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California keeps passing progressive criminal justice reforms — and failing to fund them

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Body

Imagine spending decades in prison, only for a new law to finally give you the power to prove your trial was corrupted by overt racial bias. You finally have a legal path to freedom, and the law guarantees you a lawyer to help fight your case. But when you show up to court, the judge looks at you and says, “There are no lawyers available.” You are on your own until help arrives, and who knows how long that will be.

This is not a hypothetical nightmare. It is the reality in California, where a catastrophic, billion-dollar funding imbalance has turned ***progressive*** criminal justice reforms into an empty promise for the state’s poorest residents.

In recent years, California has passed landmark, civil rights-forward legislation like the *Racial Justice Act of 2020* and its retroactive expansion, the *Racial Justice Act for All*. These laws allow incarcerated people to challenge convictions or sentences infected by racism or systemic errors. Crucially, the Legislature wrote a vital safeguard into these laws: If you cannot afford an attorney, the state *will appoint one for you*.

But passing a law without funding is just political theater.

The breaking point finally burst with a recent landmark California Court of Appeal decision, *Harmon v. Superior Court*. In Riverside County, an incarcerated man named Taiwan Orran Reed successfully proved that law enforcement used explicitly racist language during his trial. The court agreed his case had merit and ordered the local public defender’s office to represent him at his upcoming hearing.

But the public defender’s office fought back, arguing it literally did not have the bodies or the budget to take the case. The office was being flooded with up to five new post-conviction requests every single day from state prisons, while holding a skeleton crew of just six attorneys to handle them. Under *local laws*, they were forced to prioritize active, pre-conviction trial dockets.

The Court of Appeal ruled in favor of the public defender. The court held that while public defenders must represent poor defendants at trial, they have the absolute legal discretion to say “no” to post-conviction cases.

The result? Vulnerable, indigent individuals are left entirely stranded in a complex legal labyrinth without a guide.

How did we get here? The crisis is driven by a profound, structural math problem for California counties. According to a *report* by the Office of the State Public Defender, California counties allocated nearly $2.2 billion to local district attorney offices in a single fiscal year, compared to just $1.28 billion for all public defense systems combined.

Furthermore, the state pours hundreds of millions of dollars into exclusive prosecution grants to fund specialized task forces. These front-end dollars naturally drive up convictions and prison sentences. But the state provides

virtually zero matching funds for public defenders to handle the back-end avalanche of post-conviction appeals and petitions that follow. To make matters worse, the few state grants that do exist to support public defense are legally scheduled to expire this year.

This financial starvation fractures the right to counsel. A *report* by UC Berkeley's *Criminal Law & Justice Center*, the *ACLU* and *the Wren Collective* revealed that 24 California counties rely on unregulated, flat-fee contracts with private lawyers to handle poor defendants' cases. Because these contracts pay a single lump sum regardless of workload, they financially disincentivize attorneys from doing basic investigations or tackling complex post-conviction fights — leaving clients with representation in name only.

Our legal system operates on a simple principle: Fairness requires a balanced scale. Pumping billions into the front-end machinery of prosecution while starving the back-end infrastructure of defense creates an inescapable bottleneck that clogs our courts and wastes taxpayer dollars on prolonged, unconstitutional incarcerations.

When we deny adequate legal representation to individuals trying to correct proven errors or systemic bias, we undermine trust in the law itself. Decades of legal scholarship — from the from the U.S. Supreme Court's foundational ruling establishing the rights of indigent defendants filing appeals in *Griffin v. Illinois, 351 U.S. 12 (1956),* to empirical *research* — show that robust post-conviction representation doesn't just improve legal outcomes; it humanizes the forgotten, roots out institutional rot and saves public resources by ensuring the state isn't paying to lock up the wrong people.

If California truly wants to lead on civil rights and criminal justice reform, our lawmakers must stop passing unfunded mandates. Every time the Legislature creates a post-conviction right to counsel, it must attach dedicated, ongoing state dollars to pay for it. We must establish a state-funded defense dedicated strictly to post-conviction matters so local public defenders can focus on handling active trials.

True justice cannot be a bureaucratic, zero-sum game. If the promise of equal protection under the law ends the moment the prison doors slam shut, then it was never a promise at all. It's time for California to balance the scales.

Andrea Crider is a staff attorney and lecturer at UC Berkeley School of Law's Criminal Law & Justice Center.

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