

# District Attorney

Clint Curry – District Attorney

District Attorney	FY 21/22 Adopted Budget	FY 22/23 CAO Recommended	Change
<b>108-2500</b>			
<b>EXPENDITURES</b>			
Salaries and Benefits	\$2,210,435	\$2,942,699	\$732,264
Services and Supplies	\$461,066	\$647,157	\$186,091
Other Charges	\$350,543	\$283,418	(\$67,125)
Fixed Assets		\$59,276	\$59,276
<b>TOTAL EXPENDITURES</b>	<b>\$3,022,044</b>	<b>\$3,932,550</b>	<b>\$910,506</b>
<b>REVENUE</b>			
Fed/State	\$341,869	\$411,832	\$69,963
Grant			\$0
Realignment	\$35,000	\$35,000	\$0
Fees/Misc	\$113,750	\$778,880	\$665,130
<b>TOTAL REVENUE</b>	<b>\$490,619</b>	<b>\$1,225,712</b>	<b>\$735,093</b>
<b>FUND BALANCE</b>			<b>\$0</b>
<b>NET COUNTY COST</b>	<b>\$2,531,425</b>	<b>\$2,706,838</b>	<b>\$175,413</b>

## Program Description

The District Attorney represents the People in court as the public prosecutor, working with the Sheriff and other law enforcement agencies to keep the community safe and maintain the rule of law. The District Attorney does this by filing criminal charges in court against people who break the law, working to prevent crimes from happening in the first place, and protecting and supporting victims of crime.

Once a law enforcement agency completes an investigation into a crime committed in Yuba County, they refer it to the Yuba County District Attorney for prosecution. Yuba County District Attorney's Office receives over 3,500 new case referrals each year from law enforcement agencies, including the Yuba County Sheriff's Department, Marysville Police Department, Wheatland Police Department, California Highway Patrol, Department of Fish and Game, Yuba County Probation, Parole, and many others. The cases range in seriousness and complexity from petty theft to child molestation, rape, and murder.

A Deputy District Attorney thoroughly reviews each referred case to determine what charges if any can be proven beyond a reasonable doubt. District Attorney Investigators provide critical follow-up investigation to ensure the attorneys have the evidence they need to make good charging decisions and to present the case to a jury if necessary. The District Attorney handles the case until it is finished. Most cases are completed within four months, but some cases require years or even decades of attention because of delays in getting to trial and post-conviction matters, such as violations of probation and parole, civil commitments of sexually violent predators or mentally disordered offenders, and parole suitability hearings for defendants who were sentenced to prison for Life. The District Attorney's Office prosecutes about 73% of referred cases, filing them in Yuba County Superior Court. The goal of each

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prosecution is ultimately to make Yuba County a safe, healthy environment for people to live, work, and play. Striving for justice, we seek case outcomes that will protect our community by appropriately and consistently punishing lawbreakers under the rule of law. We give the amenable an opportunity to rehabilitate on diversion or probation. We work to incapacitate the dangerous and incorrigible by seeking jail or prison sentences. We support victims, keeping them informed, helping them access resources through Yuba County Victim Services and seeking just outcomes that secure restitution.

The District Attorney also provides support to law enforcement agencies, conducting training, reviewing search warrants, assisting with multidisciplinary interviews of child victims and witnesses, and consulting on significant investigations. Yuba County District Attorney Investigators help lead the Yuba Sutter Officer Involved Shooting Investigation Team. The team provides an unbiased and professional investigation into officer involved shooting incidents.

To handle all these cases and responsibilities, the District Attorney leads a dedicated team of attorneys, investigators, and support staff. The County currently allocates 16 positions: 10 attorneys (including the elected District Attorney), 2 investigators, 1 investigative assistant, and 3 support staff.

## Accomplishments & Performance Measures Calendar Year (CY) 2021

### Yuba County Strategic Priority – Public Safety & Health

**Prosecution by the Numbers** During CY 2021 office staff reviewed 3,598 investigation referrals, screened 3,498 cases, filed 2,797 criminal actions in court and brought 2,648 cases to completion.

	Felonies	Misdemeanors	Juvenile Delinquency	Probation Parole Violations	All Cases
<b>Cases Referred</b>	1,302	2,234	62	n/a	3,598
<b>Cases Screened</b>	1,250	2,187	61		3,498
<b>Cases Filed</b>	963	1,797	37		2,797
<b>Cases Closed</b>	796	1,643	48	161	2,648

**Timeliness** – Case screening was measured in 2021 for timeliness. For the 3,498 cases screened in 2021, an attorney screened 72% within 30 days of being referred, 92% within 90 days, and 97% within 180 days.

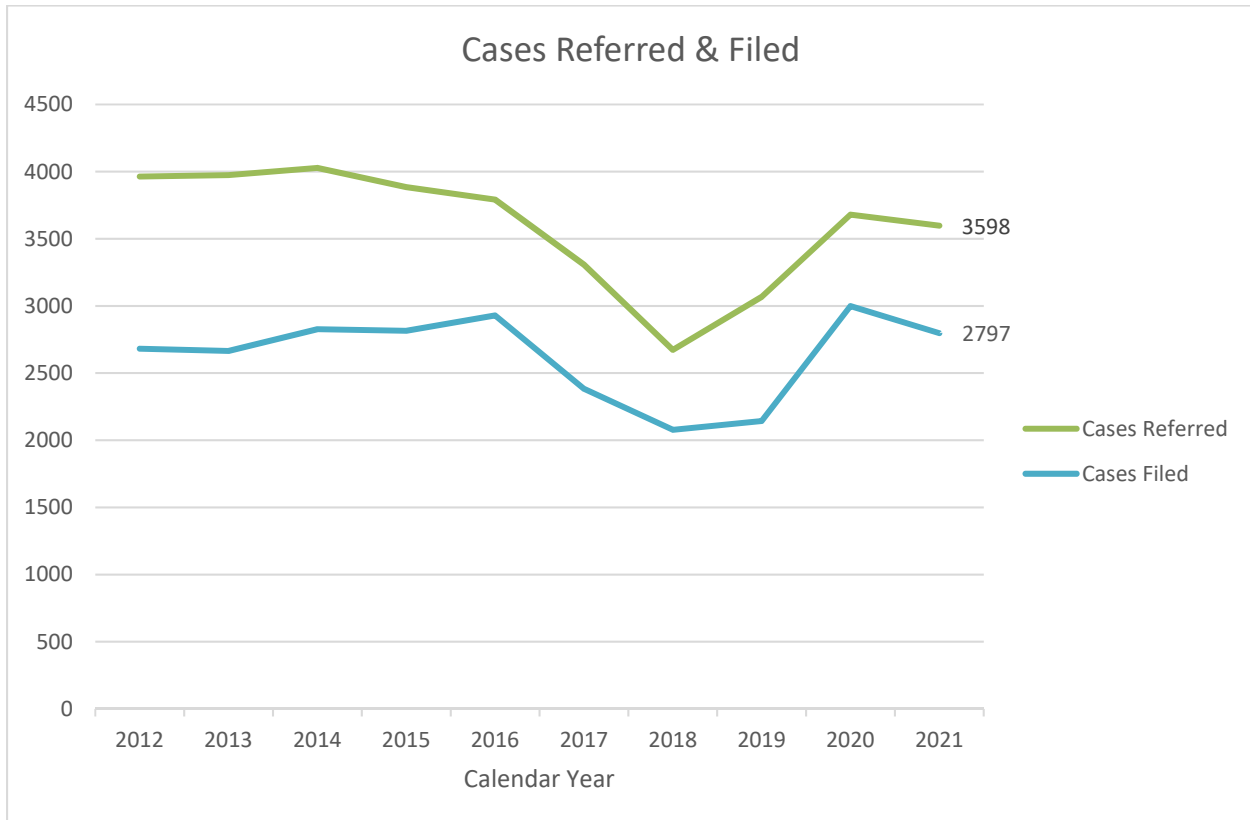
**Consistency** - Prosecutorial consistency was measured for filing decisions and case outcomes.

Law enforcement forwards cases based on “probable cause” that a person has committed a crime. The probable cause standard only requires a strong suspicion. To find a person guilty of a charge, prosecutors must prove the case “beyond a reasonable doubt.” The District Attorney only files the cases that meet this standard. The filing rate for CY 2021 was 80%, above the 10-year average of 73%. A consistent filing rate is a good indicator that standards for filing decisions are being maintained. The

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spike in the filing rate is likely attributable to the retirement of three very senior attorneys and their replacement with relatively inexperienced attorneys. The filing rate should move back towards the 10-year average as the staff gain experience.



Case outcomes were also measured for consistency. The conviction rate of 91% for CY 2021 is spot on with the 10-year average of 91%. Cases that do not result in a conviction are dismissed for a myriad of reasons, including when a defendant successfully completes a diversion program.

**Significant Cases** The office worked hard in CY 2021 to hold people accountable for crime despite the COVID-19 Pandemic, bringing to a close 2,648 criminal cases ranging from misdemeanor DUI offenses to murder. Here are a few highlights from major prosecutions concluded in 2021.

- William Henson was sentenced on 2/19/2021 to serve 15 years to Life in prison for Second Degree Murder and Assault with a Firearm. Henson shot at a woman at the Rio Inn, and then hit and killed Michael Sanchez as he fled the scene on 6/30/2020.
- Shawn Michael Jones was sentenced on 3/8/2021 to serve 14 years, 8 months in prison for molesting five different children between 2017 and 2020.



William Henson at Sentencing Hearing.

Michael Sanchez

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- Jesse Jaramillo was sentenced on 5/7/2021 to serve 37 years to Life for murdering Karina Paez-Smith, threatening to kill Paez-Smith’s daughter, who was his girlfriend, and a serious assault Jaramillo committed on another inmate while incarcerated in the Yuba County Jail.

- Clayton John was sentenced on 5/7/2021 to serve 31 years to Life for assaulting and threatening people with a knife at the Flyer’s gas station in July of 2020. This was John’s third strike. Deputy District Attorney Andrew Naylor tried the case to a jury. DDA Andrew Naylor



- Christopher Tyler Wright was sentenced on 5/24/2021 to serve 31 years to Life for sexually molesting four children under the age of 11.

- Aurelio Reyes was sentenced on 6/1/2021 to serve 22 years in prison for Voluntary Manslaughter. Reyes shot Clayton Medina with a pellet rifle in January 2021, resulting in Medina’s death.

- Marvin Wade, Jr. was sentenced on 6/14/2021 to serve Life Without Possibility of Parole (LWOP) for the 2020 forcible rape of a minor and domestic violence. Senior Deputy District Attorney Monique McDevitt and Deputy District Attorney Morgan Luna tried the case to a jury.

From left to right:  
Senior DDA Monique  
McDevitt and DDA  
Morgan Luna.



- Avery Sanchez was sentenced on 6/14/2021 to serve Life Without Possibility of Parole (LWOP) for the 2019 murder of Alejandro Escobar. Sanchez and his co-defendant, Vivian Wallace, fired multiple rounds at the victim’s vehicle as they traveled south on SR70 near Plumas Lake. Wallace pled and was sentenced in 2020 to 62 years to Life. Chief Deputy District Attorney Shiloh Sorbello and Deputy District Attorney Akaash Nagra tried the case to a jury.

From left to right: Chief  
DDA Shiloh Sorbello and  
DDA Akaash Nagra.



- Eric Montejano was sentenced on 7/19/2021 to serve 25 years to Life in prison for murdering his infant son in December 2019. Chief Deputy District Attorney Shiloh Sorbello tried the heart-breaking case to a jury.



From left to right: Eric  
Montejano, Yuba County  
Sheriff Detective Javier  
Zepeda, Yuba County Sheriff  
Sergeant Tammy Pecsí.

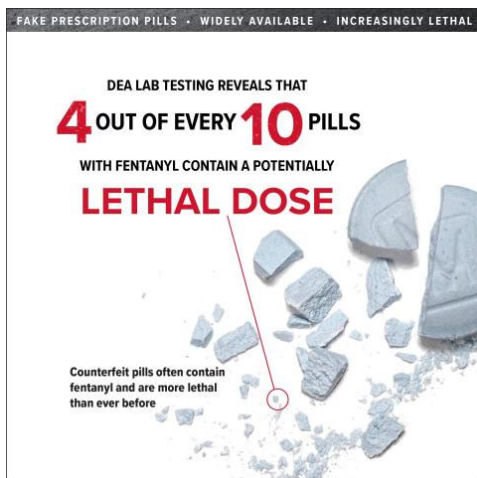
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- Moe Nanlap was sentenced on 9/13/2021 to serve 115 years to Life in prison for murdering Curtis Hicks and attempting to murder Hick’s wife in 2019. Nanlap used a firearm and had a prior strike. The case was domestic violence related because Nanlap had children with the Hicks’s daughter. Chief Deputy District Attorney Shiloh Sorbello tried the case to a jury with the assistance of Deputy District Attorney Morgan Luna.
- Bryan Adams was sentenced on 9/13/2021 to serve 38 years to Life for murdering his wife, Christine Adams, in March of 2021. Adams was out on bail for a prior domestic violence incident in Tulare County when he murdered Christine.
- Zachary Williams was sentenced on 9/13/2021 to serve 48 years to Life for attempted murder, kidnapping, and assault with a deadly weapon. Williams kidnapped a woman in Oregon House and then assaulted multiple people, attempting to murder one man with a machete, and shooting at another person as she tried to flee.
- Edgar Ernst was sentenced on 10/25/2021 to serve 20 years in prison for Gross Vehicular Manslaughter while Intoxicated. Ernst was high on methamphetamine when he crossed the centerline on SR70, hitting and killing Brian Allen.
- Trew Smith was sentenced on 12/13/2021 to serve 20 years to Life for attempting to rob and murder Alberto G., affectionately referred to as the Elotero, or the “Corn Man.” Smith, a person prohibited from possessing a firearm due to his prior record, shot and severely injured Alberto G.



**Focus Area – Fentanyl Poisoning** - Yuba County has seen an uptick in overdoses due to opioids. Fentanyl is a synthetic opioid typically used to treat patients with chronic severe pain or severe pain following surgery. Fentanyl is similar to morphine, but 100 times more potent. Illicit fentanyl, primarily

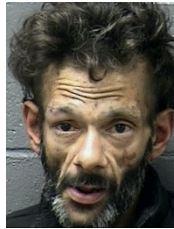


manufactured in foreign clandestine labs and smuggled into the United States through Mexico, is being distributed across the country and sold on the streets. Fentanyl is mixed with other drugs, such as hydrocodone and methamphetamine, to increase the potency. It’s sold as powder, and increasingly, pressed into pills made to look like legitimate prescription opioids. Because there is no official oversight or quality control in the clandestine labs, these counterfeit pills often contain lethal doses of fentanyl. To combat this, we have partnered with Adventist Rideout to get addiction treatment information into the hands of every person criminally charged with possessing street drugs. We also began advising these defendants of the dangers posed by Fentanyl, and warning them that they may be charged with murder if they give someone street drugs that cause that person’s death.

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**Crime Prevention** The District Attorney’s Office is dedicated to preventing crime before it happens. The biggest tool we have is the swift punishment of the guilty, but we also have a role in preventing crime through offender rehabilitation and public education. During CY 2021 the District Attorney continued to partner with the court and probation to send



Weiss  
January  
2020

offenders through Drug Court and other rehabilitation programs. We had a celebrity graduation from Drug Court in 2021, highlighting the amazing transformation that can occur when a person is ready for addiction treatment. Shaun Weiss, famous for appearing in “The Mighty Ducks” movie as Goldberg, hit rock-bottom in January 2020. Marysville Police arrested him for breaking into the garage of a residence and stealing property. We gave him a chance to go to rehab to earn a dismissal of his case. He graduated Drug Court in July of 2021, sober, employed, and reconnected with family.



Weiss at Drug Court  
Graduation

The District Attorney’s Office also began piloting a Behavioral Health Court in cooperation with Sutter-Yuba Behavioral Health, Yuba County Probation, and the courts. The program identifies individuals whose criminal behavior is driven by mental health problems that can be addressed through treatment and wraparound services. As with Drug Court, the goal is to address the underlying problems so that the criminal behavior stops and the defendant becomes a productive member of our community.

## Yuba County Strategic Priority – Organizational Excellence

### Coping with COVID-19 Pandemic Backlog

One of the biggest challenges in 2021 and now 2022 is the backlog of cases created by the COVID-19 Pandemic. The pandemic has caused delays in arraignments and trials. The courts essentially postponed jury trials for nearly a year due to the pandemic. Arraignments were delayed because many defendants just never showed up for court. Due to stringent quarantine requirements imposed on the jail by the state, most defendants were cited to court rather than taken to jail. Many of them have not come to court. This has led to a severe backlog through which we are still wading.



### Integrating Data into Decision Making

In 2021 we began a project to ensure that we are capturing and using data to make better decisions. The switch to digital files and electronic case management holds tremendous promise for helping the public know what we are doing and helping us see what works and what doesn’t.

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## Goals and Objectives FY 2022-2023

### Yuba County Strategic Priority – Public Safety & Health

**The overall goal for FY 22-23 remains to provide a safe, healthy environment in Yuba County for people to live, work, and play.**

#### **Goal: Combine Investigations and Legal Services Units into the Investigations & Legal Services Division**

The District Attorney currently employs two peace officers and an investigative assistant to perform follow-up investigations. Investigations by the District Attorney's Office focus primarily on preparing cases for prosecution after the case has been initially investigated by other law enforcement agencies. Even after the case has been accepted for prosecution, there is often additional evidence to gather and analyze, such as computers, cellular phones, video surveillance, and business records. There are also witnesses to locate and interview to obtain new information or clarify information provided during the initial investigation. This follow-up investigation is often critical to proving a suspect's guilt, or determining their innocence.

The District Attorney also employs two Legal Services Specialists and a supervisor, who provide secretarial and administrative support and ensure that evidence is tracked and discovered to the defense in each case.

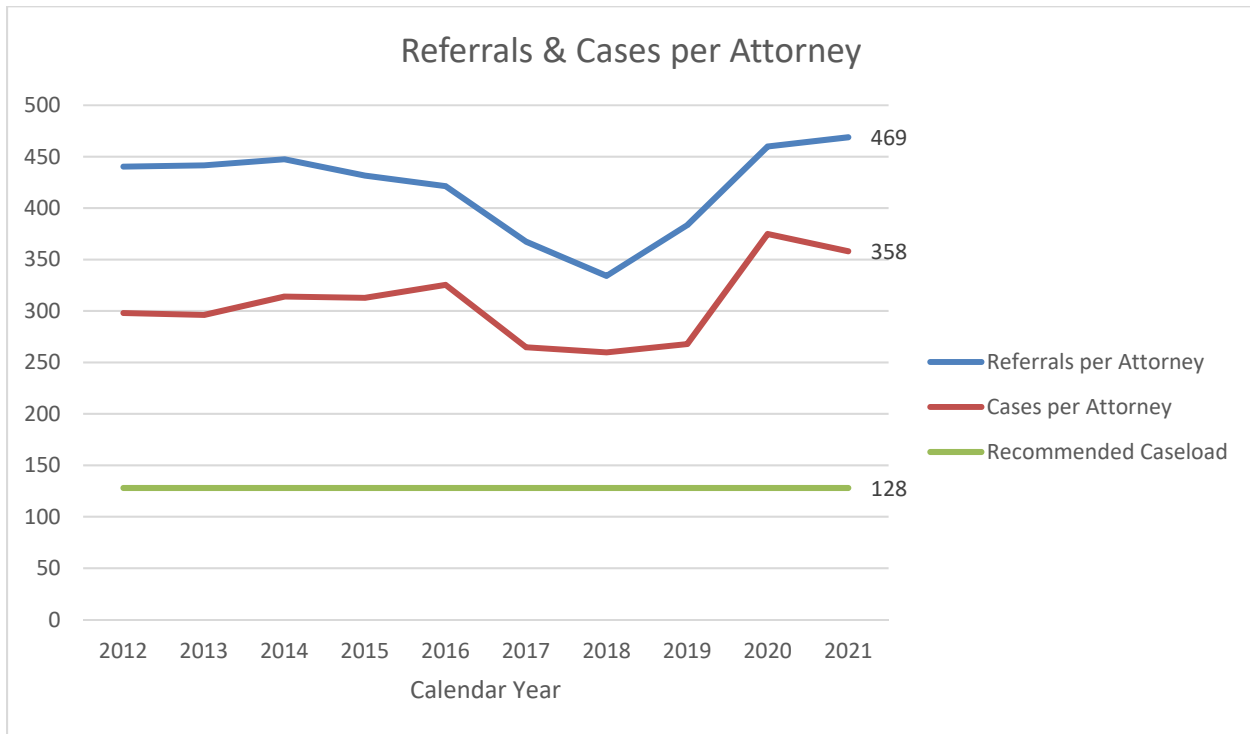
The volume of evidence has grown exponentially over the last decade as surveillance cameras and cellular phones have become ubiquitous. Just the body-worn-cameras adopted by the Sheriff's Department in FY 21-22 have added hours of video evidence to nearly every case. Processing that evidence and analyzing it to see whether it has value to a case takes skilled investigators and a significant amount of time. To address the increased volume of evidence and better plan for continuity in key positions the District Attorney is proposing to combine the investigation and legal services units under the Chief Investigator. This move will empower the Chief Investigator to manage the combined staff flexibly to support the prosecution mission of the office. The District Attorney is also proposing the Board allocate an additional District Attorney Investigator position to help with increased workload.

#### **Goal: Bolster Prosecution Division**

Budget reductions reduced allocated attorney positions by 25% during the great recession. We began to turn this around in FY 20-21 creating two new prosecutor positions. These positions were funded halfway through FY 21-22 with Measure K funds. We need to get these positions filled in FY 22-23. The District Attorney is also proposing the Board allocate another Senior Deputy District Attorney position. These moves would increase the number of prosecutors from eight to eleven. The workload per prosecutor is increasing and remains far higher than recommended even with the additional positions. The graph below shows the ratio of investigation referrals per prosecutor and cases filed per prosecutor over the last 10 years.

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There are currently no specific caseload recommendations for prosecutors. Instead, the National District Attorneys Association recommends that a prosecutor “should not be asked to maintain a workload that is inconsistent with the prosecutor’s duty to ensure that justice is done in each case.”<sup>1</sup> There are caseload recommendations for defense attorneys. In 1973, the National Advisory Commission on Criminal Justice Standards and Goals, organized by the federal government, recommended national annual maximum caseload numbers for criminal defenders of not more than 150 felony cases per year per lawyer, or 400 misdemeanor cases. With criminal law becoming ever more complex, more recent studies and recommendations for criminal defense attorney caseloads are even lower. In 2015, the Texas Indigent Defense Commission recommended that defense attorneys handle no more than 128 felony or 226 misdemeanor cases a year.<sup>2</sup>

Prosecutors arguably should have even lower caseloads for two reasons. First, prosecutors handle more than just the cases that get filed in court. Roughly 30% of investigations reviewed by prosecutors are rejected due to lack of evidence. Prosecutors handle cases post-conviction, attending parole hearings and responding to motions and writs. Prosecutors also assist law enforcement agencies by reviewing search warrants, collaborating on investigations, and providing training. Second, when it comes to cases that are filed, prosecutors have a fundamentally different job than the defense. Prosecutors are not there just to see that a client is treated fairly. Prosecutors are charged with doing justice in each case and have the responsibility and burden of gathering and presenting proof beyond a reasonable doubt.

<sup>1</sup> National District Attorneys Association, *National Prosecution Standards*, Third Edition, 2009, <https://ndaa.org/wp-content/uploads/NDAA-NPS-3rd-Ed.-w-Revised-Commentary.pdf>.

<sup>2</sup> Texas Indigent Defense Commission, *Guidelines for Indigent Defense Caseloads*, 2015, <http://www.tidc.texas.gov/media/8d85e69fd4fb841/guidelines-for-indigent-defense-caseloads-01222015.pdf>.



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The 10-year average in Yuba County for cases filed was 699 felonies and 1,918 misdemeanors. Based on the caseload recommendations for defense attorneys and the 10-year average of cases referred and filed in Yuba County, the District Attorney's Office should have 16 - 20 attorneys in addition to the District Attorney and Chief Deputy District Attorney, who are managers.

## **Goal: Expand Collaborative Courts to Include Veterans and Behavioral Health**

The Yuba County Superior Court currently operates a Drug Court. Defendants who agree to the terms of Drug Court receive wrap-around services and treatment, with frequent reviews by the judge, probation, and District Attorney. If a defendant completes the program, which can take several years, they receive a dismissal of their case. The Drug Court program helps addicts who are finally ready to face their problem and change their life. The public is safer because the defendant has addressed the root issues that led to their criminality. Veterans and others suffering from behavioral health issues are another group of people that could significantly benefit from the collaborative court model. As noted under Accomplishments, a pilot Behavioral Health Court is underway! Hopefully in FY 22-23 we will make the pilot permanent and begin discussions regarding integrating veterans into our collaborative courts.

## **Yuba County Strategic Priority – Organizational Excellence**

### **Goal: Update Office Policies**

This is a carry-over from prior years. Administrative resources tapped out dealing with the COVID-19 Pandemic and retooling business practices and workflows. An overall review and update of office policies remains an ongoing goal.

### **Goal: Develop Better Tracking of Case Dispositions**

With the switch from paper to digital files and the sudden onset of remote work in the face of the pandemic, the old paper system of tracking case dispositions failed. A modern case management system was implemented in FY 17-18, but data entry was spotty and inaccurate. CY 2021 was the first year where all cases were digital. In FY 21-22 we began working with an analyst to develop reports that will help analyze workload and case dispositions. The goal this year is to be able to track all performance measures with these reports and begin drilling down into case dispositions and sentencing data to become more data-driven in case negotiations. Beyond FY 22-23, we are hoping to create a public-facing portal that shows case dispositions.

### **Goal: Digitize Closed Files**

The District Attorney is required to maintain files up to 75 years depending on the type of case. Sometimes prior case files provide evidence relevant to new prosecutions, e.g., when new cases are filed on defendants with a history and pattern of domestic violence or sex crimes. Some stored information is also subject to Public Records Act requests, e.g., officer involved shootings. Best practices would be to digitize these materials so that they are safe in the cloud, easier to access, and more efficiently provided when requested pursuant to a PRA. The budget request includes funding for an extra help position to work on this scanning project.

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## **Pending Issues/Policy Considerations FY 2022-2023**

California's state government is currently conducting a reckless experiment with public safety. Beginning with "realignment," California has reduced the prison population from roughly 170,000 down to 95,000. California has done this by pushing "nonviolent" offenders down to the county jails, downgrading most theft and drug crimes to misdemeanors and changing laws and rules so that many prisoners serve only 1/3 of their prison sentence, and probationers are supervised no more than two years even for most felonies. This experiment is not going well. It has not increased rehabilitation. It has not increased public safety. The District Attorney encourages the Board and County to engage politically with the state to end this reckless experiment. We should have truth in sentencing – prisoners should serve the sentence imposed by the judge. The administrative early releases of prisoners by the California Department of Corrections and Rehabilitation and Board of Parole Hearings must stop! We need to invest as a state in prison infrastructure. We must have sufficient capacity to lock up the dangerous and the incorrigible. We need to invest as a state (and perhaps as a region) in locked treatment facilities for those who are unsafe due to behavioral health problems, including drug addiction. Please engage where appropriate to make these things happen.