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Contra Costa's public defenders want to be paid as much as prosecutors



On the steps of Wakefield Taylor Courthouse, Contra Costa County public defenders hold their hands up at a demonstration, in conjunction with other public defenders offices in the Bay Area, to spotlight recent police violence against African Americans across the country in Martinez, Calif., Thursday, Dec. 18, 2014. (Susan Tripp Pollard/Bay Area News Group)

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MARTINEZ — In what they call an issue of racial justice, attorneys from the Contra Costa County public defender's office are urging the Board of Supervisors to close the pay gap between the entry-level lawyers who defend most residents accused of misdemeanor crimes and their counterparts in the district attorney's office who prosecute them.

"What I think this really is about is the Board of Supervisors engaging in systemically under-resourcing our office," said Brandon Banks, a deputy public

defender and president of the Contra Costa County Defenders Association. “The majority of people accused of crimes in Contra Costa County are people of color who are low income. We represent those folks.”

Currently, the entry-level attorney positions in the public defender’s office are 15 “special assignment attorneys.” To handle the county’s many misdemeanor cases, they are paid \$5,925.32 per month — \$71,103.84 annually — and receive no subsidized healthcare or retirement benefits their first year. By comparison, entry-level prosecutors start at between \$7,424.71 and \$7,981.66 per month — or \$89,096.52 to \$95,779.92 a year— plus get health and retirement benefits.

Blanca Hernandez has been a special assignment attorney for about a year and a half. Though the job is technically a temporary position, many people end up staying in it at least a year before applying for the more permanent deputy public defender II job that requires at least a year of experience as a public defender.

With a \$136,000 student debt after graduating from law school at the University of Southern California, Hernandez said it’s difficult to live in the Bay Area on a public defender’s salary. But she, like many of her colleagues, believe strongly in their work defending people who cannot afford attorneys

Roughly 60 people — most of them attorneys in the public defender’s office — expressed their frustration with the current system at the Board of Supervisors meeting Tuesday. The special assignment attorneys often work close to 70 hours per week and represent more than two dozen clients per week, they said.

That includes trial work like subpoenaing witnesses and preparing testimony as well as connecting clients with various services such as mental health, immigration and homeless resources. Often, they pay out of pocket to buy clients clothes for trial or bus fare to get to and from court, attorneys said.

The lack of paid healthcare and benefits is prompting many entry-level public defenders in Contra Costa to jump ship to other local counties that pay more competitive salaries, they added.

Then there’s the large misdemeanor caseloads, they said. Contra Costa County brought 319 cases to jury trials — twice Alameda County’s total — in the 2015-16 fiscal year, according to data from the state judicial branch. Nearly 200 of those were for misdemeanors.

Ellen McDonnell, assistant public defender for Contra Costa County, said that in a majority of misdemeanor cases, defendants are found not guilty on some or all of the charged counts.

“Our overriding goal is to serve the best interests of our clients in everything that we do. In cases where the district attorney’s office does not make fair offers to our clients, we go to trial to ensure that we protect all of our clients’ constitutional rights,” McDonnell said. “Even having a minor criminal conviction on one’s record can have massive implications for employment, housing, immigration and in many other ways.”

In recent years, Contra Costa’s law enforcement and criminal justice system officials have [warned about losing staff to other, higher paying counties](#). County supervisors currently are negotiating contracts not only with public defenders but also district attorneys and others.

In paying entry-level prosecutors more than special assignment attorneys, the county is sending a message that it values policing and prosecuting people of color over defending them, the public defenders argued.

In interviews this week, some supervisors disputed that contention.

Supervisor John Gioia pointed out that higher-level deputies in the public defender’s office earn salaries more comparable to those of prosecutors. The exception are the “temporary” special assignment attorneys.

“We all agree there should be equity,” Gioia said in a phone interview Tuesday.

Supervisor Candace Andersen said by phone Tuesday that “it will cost some amount of money” to close the wage gap, but noted that the supervisors are weighing all the current salary negotiations in light of the overall budget and emphasized that they do not “favor” one department over the other.

According to county budget documents, the district attorney’s office has nearly twice the number of full-time positions as the public defender’s office — 218 to 123. A little more than \$40 million is devoted to the district attorneys’ salaries and benefits and \$25 million to those in the public defender’s office. However, \$5 million is allocated to the Conflict Defense network of attorneys that represent indigent offenders who cannot be represented by the public defender’s office due to conflicts of interest or a unavailability.

“All we want is equality on both sides of criminal justice system,” said special assignment attorney Hernandez.