Recipient fails to comply with the provisions of this Agreement. The termination shall be effective five (5) business days after the State Bar sends written notice of termination to Recipient pursuant to Section 22.
 - c) This Agreement will terminate automatically in the event of the bankruptcy or insolvency of either Party.
7. This Agreement does not impose on the State Bar any obligation to provide Recipient funds in excess of the Funding Amount or beyond the end of the Funding Period.
 8. Recipient shall spend the Funding Amount for the purposes and in the manner set forth in S.B. 101 and S.B. 1338.
 9. Recipient will notify the State Bar within five (5) business days after any change in any material fact affecting Recipient's eligibility to receive funds
 10. Recipient will not make any misrepresentations or misstatements of fact in any communications or report to the State Bar. In the event Recipient later discovers that any statement made to the State Bar is no longer true, Recipient will notify the State Bar within five (5) business days after discovering that the statement is no longer true.
 11. Recipient will notify the State Bar within five (5) business days of Recipient's awareness of any of the following events: (1) a decision to change Recipient's name, merge or consolidate with another entity, cease operations, or cease the activities funded by the Funding Amount; (2) a decision to close or relocate any main or branch office; (3) significant management changes, including the departure of and/or hiring or appointment of the Chief Public Defender or equivalent position; (4) Recipient becomes insolvent or is in danger of becoming insolvent within three months; (5) a monetary judgment, settlement, sanction, penalty, or force majeure event that will substantially impact Recipient's delivery of legal services; (6) Recipient or any of Recipient's officials (e.g., officers and executive team members) or employees with control over finances or financial management responsibilities is investigated for or charged with fraud, misappropriation, embezzlement, theft, or any similar offense, or are suspended, disciplined, or delicensed by a bar or other professional licensing organization; or (7) Recipient is investigated or audited by any provider of funds to Recipient.
 12. The Act, S.B. 101, S.B. 104, S.B. 1338, Fee Schedule Act, Rules, and Directives set forth requirements concerning the use of Program funds and payment for subcontracts to provide legal services ("Subcontracted Services"). Recipient acknowledges its obligation to inform all providers of Subcontracted Services of the requirements of the Program and to obtain from all Subcontracted Services providers a written agreement to comply with all requirements of this Agreement as if that provider is the Recipient. Recipients shall take reasonable steps to monitor the compliance of any providers of Subcontracted Services with the requirements of the Program and this Agreement. Recipients shall immediately report to the State Bar any noncompliance by any providers of Subcontracted Services with the requirements of the Program and/or this Agreement. Recipient assigns to the State Bar all rights that Recipient has or shall acquire to inspect the premises and records of providers of Subcontracted Services to ensure compliance with Program; provided, however, that disclosure of client-identifying information by a provider of Subcontracted Services shall be governed by the provisions of Section 15 above.

13. Recipient shall not represent or in any way suggest that it may obligate or pledge the credit of the State of California or of the State Bar.
14. Any notices to be given by either Party to the other must be in writing, and both emailed and delivered personally or by first-class, certified, registered, or overnight mail addressed to the Parties at the addresses stated below:

State Bar: The State Bar of California
180 Howard Street
San Francisco, CA 94105

Attention: Rocio Avalos, Program Director
Office of Access & Inclusion
rocio.avalos@calbar.ca.gov

Recipient: Law Offices of the Public Defender, County of Riverside
4075 Main Street, Suite 100
Riverside, CA 92501
slharmon@rivco.org

Attention: Steven Harmon
Chief Public Defender

Each Party may change the notice address appearing above by giving the other Party written notice in accordance with this Section. Such changes in address for purposes of giving notice will be effective two (2) weeks after giving notice of the change in address.

15. This Agreement, together with the Act, S.B. 101, S.B. 1338, Fee Schedule Act, Rules, Directives, and Attachment A contains and constitutes the entire agreement between the State Bar and Recipient regarding the State Bar's payment of Equal Access Fund monies to Recipient pursuant to S.B. 101 and supersedes all prior negotiations, representations, or agreements regarding the State Bar's payment of Equal Access Fund monies to Recipient pursuant to S.B. 101, either written or oral.
16. The Recipient shall neither assign nor transfer any rights or obligations under this Agreement without the prior written consent of the State Bar. This Agreement shall be binding upon agents and successors of both Parties.
17. No amendment, alteration or variation of the terms of this Agreement will be valid unless made in writing and signed by both of the Parties.
18. This Agreement was made and entered into by the Parties in the State of California and shall be construed according to the laws of the State of California. Any action or suit brought to interpret, construe, or enforce the provisions of this Agreement shall be commenced in the Superior Court of the State of California, in and for the County of San Francisco.
19. Each Party represents that it has full power and authority to enter into and perform this Agreement and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement. Each Party further

acknowledges that its Directors, Trustees, or similarly empowered persons have read this Agreement, understand it, and agree to be bound by it.

20. No term or provision herein shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the Party claimed to have waived or consented. No consent or waiver by one Party to a breach of this Agreement by the other Party, whether expressed or implied, shall constitute consent to, waiver of, or excuse for any other, different, or subsequent breach. No amendment, consent, or waiver on behalf of the State Bar shall be binding upon the State Bar unless it is executed by the Executive Director of the State Bar or the Executive Director's designee.
21. Each provision of this Agreement shall be separately enforceable, and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.
22. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which, together will constitute but one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile, email or any other reliable means will be effective for all purposes as delivery of a manually executed original counterpart. Either Party may maintain a copy of this Agreement in electronic form. The Parties further agree that a copy produced from the delivered counterpart or electronic form by any reliable means (for example, photocopy, facsimile, or printed image) will in all respects be considered an original.

[Signatures Follow]

By executing this Agreement below, the Parties agree to its terms and conditions. This Agreement has been executed and delivered by the duly authorized representatives of State Bar and Recipient as of the date first written above.

THE STATE BAR OF CALIFORNIA

RECIPIENT

Date: September 21, 2023

Date: September 20, 2023

By: E-SIGNED by Steve Mazer
on 2023-09-21 16:44:14 PDT

By: E-SIGNED by Steven Harmon
on 2023-09-20 08:18:05 PDT

Steve Mazer

Steven Harmon

Name of State Bar Executive Office

Print Name of Authorized
Representative

Chief Administrative Officer

Print Title of State Bar Executive
Officer

Print Title of Authorized
Representative