

District Attorney

Clinton J. Curry - District Attorney

108-2500	FY 20/21 Adopted Budget	FY 21/22 CAO Recommended	Change
EXPENDITURES			
Salaries and Benefits	\$2,226,224	\$2,210,435	(\$15,789)
Services and Supplies	\$343,497	\$461,066	\$117,569
Other Charges	\$85,087	\$350,543	\$265,456
Fixed Assets			\$0
TOTAL EXPENDITURES	\$2,654,808	\$3,022,044	\$367,236
REVENUE			
Fed/State	\$242,568	\$341,869	\$99,301
Grant			\$0
Realignment	\$35,000	\$35,000	\$0
Fees/Misc	\$122,467	\$113,750	(\$8,717)
TOTAL REVENUE	\$400,035	\$490,619	\$90,584
FUND BALANCE	\$0	\$0	\$0
NET COUNTY COST	\$2,254,773	\$2,531,425	\$276,652

Program Description

The District Attorney is an elected officer who works with law enforcement and the courts to keep the public safe and maintain the rule of law. The District Attorney does this by prosecuting individuals 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 3,000 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, and many others. The cases range in seriousness and complexity from petty theft to child molestation, rape, and murder.

Each case referral is thoroughly reviewed by an attorney to determine what charges if any can be proven beyond a reasonable doubt. District Attorney Investigators provide critical follow-up investigation on each case 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's Office prosecutes about 70% of referred cases, filing them in Yuba County Superior Court and handling them until they are completely finished. Each case receives focused attention until it is dismissed or results in a conviction and sentence. Most new cases are completed within four months, but some cases require years or even decades of attention, as the District Attorney handles post-conviction matters, such as violations of probation and parole, civil commitments of sexually violent predators and mentally disordered offenders, and parole suitability hearings for defendants who were sentenced to prison for Life.

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The goal of each prosecution is ultimately to make Yuba County a safe, healthy environment for people to live, work, and play. We strive for justice, love mercy, and act with humility. We seek case outcomes that will protect society 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 15 positions: 10 attorneys (including the elected District Attorney), 2 investigators, and 3 support staff.

Accomplishments CY 2020

Yuba County Strategic Priority – Public Safety & Health

Prosecution by the Numbers During CY 2020 office staff reviewed 3,680 investigation referrals, filed 2,999 criminal actions in court and brought 2,049 cases to completion.

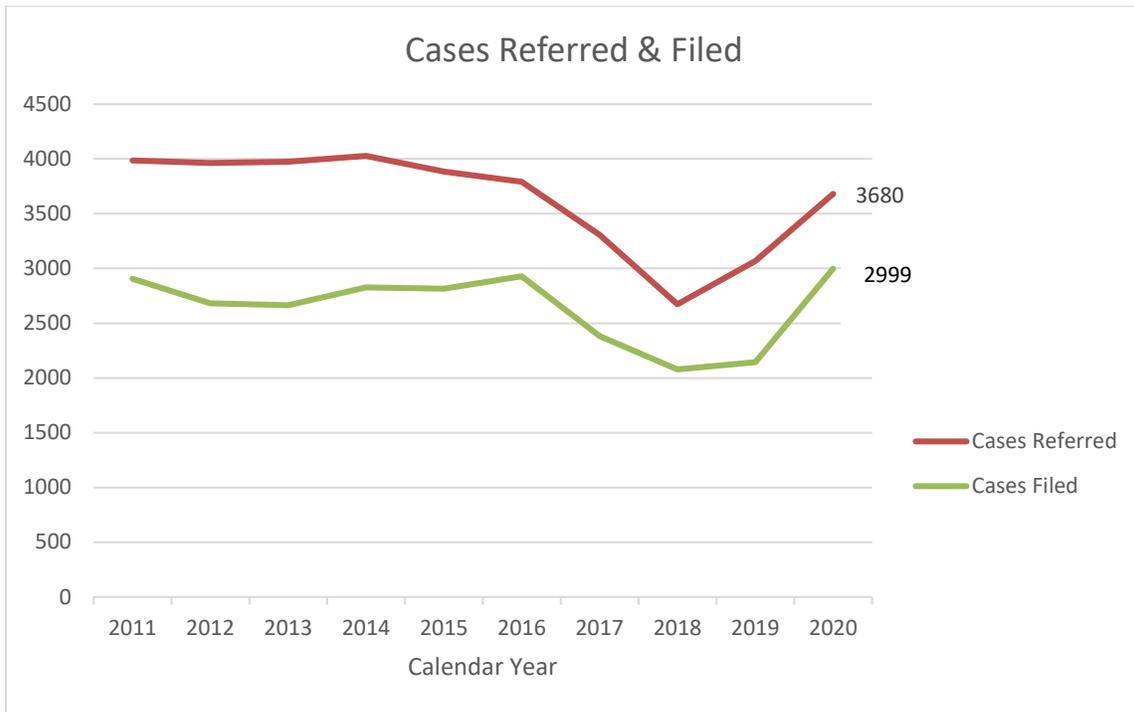
	Felonies	Misdemeanors	All Cases
Cases Referred	1,252	2,428	3,680
Cases Filed	883	2,116	2,999
Cases Closed	739	1,310	2,049

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

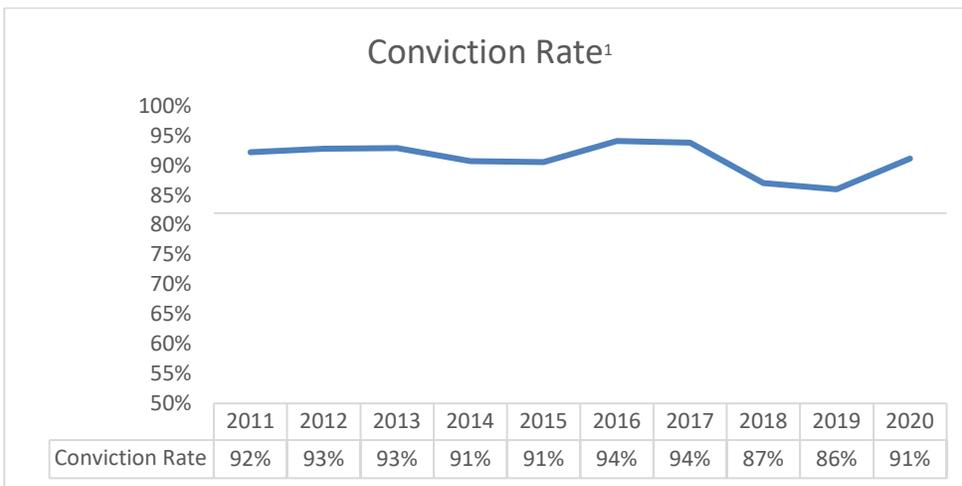
Law enforcement forwards cases based on “probable cause” that a person has committed a crime. The probable cause standard only requires a strong suspicion. To find a person guilty of the charge, prosecutors must prove the case “beyond a reasonable doubt.” Cases are filed in court only if the attorney believes a jury will unanimously convict. The filing rate for CY 2020 was 81%, above the 10-year average of 71%. A consistent filing rate is a good indicator that standards for filing decisions are being maintained. The 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.

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Case outcomes were also measured for consistency. The conviction rate of 91% for CY 2020 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.



¹ – Conviction rate is adjusted for Defendants with multiple cases.

Significant Cases The office worked hard in CY 2020 to hold people accountable for crime despite the COVID-19 Pandemic, bringing to a close 2,049 criminal cases ranging from misdemeanor DUI offenses to murder. Here are a few highlights from major prosecutions concluded in 2020.

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- Luis Herrejon-Ubias was sentenced on 5/1/2020 to serve 21 Years to Life in State Prison for sexually abusing multiple children, including one that was under 10 years of age. Herrejon-Ubias had access to the children because his wife was a daycare provider.

Man sentenced to 21 years to life for child molestation

By Nicki Schedler May 1, 2020

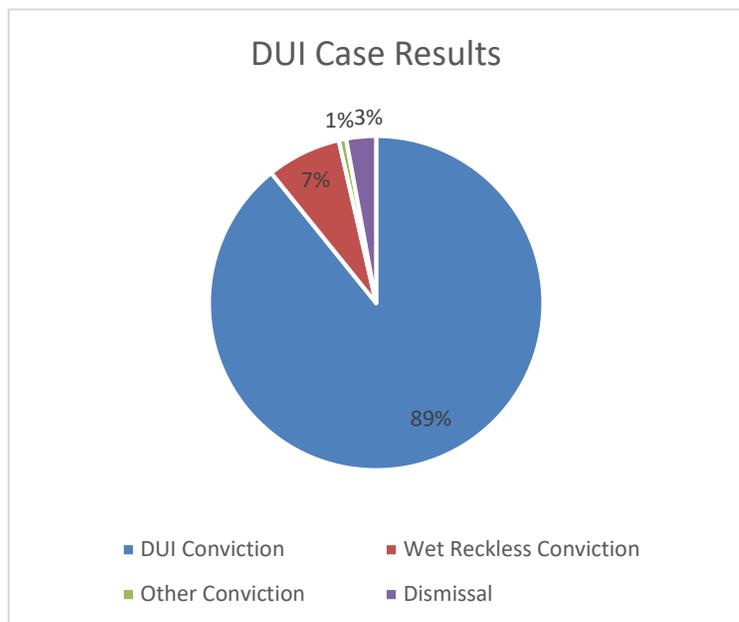
- Vivion Deandre Wallace was sentenced 5/1/2020 to serve 62 Years to Life in State Prison for murdering Alejandro Escobar. Wallace was one of two shooters who shot from car to car while traveling Highway 70 near Plumas Lake. The shooting was gang related. Wallace pled guilty as part of a negotiated plea agreement. His codefendants were convicted in early 2021.

Car shooting convict gets 62 years-to-life

By Nicki Schedler May 1, 2020

Focus Area – Driving Under the Influence – According to the National Highway Traffic Safety Administration, DUI drivers killed 10,142 people in the United States in 2019. The toll in California was 949. The Centers for Disease Control and Prevention estimates that 29 people die in the United States every day from a vehicle crash involving an impaired driver. The annual cost in the U.S. for alcohol-related crashes is more than \$44 billion annually.

We take DUI prosecution in Yuba County very seriously. In CY 2020, the Yuba County District Attorney's Office filed 388 DUI cases; that's 13% of the total cases filed for the year! The conviction rate for DUI cases was excellent in CY 2020. As the pie chart shows, 98% of cases resulted in a conviction.



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 2020 the District Attorney continued to partner with the court and probation to send offenders through Drug Court and other rehabilitation programs.

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Yuba County Strategic Priority – Organizational Excellence

Coping with COVID-19 Pandemic

One of the biggest challenges and opportunities for 2020 was presented by the COVID-19 Pandemic. The Yuba Court closed to the public for roughly six weeks before reopening in May 2020 with health-screening and social distancing protocols. Even while the doors of the courthouse were closed to the public, the District Attorney continued to appear in court to handle the cases of defendants who were in jail. The Court granted multiple continuances over our objections and did not allow a single case to go to jury trial in 2020 after the pandemic began. Many attorneys appeared in court via Zoom, but our staff continued to be physically present in court so that we would be available to victims.



We did have staff work remotely when they were not in court. To facilitate the remote work, we accelerated the digitization of our files and case management. Paper files were eliminated during the first few months of the pandemic. An online portal was established for law enforcement agencies to submit their case referrals digitally. This enabled staff to work on assigned cases from home, the office, or court. We also retooled our business practices and workflows to function without paper files. This created some tremendous efficiencies that allowed us to shift additional tasks to our support staff, freeing the attorneys to meet the challenges posed by the significant increase in caseload.

Changing of the Guard

This was also a big year of transition for our attorney staff. Out of eight attorneys, six have retired or gone on to become a judge in the last two years. Three of them left in the last three months of 2020. Two Senior Deputy District Attorney positions were authorized by the Board of Supervisors in 2020, greatly aiding in succession planning. Losing decades of experience to retirements has been difficult, but we began training up a new generation to continue the fight.

Office Modernization

Tremendous progress was made in FY 20/21 toward the goals set to bring the District Attorney's Office in the 21st century. Office modernization is key to maximizing efficiency and minimizing costs over the long-term.

- Launched a portal for digital submission of case referrals by law enforcement agencies; transitioned 100% to digital files and case management.
- Began testing an Automated Programming Interface between the Yuba Courts and our office to allow for digital filing of cases with the Court. The API will be live prior to the end of FY 20/21.
- Expanded our capabilities to work remotely when disaster or pandemic strikes.
- Replaced outdated office furniture with ergonomically correct equipment to meet best

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practices and avoid costly future workers' compensation claims.

Goals and Objectives

FY 2021-2022

Yuba County Strategic Priority – Public Safety & Health

The overall goal for FY 21-22 remains to provide a safe, healthy environment in Yuba County for people to live, work, and play.

Goal: Increase Capacity for Follow-Up Investigations

The District Attorney currently employs two peace officers to perform follow-up investigations. Investigations by the District Attorney's Office focus primarily on preparing each case for prosecution after it 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 volume of potential evidence has grown exponentially over the last decade, as surveillance cameras and cellular phones have become ubiquitous. Processing that evidence and analyzing it to see whether it has value to a case takes skilled investigators and a significant amount of time by those investigators and support staff. Staffing available to conduct follow-up investigations, and process and analyze the evidence, has fallen 38% over the last 15 years. Additional staffing is necessary to meet current and future workloads. The District Attorney has proposed adding two full-time positions to increase investigative capacity:

- Visiting Investigator Program – In cooperation with the Yuba County Sheriff's Department, a Deputy would be assigned to the District Attorney's Office for a two-year special assignment. The deputy would gain valuable investigation experience, working alongside the DA Investigators. The deputy would take that experience back to the Sheriff's Department and a new deputy would rotate into the assignment.
- District Attorney Investigative Assistant – Similar to a Community Service Officer, the DA Investigative Assistant would handle non-hazardous work that does not require arrest powers or carrying a firearm. The Investigative Assistant would be a force multiplier, assisting with discovery, subpoenas, and routine investigative work, freeing the DA Investigators to conduct follow-up investigations.

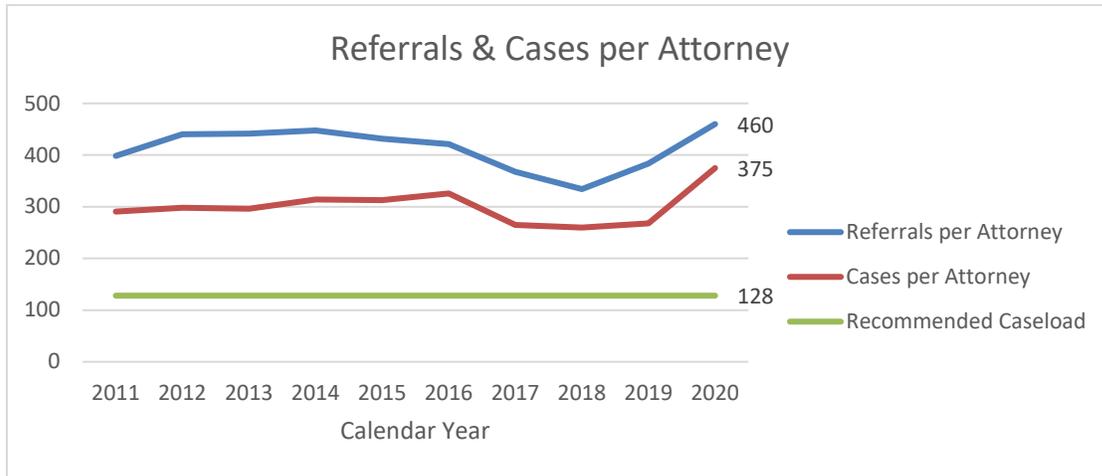
Goal: Fill Vacant Attorney Positions

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. We need to get these positions filled. 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

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cases filed per prosecutor over the last 10 years.



There are currently no specific caseload recommendations for prosecutors. Instead, the National District Attorney’s 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.”¹

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.²

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.

The 10-year average in Yuba County for cases filed was 675 felonies and 1950 misdemeanors. Based on the caseload recommendations for defense attorneys and the 10-year average of cases actually

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

² 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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filed in Yuba County, the District Attorney's Office should have at least 10 to 14 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. Initial discussions have already begun.

Yuba County Strategic Priority – Organizational Excellence

Goal: Update Office Policies

This is a carry-over from last year. Administrative resources tapped out last year dealing with the COVID-19 Pandemic and retooling business practices and workflows. An overall review and update of office policies is a top priority for this fiscal year.

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 will be the first year where all cases will be digital. Business practices were changed in CY 2020 to ensure accurate entry of case dispositions and sentencing. The goal for this year is to develop reports that will help analyze case dispositions to monitor for issues and become more data-driven in case disposition negotiations.

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.