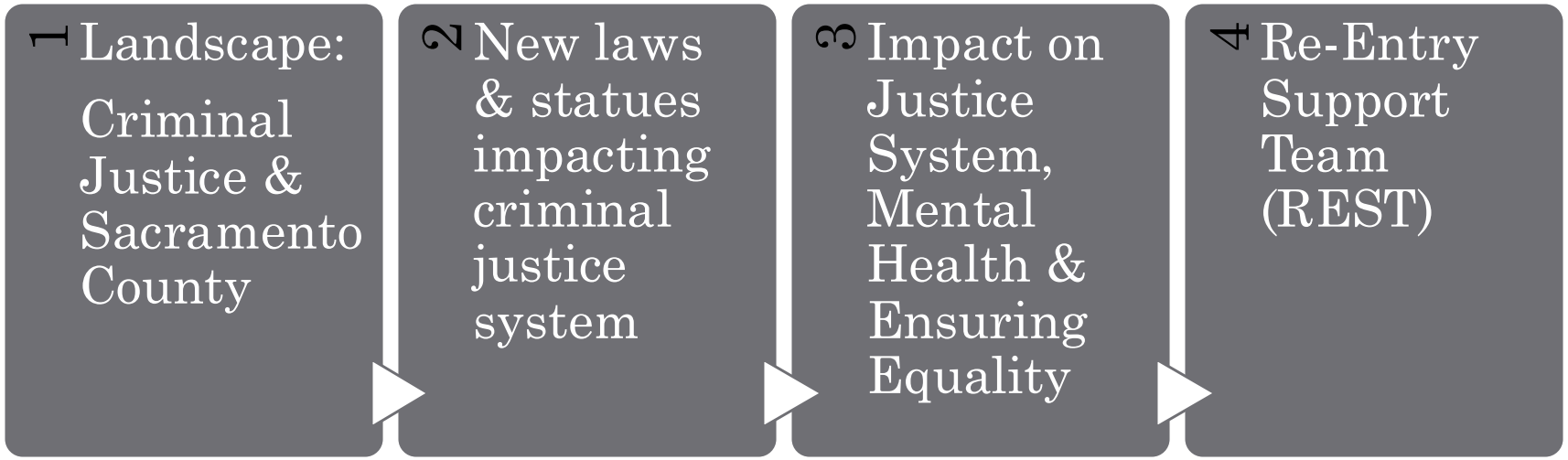
Responding to Criminal Justice Reform, Mental Health & Equality through an Innovative Re-Entry Support Team.

Re-Entry Support Team (REST): Developed and created to support Conflict Criminal Defenders/Pro Per Individuals/Private Attorneys and Clients.

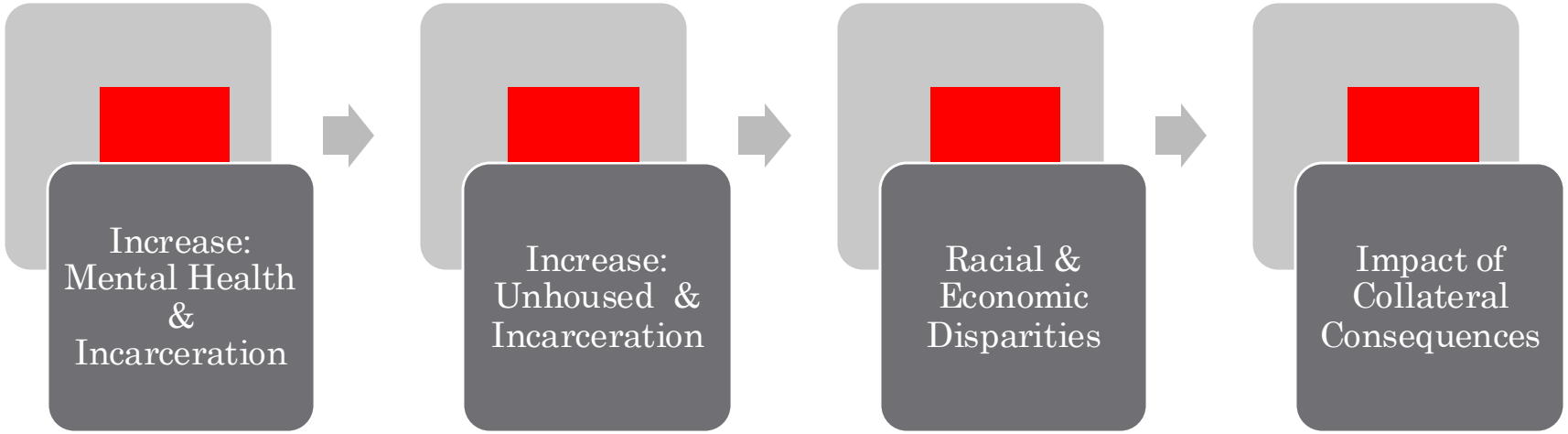
April 18, 2025: Tiffanie Synnott, Acting Director CCD



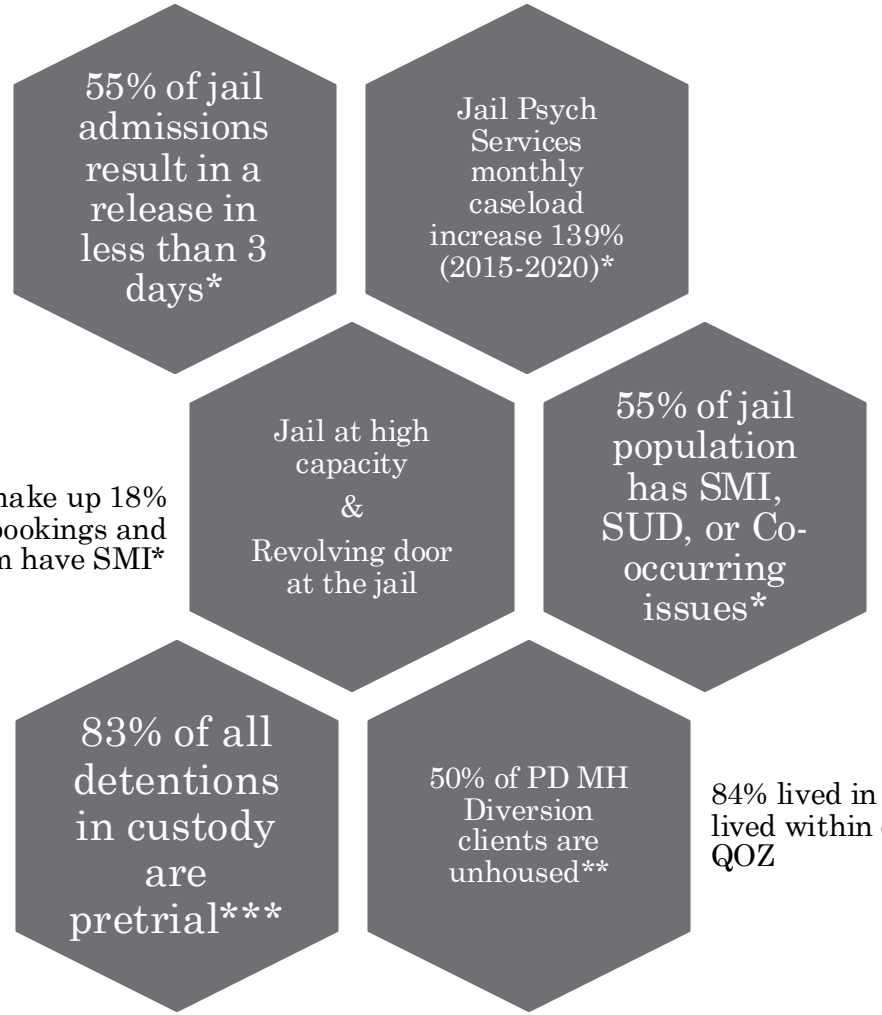
Understanding the need for REST.

Landscape: Criminal Justice & Sacramento County

What led and drives the implementation of a Re-Entry Support Team (REST) for CCD



Landscape: Criminal Justice and Sacramento County

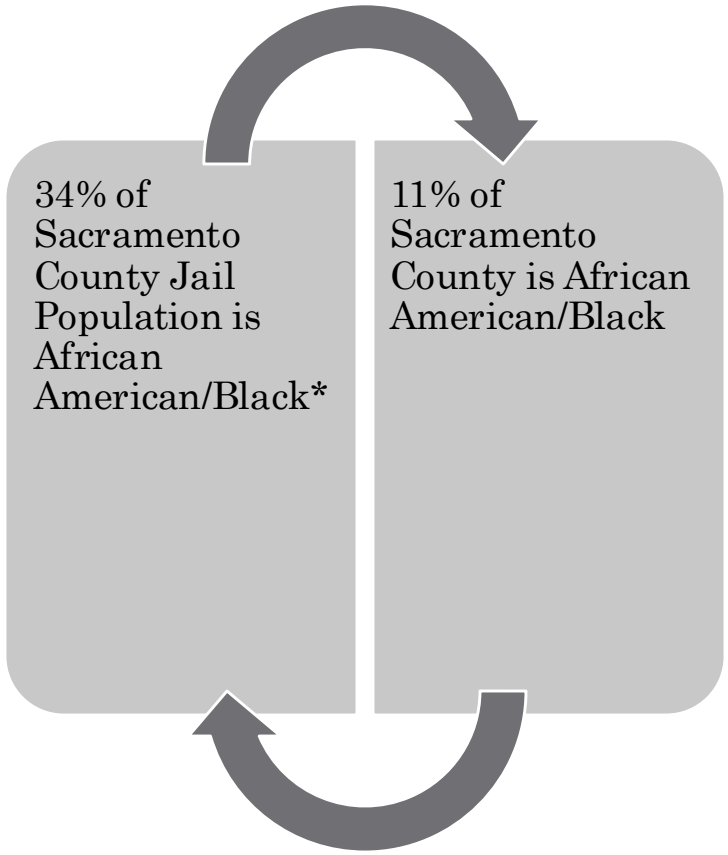


4% of inmates make up 18% of the annual bookings and 50% of them have SMI*

84% lived in QOZ and 100% lived within one mile of a QOZ

Landscape

*Sacramento County Mental Health Workgroup, Kevin O'Connell Research, "Select Crime and Correctional System Data Trends", June 2021, August 2021 and June 2022
**Public Defender Mental Health Diversion Study 2019
***Sacramento County Adult Correctional Health, Jail Inmate Population: Mental Health, April 26, 2022



Sacramento County Racial Disparity

* Sacramento County Mental Health Workgroup, Kevin O'Connell Research, June 2022 (reflects data from 2018-2022)

60%

- Inmates released return in 2 years*

70%

- Jail population are recidivist*

Revolving Door at the Sacramento County Jail

* Sacramento County Mental Health Workgroup, Kevin O'Connell Research, June 2022 (reflects data from 2018-2022)

Lorenzo Mays: Mays consent decree (2018)

Lorenzo Mays was a CCD client. Arrested for murder at age 27. Spent 8 years, 9 months, 24 days in custody. Developmentally Delayed (IQ 55). Suffered from delusions and depression. Suicidal ideation. Victim of documented brutal assaults. Severe vitamin D deficiency after years left in solitary confinement.

Lawsuits happening everywhere….not just in Sacramento.

Intersections of Mental Health and Incarceration are rampant across the nation:

- 2 million times each year, people with SMI are booked into jails
- 2 in 5 people who are incarcerated have a history of mental illness (37% in state and federal prisons and 44% in local jails)
- About 3 in 5 people (63%) with a history of mental illness do not receive mental health treatment while incarcerated in state and federal prisons
- Less than half of people (45%) with a history of mental illness receive mental health treatment while held in local jails
- People who have healthcare coverage upon release from incarceration are more likely to engage in services that reduce recidivism

Sacramento County is *not* alone

*The National Association of Mental Illness, *Mental Health By The Number*, June 2022

Sacramento County is *not* alone

Racial Disparities within the criminal justice system are common across the nation:

- Black Americans are incarcerated in state prisons across the country at nearly 5 times the rate of whites*
- 40 percent of all incarcerated parents were African-American fathers**

Intersections of Unhoused Persons and Incarceration is increasing across the nation:

- 32% of unsheltered homeless individuals report both having "mental health issues" and having a history of incarceration***
- 28% of unsheltered homeless individuals report having recently been release from jail or prison***
- 70% of unsheltered homeless report a history of incarceration***
- 17-39% of people experience homelessness in 30 days prior to jail stay****

***The Sentencing Project, The Color of Justice: Racial and Ethnic Disparity in State Prisons, 2021**
******PEW Charitable Trusts, *Collateral Costs: Incarceration's Effect on Economic Mobility* (Washington, DC: PEW Charitable Trusts, 2010).
***** California Health Policy Strategies, *Supporting the Prison & Jail Population—A Strategy for Reducing Unsheltered Homelessness in California,* 2019**
****** The Council of State Governments presentation from Council on Criminal Justice and Behavioral Health, *Defining, Screening, and Assessing for Homelessness Risk in California*, January 2022.**

Incarceration leads to collateral consequences that impact: Income, Housing, and the Ability to Support Families

- Before being incarcerated, two-thirds of male inmates were employed and more than half were the primary source of financial support for their children.*
- After release, former male inmates work nine fewer weeks annually and take home 40 percent less in annual earnings, making $23,500 instead of $39,100.**
- Data from 2007 show that African-American children and Hispanic children were 7.5 times more likely and 2.3 times more likely, respectively, than white children to have an incarcerated parent.**
- Formerly incarcerated individuals are 10 times more likely to be homeless than the general public. ***

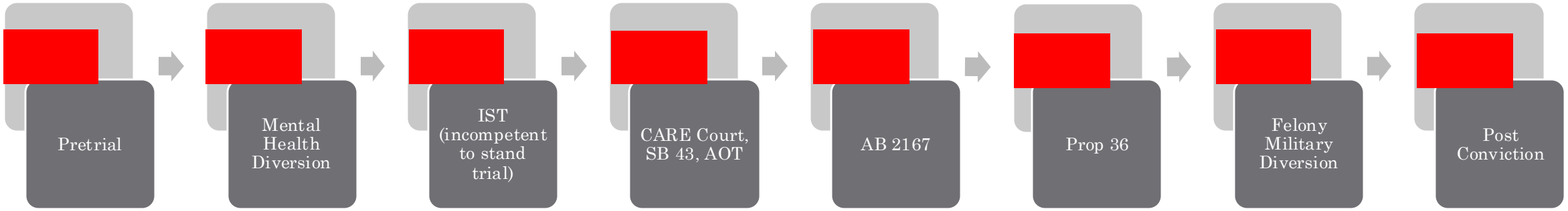
* PEW Charitable Trusts, *Collateral Costs: Incarceration's Effect on Economic Mobility* (Washington, DC: PEW Charitable Trusts, 2010).

** Holly Foster and John Hagen, *The Mass Incarceration of Parents in America: Issues of Race/Ethnicity, Collateral Damage to Children, and Prisoner Reentry*, Annals of the American Academy of Political and Social Science 623 (2009): 179-194

***Lucas Couloute, *Nowhere to Go: Homelessness among formerly incarcerated people*, Prison Policy Initiative, 2018.

New laws & statutes impacting criminal justice system

California responds and changes laws. But these changes add layers of complexity to practicing law.



New Laws and Statutes impacting criminal justice system

Pretrial

Pretrial changes in the law

***In re Humphrey*, 19 Cal.App.5th 1006 (2018), the Supreme Court of California held:**

- Detaining a Person pretrial solely because they cannot afford bail violates due process and equal protection
- California Courts must consider the ability to pay when setting bail and courts cannot set unaffordable bail that would result in pretrial detention unless there is clear and convincing evidence that no other condition would reasonably protect public safety and ensure court appearances

Pretrial: New Supreme Court of California Case

"the due process and equal protection clauses of the 14th Amendment require the court to make two additional inquires and findings before ordering release condition on the posting of money bail- whether the defendant has the financial ability to pay the amount of bail ordered and, if not, whether less restrictive conditions of bail are adequate to serve the government interests….."*

Pretrial: Highlights Economic Disparity
and need for less restrictive conditions within the community

**In re Humphrey*, 19 Cal.App.5th 1006 (2018)

Sacramento's bail schedule is found unconstitutional.

Pretrial: **Welchen v. Bonta, 2022 U.S. Dist. LEXIS 171619**

Defendant 50 year old unhoused disabled man arrested in 2016 for 459 2nd. Bail set at 10k. Defendant couldn't afford bail and court refuses to lower bail or consider alternatives to incarceration . Defendant appeals. Court finds Sacramento's bail schedule unconstitutional.

Change.

Pretrial: Sacramento's Superior Courts response to Welchen

Justice partners are working together now to implement the impact on Welchen

Mental Health Diversion

Mental Health Diversion changes in the law

DSH WAITLIST

Law Suits against DSH and in counties
Clients LANGUISHING in jail
Not new….AB 109 Realignment *Brown v. Plata, (2011) 563 US 493*

1,500 in 2018/2019
Pandemic grew to 2,000

Motivation for AB 1810 (2018)

AB 1810 & GOVERNOR BROWN

Mental Health Diversion, signed into law 2018
Enacted Penal Code Section 1001.36
Applied to anyone including clients found IST

Penal Code Section 1001.36 Required—

Mental health diagnosis (all EXCEPT anti-social/personality disorder)
Nexus with expert opinion
Waiver of speedy trial and client consent
Client agrees to treatment…..(treatment plan needed)
Not a danger to society per PC 1170.18
Court-satisfied treatment will meet clients' needs

Mental Health Diversion: History of AB 1810

Challenges with AB 1810

Who is an expert?
What is a nexus report?
Who pays for the nexus report?
How can a client found IST consent to MHD?
How do you get a client a treatment plan?
How do you get a client diagnosed?
When can someone be granted diversion?
Do we have a duty to explore diversion?
When should a client get post-plea collaborative court v. MHD?
How do you show your client won't commit a super strike?
How long is MHD for?

And the list goes on, and on, and on…..

Mental Health Diversion: Challenges with implementing

WAITLIST DOESN'T GO AWAY…..
AND WE STILL HAVE ISSUES.

After four years of AB 1810 not having the outcomes the state had hoped, SB 1223 was drafted by Senator Becker and passed. In drafting SB 1223, Senator Becker cited the Committee on Revision of the Penal Code findings that the MHD law was substantially underutilized, due in part, to its narrow eligibility requirements. (Author's Note, State Committee on Public Safety, March 9, 2022)

Mental Health Diversion: Outcome of AB 1810

SB 1223 & GOVERNOR NEWSOM

Effective 1/1/2023
Amended Penal Code Section 1001.35 and 1001.36

Changes to Penal Code Section 1001.36—

- Nexus is presumed so long as DX within 5 years, 1001.36 (b)(1)
- DA burden to prove by clear and convincing evidence that a nexus does not exists, 1001.36 (b)(2)
- Clients' IST do not have to give consent or waive speedy trial, 1001.36 (c)(2) Felony case = 2-year max, Misdemeanor case= 1 year max, 1001.36 (f)(1)(C)
- Defines "qualified expert", 1001.36 (f)(2)
- Outlines circumstances court shall hold a hearing once granted, 1001.36(g)

Mental Health Diversion: New Law SB 1223

GRANTED & NOT DOING WELL

A court may hold a hearing to determine whether criminal proceedings should be (1) Reinstated, (2) Treatment Modified, or (3) Initiate Conservatorship if any of the following occurs (Penal Code Section 1001.36 (g)):

1. Charged with an additional misdemeanor during MHD AND reflects propensity for violence
2. Charged with an additional felony during MHD
3. Engaged in criminal conduct rendering them unsuitable
4. Opinion of an expert: client is unsatisfactory AND gravely disabled = conservatorship initiated

Mental Health Diversion: Not doing well

DISMISSED.

Mental Health Diversion: Granted and Doing Well.

People v. O'Hearn

2018: Officers respond to a call regarding Defendant who is rambling, acting erratic and threatens to kill neighbors. *Id.* at 283, 284. Officer notes prior complaints of defendant's erratic behaviors, suspected "mental health issues", and considered a W&I 5150 hold. *Id.* Officer decides to take defendant to jail and arrest him for PC 422. *Id.* PD declares conflict. *Id.* Not Guilty plea entered. *Id.* Defendant hires private attorney. *Id.* Attorney has initial competency concern but does not declare doubt. *Id.* at 290. Defendant pleas. *Id.* at 285. PD re-calendars case "might be grounds to withdraw plea" and again raises conflict. *Id.* at 285, 286. Defendant makes Marsden motion against private attorney. *Id.* Marsden denied. *Id.* Motion to withdraw plea based on IAC was denied. *Id.* at 294. Defendant files an appeal. *Id.* at 283.Appellate court agrees that attorney was IAC, failure to investigate mental health--failure to investigate connection between the *defendant's behavior and the illness and the legal significance of this information*. *Id* at 295. Pretrial Diversion, not always appropriate but the plight of our prisons, the needs of mental ill prisoners, and the expectation of our Legislature demand that it receive more serious consideration by defense counsel, prosecutors, probation departments, and sentencing court…….*Id.* at 301.

Duty to investigate mental health

People v. O'Hern (2020) 57 Cal.App.5th 280

People v. Whitmill

Defendant takes girl friend to her friend's house. *Id.* at 1142. Defendant then goes to store to get medication. *Id.* Defendant returns and girl friends gets into defendant's van and says defendant began to get "loud". *Id.* Girlfriend leaves the van and goes with her friend to get cigarettes. *Id.* Friend and girlfriend return to alley where Defendant dropped girlfriend off. *Id.* Friend approaches Defendant in alley. *Id.* Defendant takes gun and shoots it in the air. *Id.* Friend is standing about 3.5-4 feet away. *Id.* at 1143. Defendant threatens to kill girlfriend. *Id.* at 1143. Defendant runs. *Id.* Officers respond, find gun in a truck, and shell in alley. *Id.* Defendant charged with guns, negligent discharge, and threats. *Id.* Court denies MHD because unreasonable risk of danger. *Id.* at 1147.

Court of Appeals states a trial court cannot rely on general sentencing objectives and must consider primary purpose of 1001.35. *Id.* at 1149. Court finds there was not substantial evidence to find that defendant was an unreasonable risk per 1170.18. *Id.* at 1156. Court reverses trial courts denial with directions to grant the motion and refer Defendant to a pretrial mental health diversion program to "avoid the unnecessary delay occasioned by yet [another] hearing. *Id.*

People v. Whitmill 86 Cal. App. 5th 1138 (December 23, 2022)

Game Changer: Unreasonable Risk to Public Safety

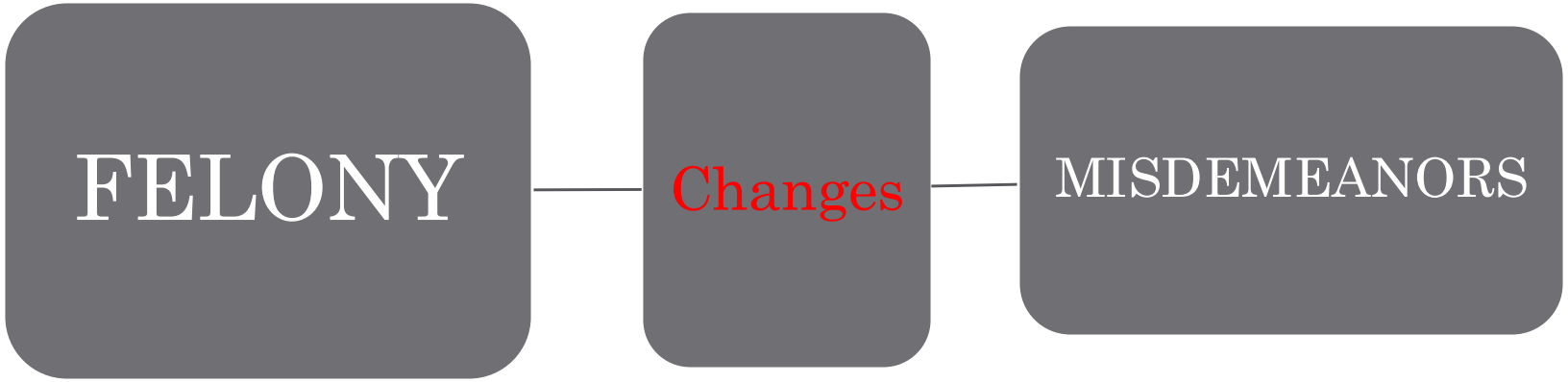
Includes discussions of client's prior substance use history.

People v. Braden, California Supreme Court June 5, 2023

"Legislature intended to require that a defendant request pretrial mental health diversion before jeopardy attaches at trial or before the entry of a plea of guilty or no contest, whichever occurs first." *Id. at 52.*

People v. Braden, 63 Cal. App. 5th 330, 277 Cal. Rptr. 3d 563, 2021 Cal. App. LEXIS 330, 2021 WL 1541002 (Apr. 20, 2021)

Incompetent to Stand Trial changes in the law



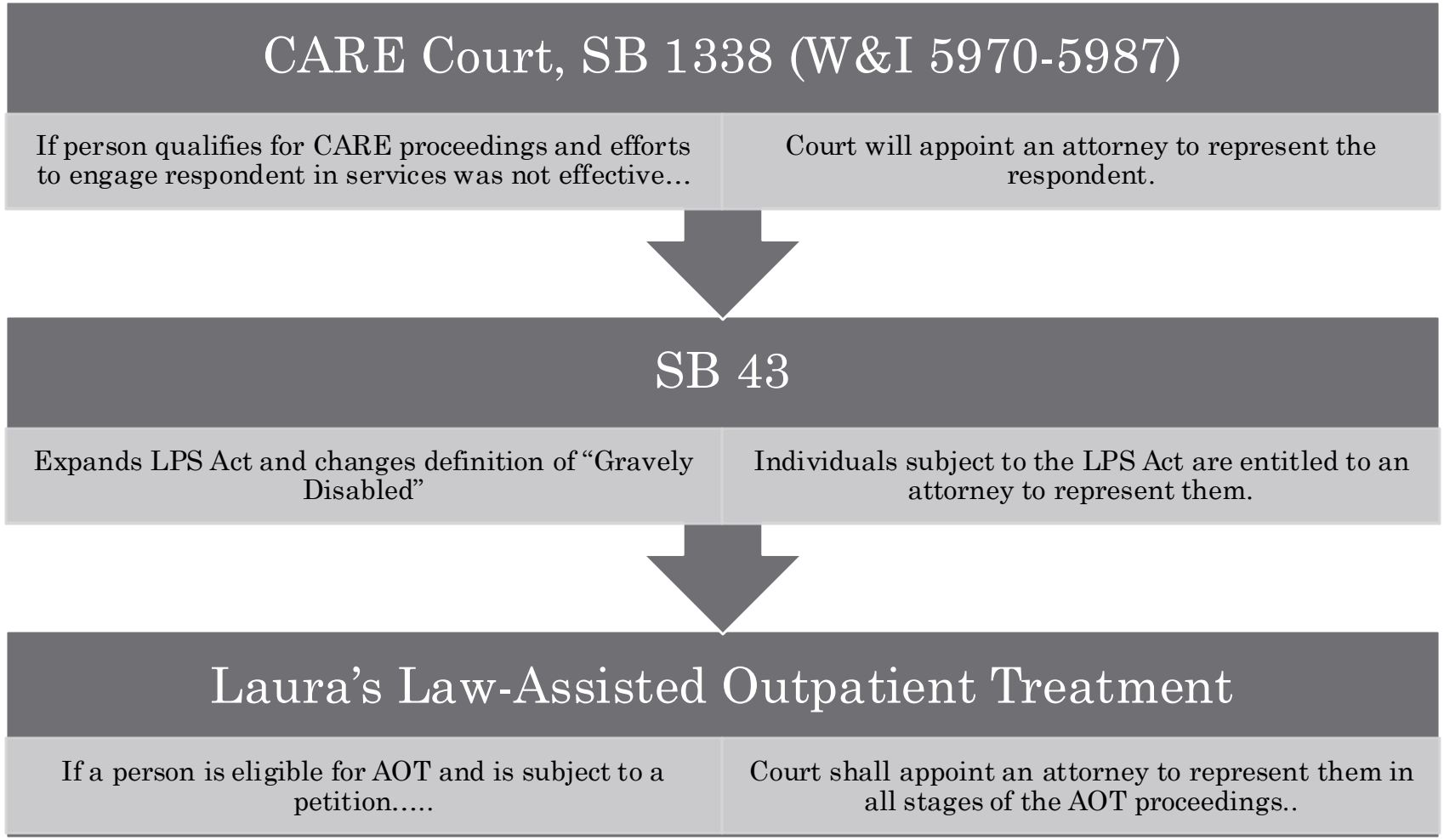
IST: In Competent To Stand Trial

Commencing on July 1, 2023, a defendant shall first be considered for placement in an outpatient treatment program, a community treatment program, or a diversion program, if any such program is available, unless a court, based upon the recommendation of the community program director or their designee, finds that either the clinical needs of the defendant or the risk to community safety, warrant placement in a State Department of State Hospitals facility.

IST: Penal Code Section 1370 (A)(ii)

Care Court, SB 43, AOT

Care Court, SB 43, AOT



Care Court, SB 43, AOT

AB 2167

AB 2167 changes the law

AB 2167

Effective 1/1/23
Enacted Penal Code Section 17.2

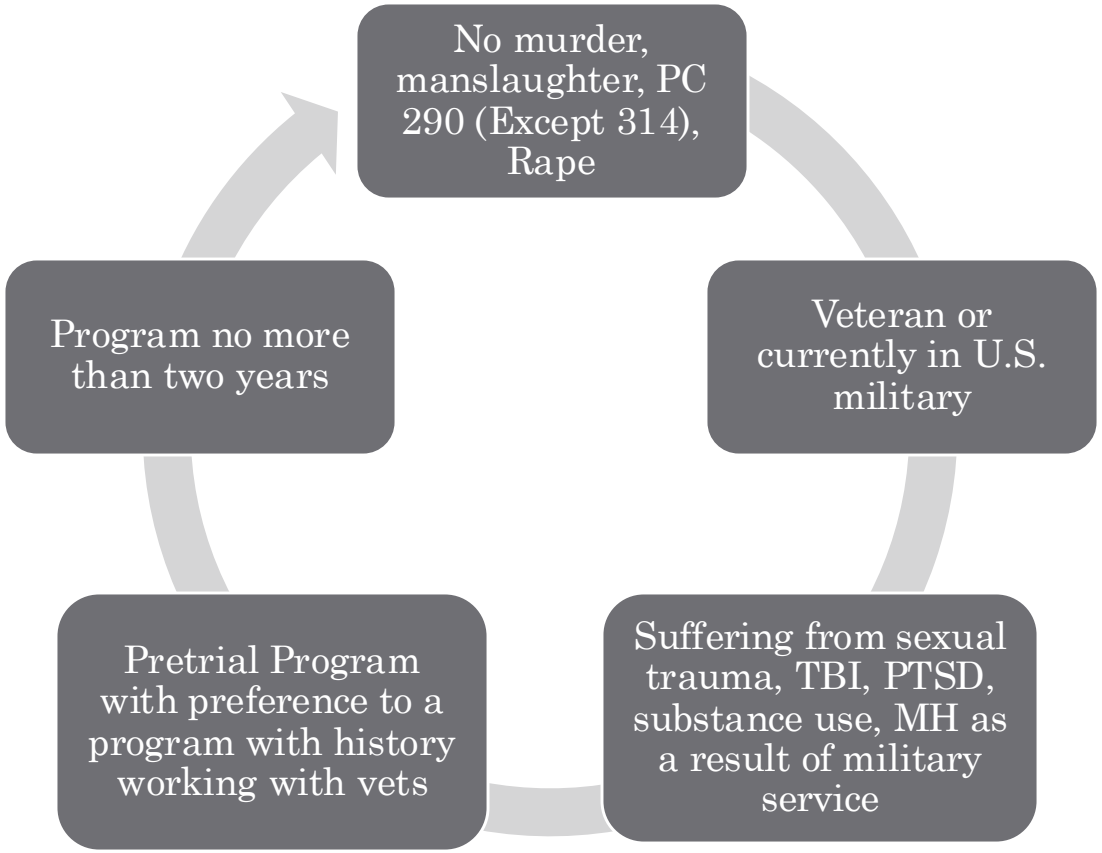
Penal Code Section 17.2 states as follows—

(a) It is the intent of the Legislature that the disposition of any criminal case use the least restrictive means available.
(b) The court presiding over a criminal matter SHALL consider alternatives to incarceration, including, without limitation, collaborative justice court programs, diversion, restorative justice, and probation.
(c) The court shall have the discretion to determine the appropriate sentence according to relevant statues and the sentencing rules of the Judicial Council.

AB 2167: Alternatives to Incarceration

Felony Military Diversion

AB 2167 changes the law



SB 1025, Expands Military Diversion to Felons, PC 1001.80

Prop 36

Enacted December 18, 2024

People v. Superior Court (Pearson), (2010) 48 Cal.4th 564, 568, "The legislature may not amend an initiative statue without subsequent voter approval unless the initiative permits such amendment, 'and then only upon whatever conditions the voters attached to the Legislature's amendatory powers.'"

Proposition 36 and Drug Offenses

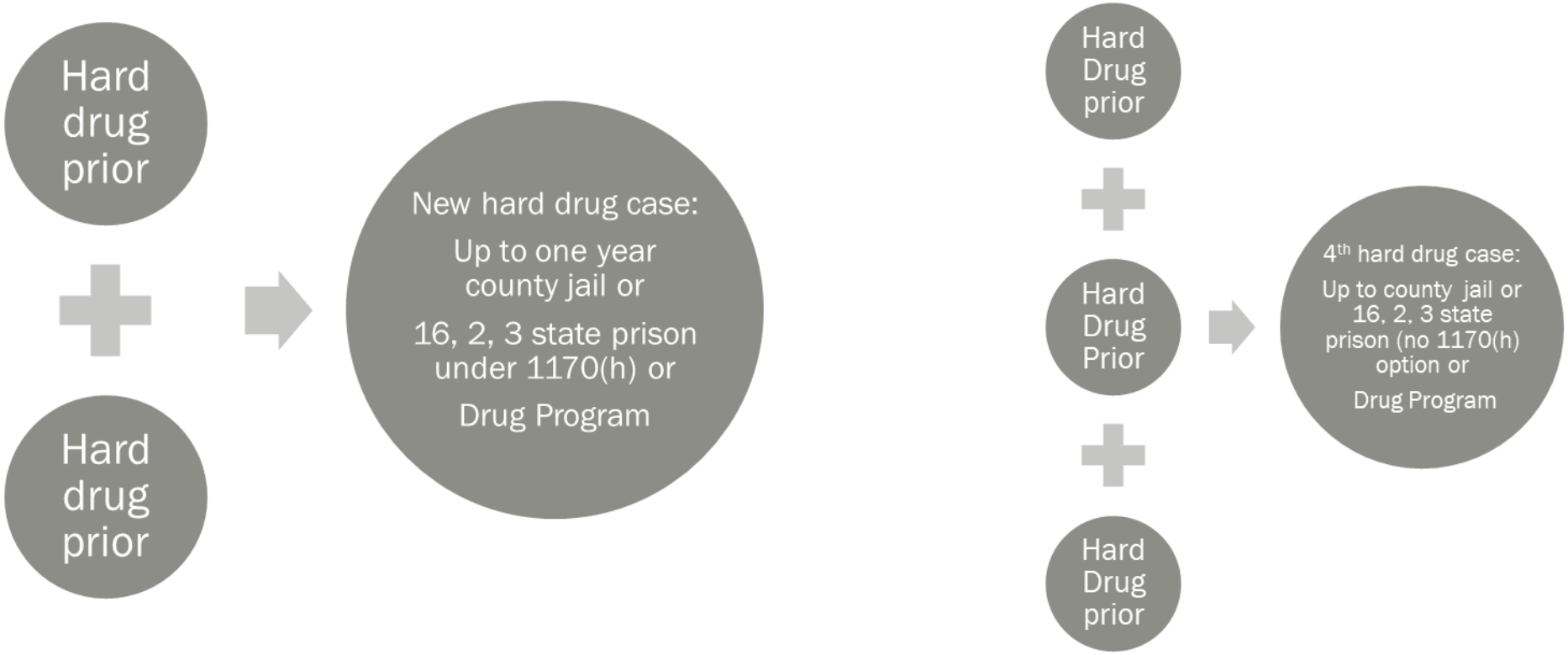
1. Adds Fentanyl to HS 11370.1 (possession while armed with firearm)
2. Enhancements shall be done in state prison H&S 11370.4
3. Adds enhancements for GBI caused by drug offense
4. Amends gun enhancements served
5. Eliminates “quick releases” pretrial
6. Creates enhancements for possession of fentanyl
7. “Hard drugs” and advisement
8. Treatment-Mandatory Felony

“Hard Drugs” + Specific Charges

“Hard Drugs”
HS 11054 and HS 11055
Includes fentanyl, heroin, cocaine, cocaine base, meth, or phencyclidine.

Does NOT include cannabis, cannabis products, peyote, LSD, mushrooms

11350 possession of controlled substance	11351 Possession for sale of controlled substances	11351.5 Possession of cocaine base for sale	11352 Transportation or sale of controlled substance
11353 Sale or transportation of controlled substance involving minors	11370.1 Possession of controlled substance while armed with a firearm	11377 Possession of controlled substance	11378 Possession of controlled substance for sale
11378.5 Possession for sale of designated controlled substances	11379 Transportation of controlled substances	11379.5 Transportation of designated controlled substances	11379.6 Manufacturing of controlled substances
	11380 Adult inducing a minor to commit drug offense	11395 Possession of hard drugs with priors	

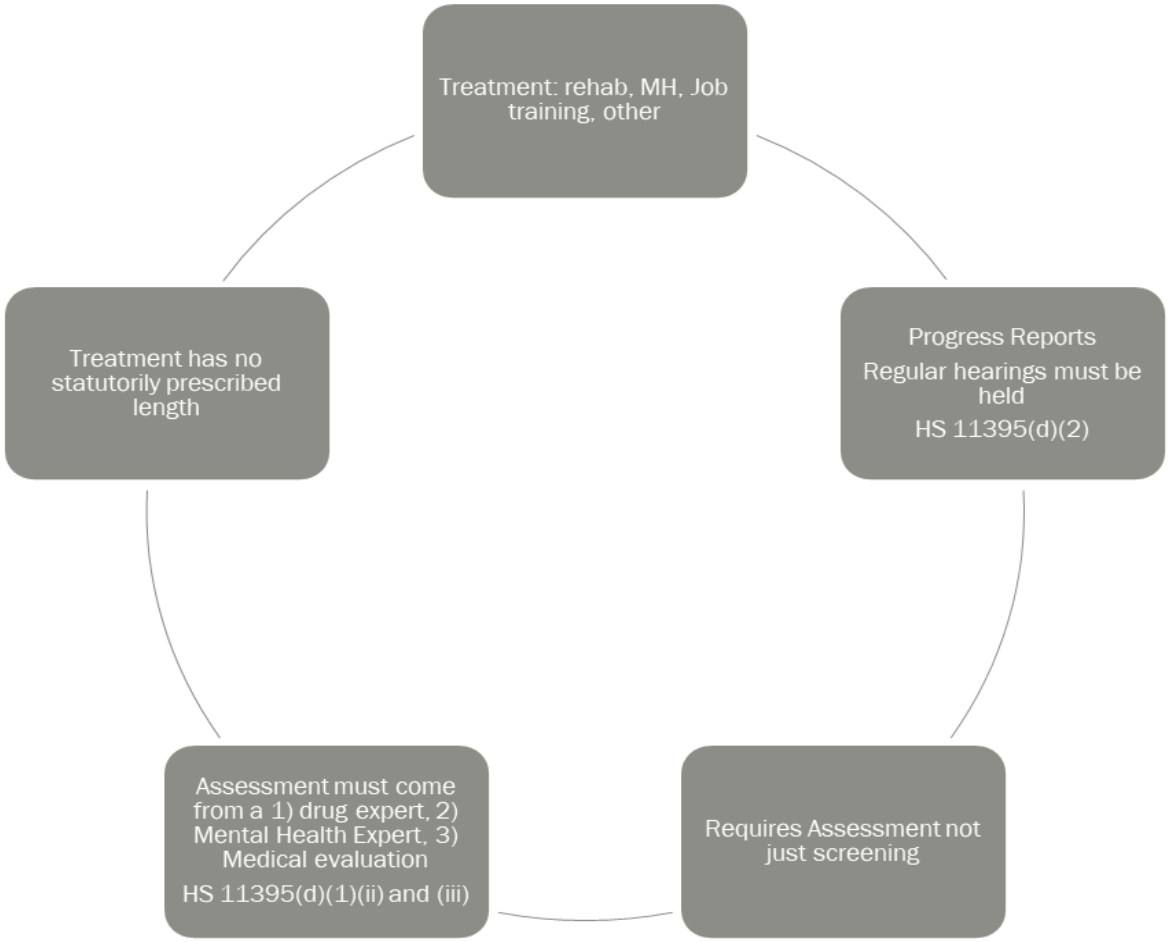


Triggering of "Mandatory Drug Program"

No wash out period for the priors & priors must be pled and proven

Prop 36 Mandatory Program

- Plea guilty, waive time, no suspended sentence
- No Statutory prescribed length for treatment program
- No funding from state for this program
- Court must provide program with no cost to client



1
Aggregation of property value PC 490.3

2
Repeat theft offenders PC 666.1

3
Theft Diversion

4
Pretrial Release

5
Excessive Taking or damage PC 12022.6

6
Acting in Concert PC 12022.65

7
SB 905
Forcible Entry into car to commit theft PC 465

8
SB 905
Possession of property through theft from vehicle PC 496.5

9
SB 982
Organized Retail Theft PC 490.4

10
SB 1242
Arson to facilitate theft
PC 452

11
SB 1416
Theft Enhancements

12
AB 1779
Jurisdiction of consolidated theft offenses PC 786.5

13
AB 2943
Grant Theft, aggregation of value PC 487

14
AB 2943
Deprivation of retail business
PC 496.6

15
AB 2943
Arrest Warrant for shoplifting
PC 836

16
AB 2943
Probation for shoplifting
PC 1203g

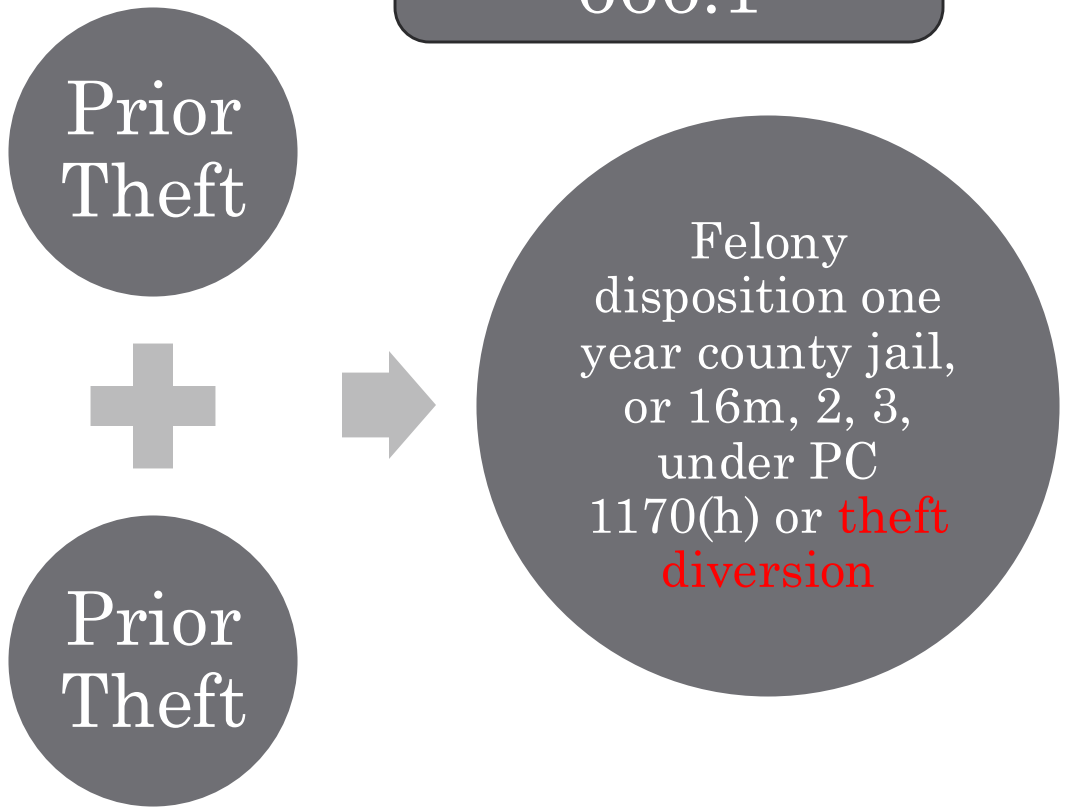
17
AB 3209
Retail crime restraining order
PC 490.8

Prop 36 and new statutory changes to theft

PC 1203g

- Shoplifting under PC 459.5, 488, or 490.2 court can issue 2 years probation
- Court shall consider a collaborative court or rehab program
- If client is under the age of 25, court shall refer to a program that models healing-centered, restorative, trauma informed and positive youth development in collaboration with CBO

PC 666.1



Two new theft diversion programs

AB 2167 changes the law

Significant changes in legislation impacting Post Conviction

1976

- 1976- 6 enhancements
- 2022- over 100 enhancements

2011

- *Brown v. Plata* (2011) 563 US 493
- Proposition 47

2021

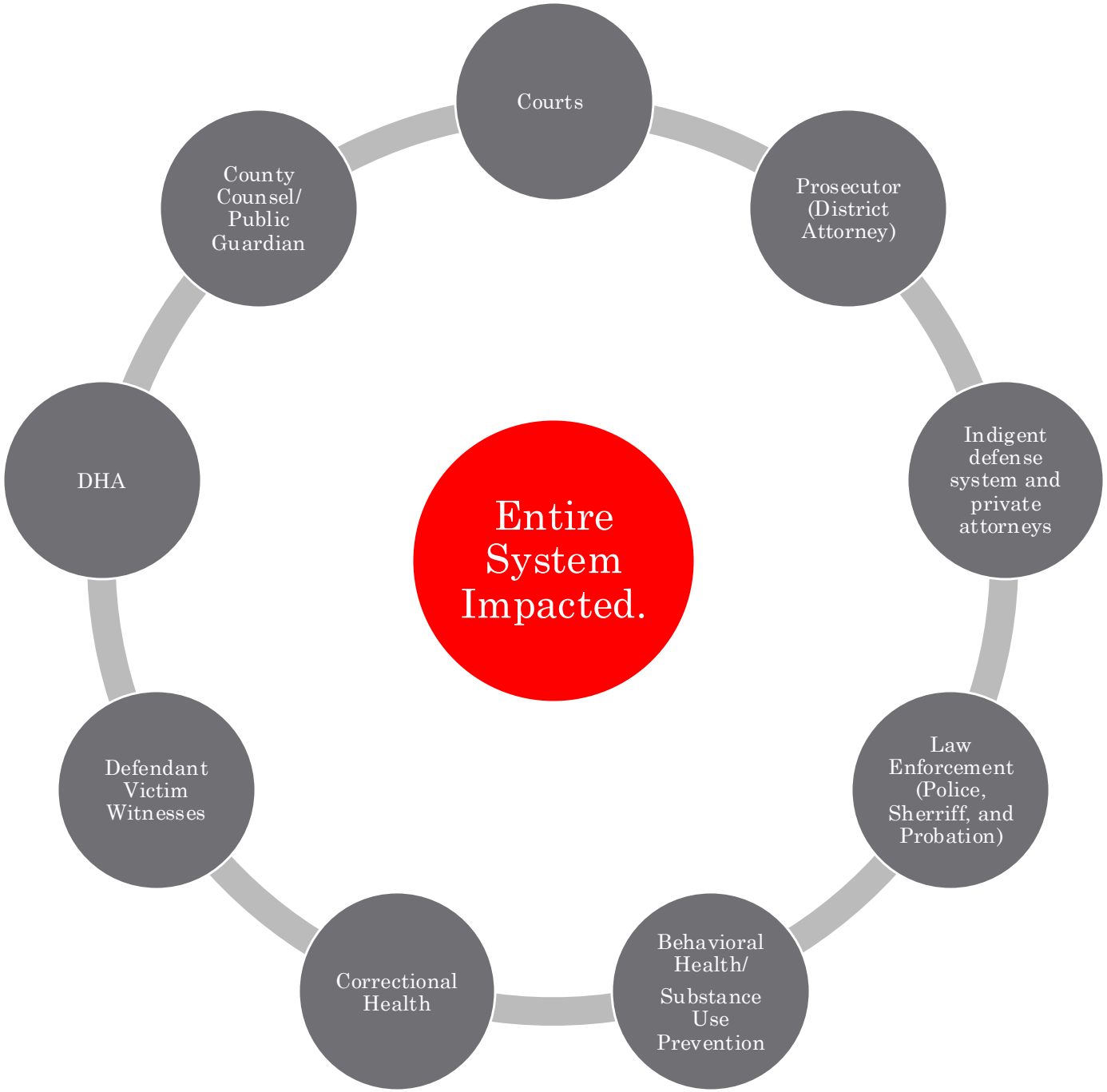
- 1994- 3 strikes law enacted (2 serious + any = life)
- 2012- 3 strikes law revised (3 serious = life)

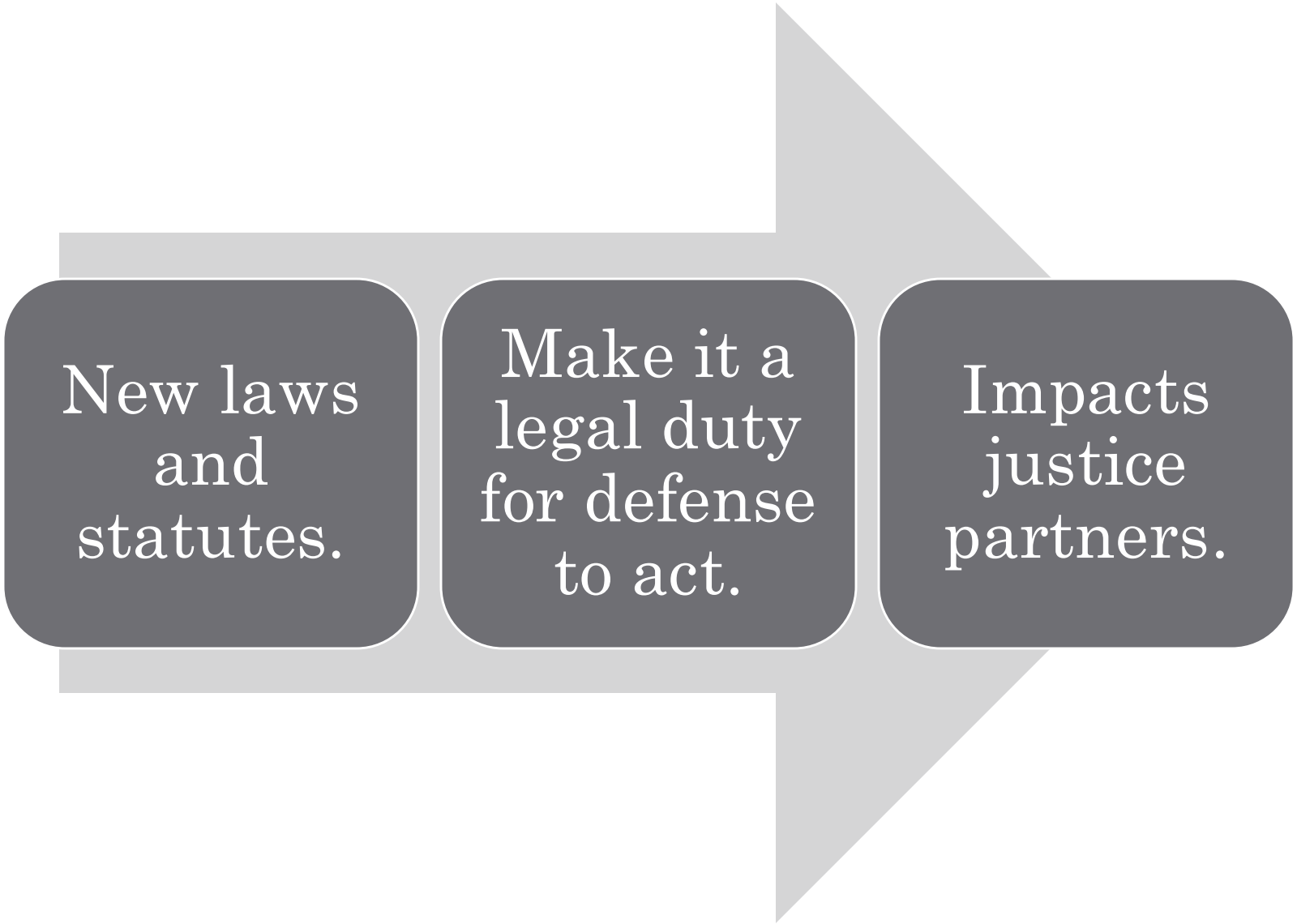
2018-2024

- Over 43 changes in the law that impact post convicted cases
- Court, DA, and clients can "bring back" certain cases to be re-sentenced to consider new changes in the law, trauma, age, mental health, and behavior in CDCR

Impact on Justice System & Ensuring Equality.

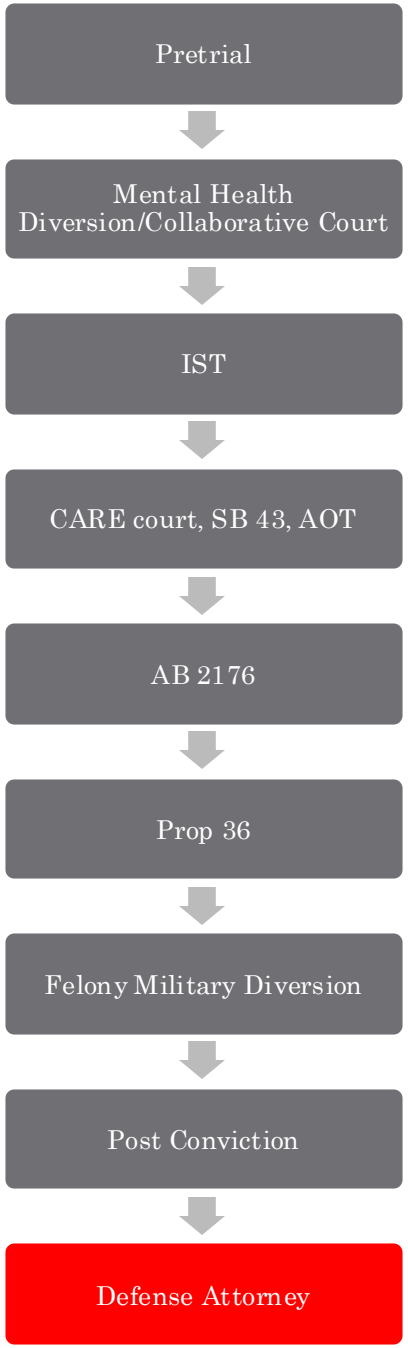
Ensuring every person has equal access to resources and opportunities.


Courts
Prosecutor (District Attorney)
Indigent defense system and private attorneys
Law Enforcement (Police, Sherriff, and Probation)
Behavioral Health/ Substance Use Prevention
Correctional Health
Defendant Victim Witnesses
DHA
County Counsel/ Public Guardian
Entire System Impacted.


New laws and statutes.
Make it a legal duty for defense to act.
Impacts justice partners.

Requires Navigation by Defense Attorney:

- ROI
- Referrals to DBH, SUPT, DHA
- Referrals to CBO's
- Navigation of psych hospitals, public guardians, conservatorship
- Social History Reports
- Linkage to Care
- Experts
- Coordination with Exodus
- Mitigation Reports
- Coordination with Correctional Health
- Motions
- Investigation
- Subpoena Records
- Obtaining history through family, friends, etc.



“No State shall make or enforce any law which shall…deny to any person within its jurisdiction the equal protection of the laws.”

United States Constitution

14th Amendment

All counties will have multiple level of representation for indigent defense, private attorneys and pro per clients. Access must be given to ALL levels of representation.

33 Counties have Public Defender Offices as their Primary. Each County must have their Public Defender Office layered with a secondary level of defense for conflicts.

12 Alternate PD
4 Assigned Counsel
5 Managed Assigned Counsel
37 Contract model

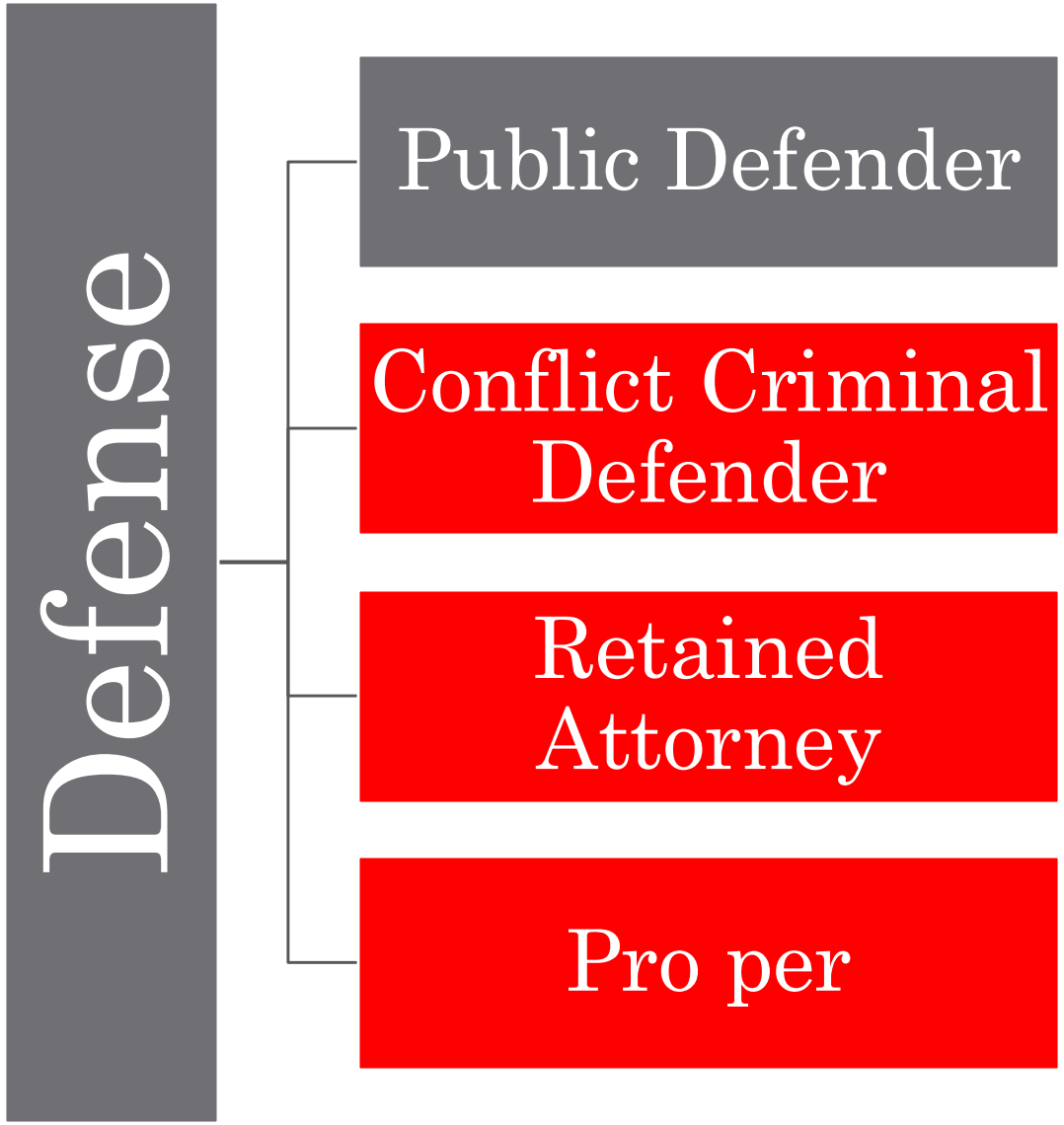
21 counties do NOT have a Public Defender Office and use a contract model for indigent defense.

California types of Indigent Defense Systems

"A Snapshot of Indigent Defense in California," Office of the State Public Defender, November 2023.

WHAT IS YOUR COUNTY'S DEFENSE MODEL?

How do your defense attorneys access services, assess client needs, create treatment plans, gather medical and mental health records, refer cases into your collaborative and diversion models, and communicate with other agencies? Does your model mitigate recidivism?


Defense
Public Defender
Conflict Criminal Defender
Retained Attorney
Pro per

CCD

Conflict Criminal Defenders (CCD)

- Sacramento Department since 1999.
- Consists of 135 attorneys who get appointed to defendants who can't afford an attorney.

When do CCD attorney's get appointment?

- Public Defender's Office has a legal conflict or declare an "overload"

Who are these attorneys?

- Private attorneys who often specializes in an area of the law. Most have their own private practice and take on cases when Public Defender needs support.
- Total experience on the panel is equivalent to 2,800 years

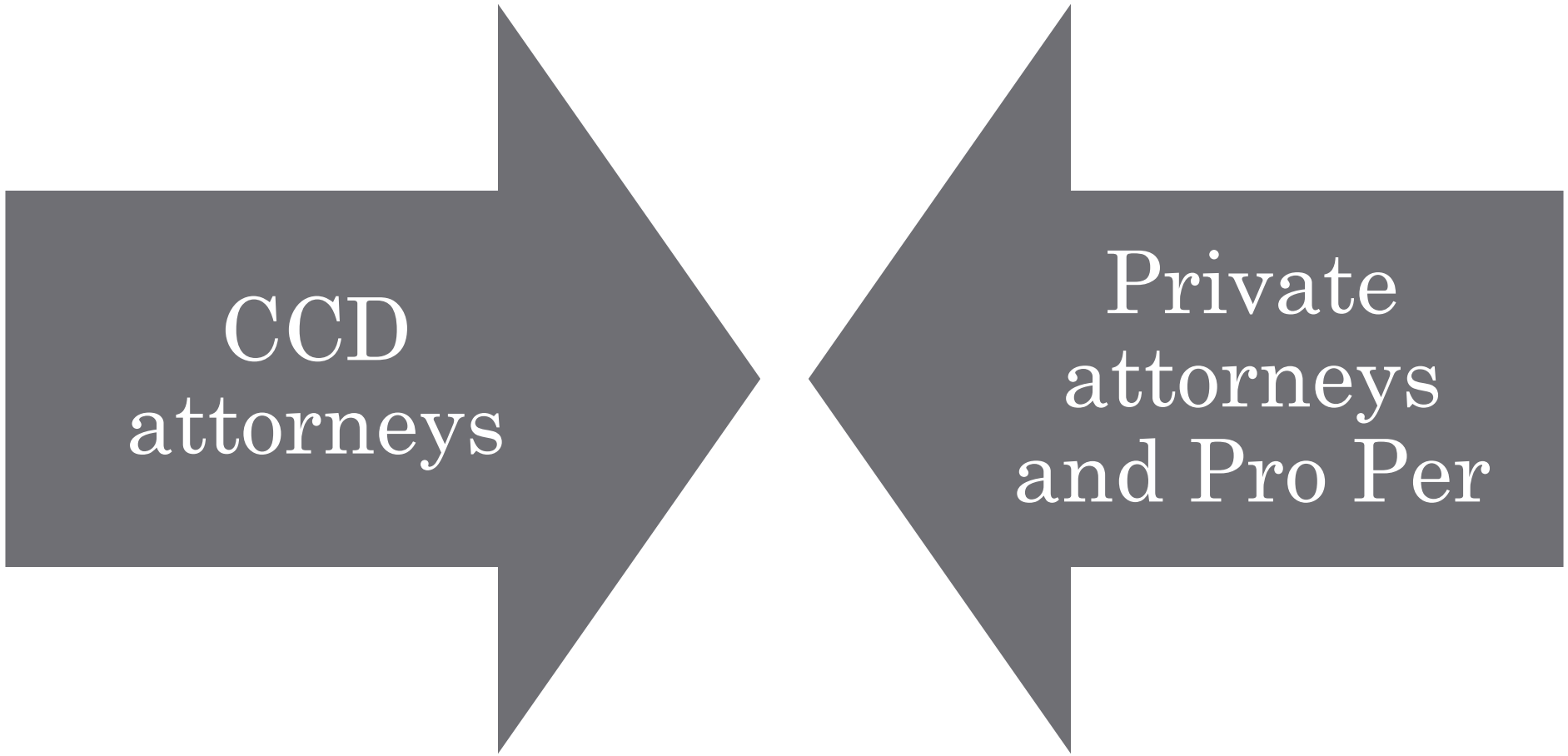
Services both CCD and Private Attorneys

- Front door access for services and support for both CCD and private attorneys
- Prior to 2023, Public Defender supported CCD with social workers, pretrial, collaborative court, and diversion services but due to legal conflicts, Public Defender can no longer support CCD. CCD then created a program to support their attorneys/clients and the private bar attorneys/client. This program is called REST (Re-Entry Support Services).

Re-Entry Support Team (REST)

CCD responds to the new layers of complexity in practicing law by developing a REST team for our attorneys and clients.

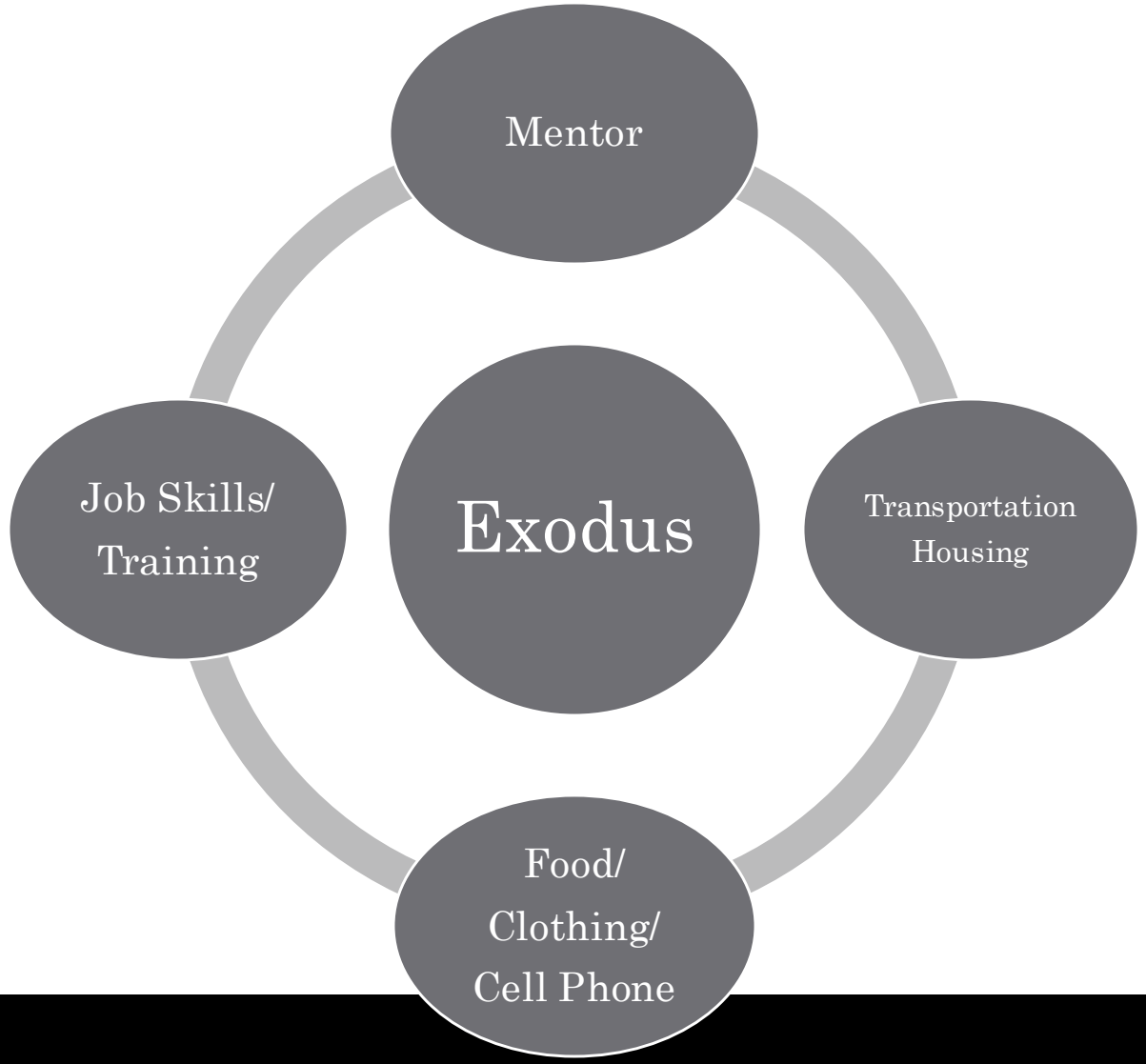
REST is a TEAM of people that are ALL independent Contractors. This model allows Sacramento to serve all conflict cases, private attorneys, and pro per individuals. This model lives in the Office of the Conflict Criminal Defenders.



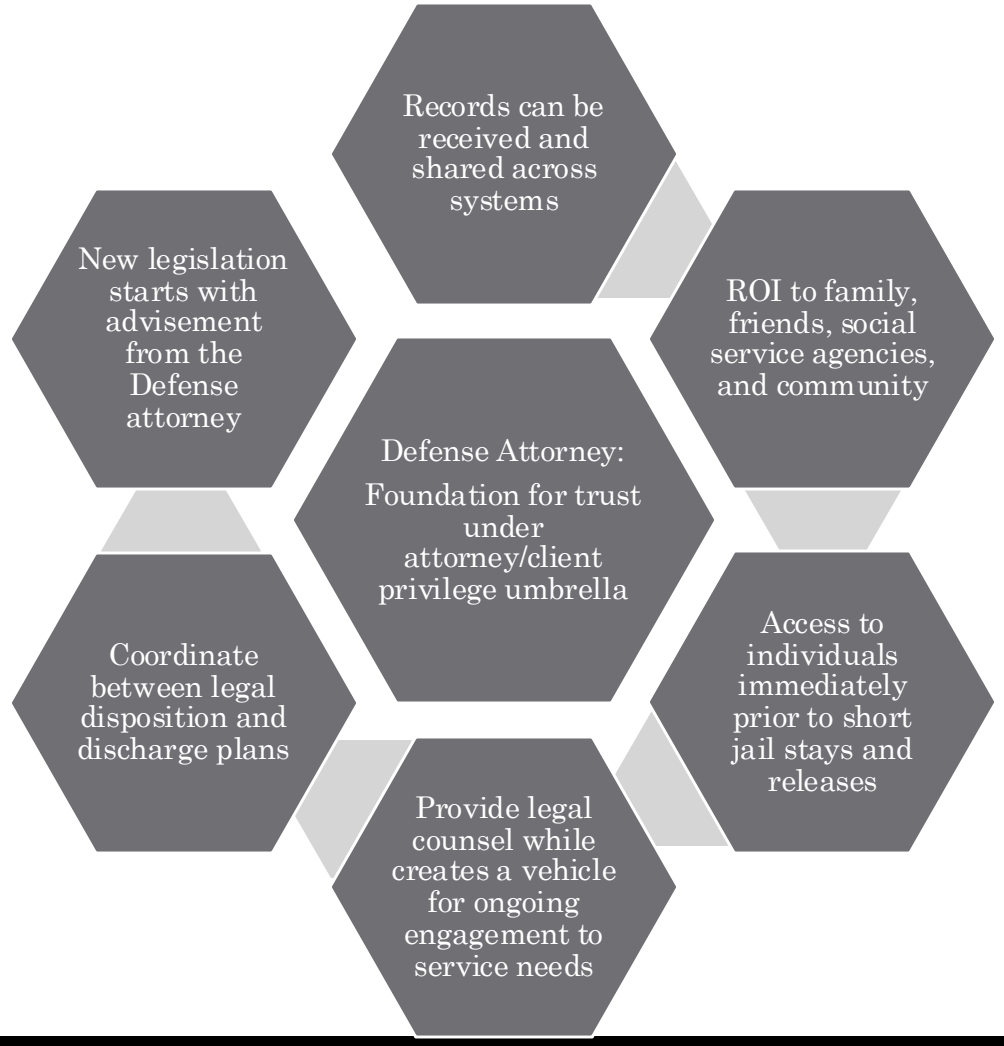
Who qualifies for REST?

Assess client's needs	Write social history reports	Link client to mental health or SUPT services	Write mental health diversion motion
Hire mental health expert	Navigate collaborative courts	Link to Exodus for food, shelter, phone, clothes	Arrange for pick up from jail through Exodus
Link client to employment specialist	Support client in getting GA, Calfresh, etc.	Get ROI's signed (unlock data sharing)	Represent client if granted diversion or collaborative court

Attorneys make a referral to REST to support the needs of their client.
REST navigates the support and works with both the client and attorney.
Attorney's can work hard and get REST.



Exodus Project



Why build a system within your defense community?

National Studies Show Impact of Holistic Defense:

- Harvard Law Review, *The Effects of Holistic Defense on Criminal Justice Outcomes,* 132 Har.L.Rev 819, (2019) found holistic defense reduced incarceration without harming public safety.

- Bronx Defenders found holistic defense reduced expected sentence by 24% and save their clients 1.1 million days in custody over a 10 year time period*

Holistic Defense Outcomes

*Harvard Law Review, *The Effects of Holistic Defense on Criminal Justice Outcomes*, 132 Har.L.Rev 819, (2019)

Everyone needs REST.

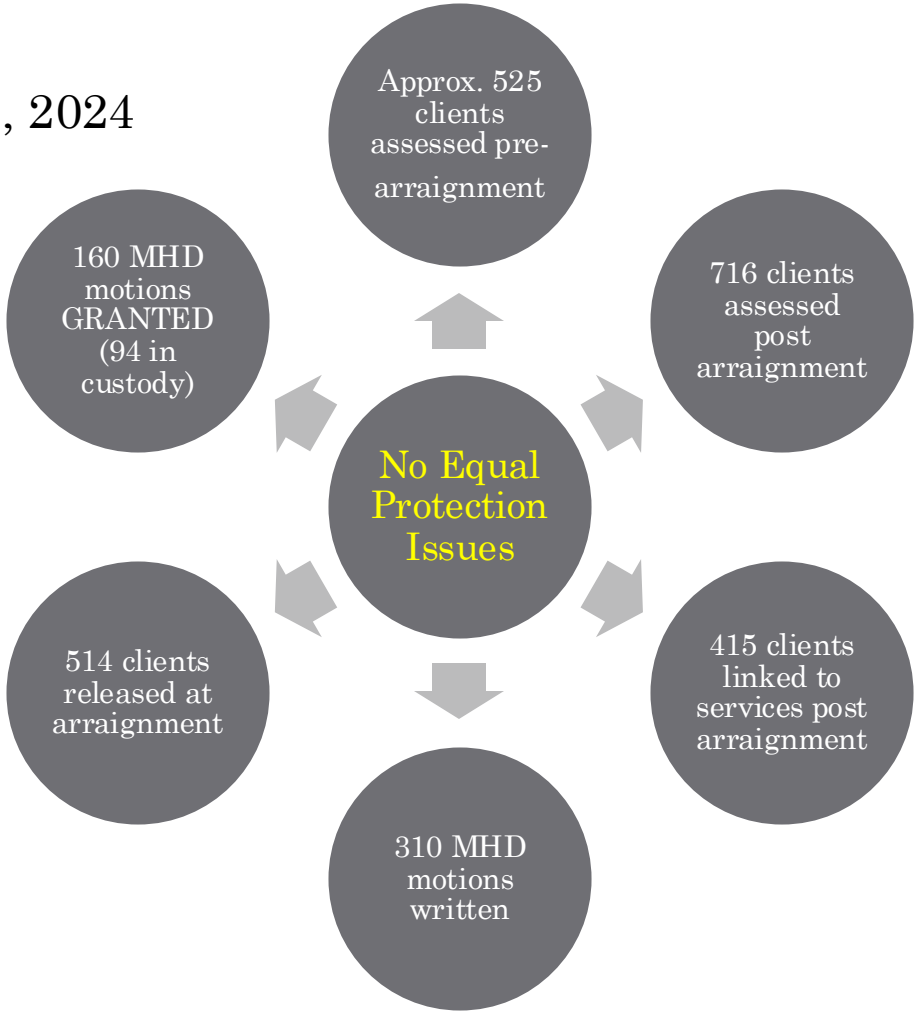
Outcomes.

Jan. 1, 2022- Dec. 31, 2022	• Total # of CCD clients assessed: Zero • Total # of CCD clients linked to services:1 • Total # of CCD clients released due to assess./linkage due to PTSP/MHD: Zero
Jan. 1, 2023-Dec. 31, 2023 (REST started 6/2023)	• Total # of CCD clients assessed: 247 • Total # of CCD clients linked to services: 247 • Total # of CCD clients released due to assess./linkage due to PTSP/MHD: 271
Jan. 1, 2024- Dec. 31, 2024	• Total # of CCD clients assessed: 1,230 • Total # of CCD clients linked to services: 929 • Total # of CCD clients released due to assess./linkage due to PTSP/MHD: 608

REST Impact: when you assess, link and share the information with the court—clients get released.

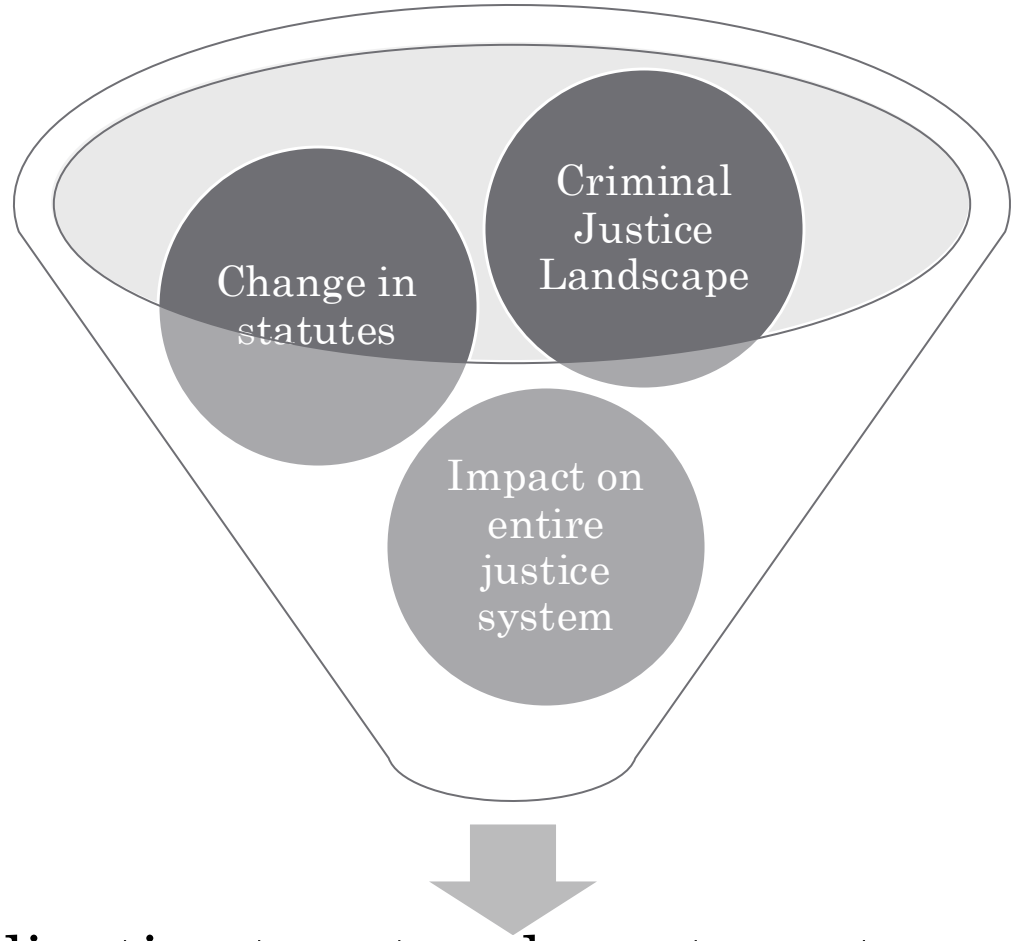
This data does NOT include all those that were assessed, linked, and cases resolved and/or individuals were released from custody outside of PTSP/MHD. This data does not measure all the clients assessed and linked out of custody and remain out of custody due to support from REST.

January 1, 2024-December 31, 2024



REST provides access to ALL and provides support for attorneys in navigating all the new legislation.

With REST there are NO EQUAL PROTECTION VIOLATIONS.



Legal obligation to act and create systems where all individuals have equal access to services/support

Re-Entry Support Team (REST)

Board of Supervisors, County Executive, Criminal Justice Analysis, Sacramento Superior Court, Office of the Public Defender, District Attorney Office, Department of Behavioral Health, Sacramento County Sheriff's Department, Department of Health Services, Department of Substance Use Prevention and Treatment, Probation, County Counsel, Adult Correctional Mental Health, Homeless Services and Housing, and all of our community-based organization partners

This would could NOT have happened without the support of our ENTIRE criminal justice system, our community, and clients.

Reach out.

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Rest.CCD@gmail.com