

2022 Community Partner Budget Request

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|----------------------------|---------------------------|---------------------|---------------------------------|
| Community Partner | Kansas Holistic Defenders | Contact Name | Sam Allison-Natale |
| 2022 Request Amount | \$425,000 | Phone Number | 561-352-6598 |
| | | Email | Sam@kansasholisticdefenders.org |

Community Partner Summary

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| Community Partner Overview |
| <p>Kansas Holistic Defenders is a non-profit public defender, which will provide holistic criminal defense services to poor and working-class residents of Douglas County accused of misdemeanor offenses. Our mission is to defend Kansans effectively, zealously, and respectfully. We will use an interdisciplinary, holistic approach to champion our clients’ individual goals and address the root causes of involvement in the legal system.</p> |
| Service Overview (metrics &/or data that describe the service impact) |
| <p>Overview</p> <p>In 2018 and 2019, more than 600 individuals charged with misdemeanors required appointed counsel in Douglas County. Misdemeanors are of crucial importance for justice system reform. Individuals charged with misdemeanors face potential loss of liberty, but often, it is the collateral consequences of the arrest and prosecution that are most destabilizing. These consequences may include job loss, eviction, family separation, health and mental health crises, or immigration consequences. Criminal justice system involvement can be a moment of both crisis and opportunity. Depending on how the case is handled, and what services may be accessed, the resolution of a misdemeanor can either see someone permanently achieve stability or begin a downward spiral into continued criminal legal involvement, including an escalation to felony cases.</p> <p>The holistic model of criminal defense is recognized as the most effective means of providing effective criminal defense and coordinating services. In a holistic defense model, public defenders not only help clients with their court cases but also work to address the life circumstances that led them into the criminal legal system in the first place, and the collateral consequences that might come after arrest or conviction. An expansion of the traditional indigent defense model, with its emphasis on criminal representation and court room advocacy by a single lawyer, the holistic defense model is based on the idea that to be truly effective advocates for their clients, defenders must adopt a broader understanding of the scope of their work. Holistic representation uses an interdisciplinary team that includes not just criminal defense lawyers and related support staff (investigators and paralegals) but also non-lawyer advocates — all</p> |

working collectively to meet a client's needs.

Our Staff & Services

Staff Attorneys

The core of our practice is three experienced criminal defense attorneys, who will represent clients deemed eligible for misdemeanor indigent defense services by the Douglas County District Court. These attorneys will meet with clients as soon as possible, and provide counselling, guidance, and advocacy for clients towards the effective resolution of their criminal case. As needed, these attorneys will coordinate with support staff, the court and other service providers in Douglas County, to address the collateral consequences of an arrest and prosecution. The office will ensure that at least two staff attorneys meet the qualifications for representing higher level felonies, so that clients represented by KHD can be represented by the same attorneys if they are charged with a felony subsequent to their misdemeanor representation. One of these attorneys will also serve as the organization's Executive Director, with a reduced case-load to allow for the management of the office.

Annual Cost for Attorney Services

\$65,000/ year salary per Attorney

\$48,750 in benefits for all attorneys (estimated at 25% of salaries)

Total Cost for Attorneys

\$243,750

Paralegal

The role of office manager, receptionist and custodian of computer systems will be performed by the paralegal. This individual will be important for facilitating communication between parties for the benefit of our clients, and will be necessary to ensure that all data from cases is collected, saved and organized for later review.

Annual Cost for paralegal services

\$55,000 per year salary

\$13,750 in benefits (estimated at 25% of salary)

Total cost for Paralegal

\$68,750

Client Advocate

Client Advocates work one-on-one with their clients to solve problems creatively and flexibly, helping clients access services and resources outside of the court system. Their work helps mitigate the collateral consequences of arrest and prosecution outside of the four corners of the courtroom. Client advocates using the “Partners for Justice” model have demonstrated success reducing jail time, and helping clients return to stability. During their service, Advocates may:

- Help keep families housed
- Save jobs and support people who are trying to overcome past challenges and find work
- Retrieve vital property from seizure
- Get their clients access to essential health care
- Empower parents to keep children at home
- And Support students working toward graduation

\$45,000 per year salary

\$11,250 in benefits (estimated at 25% of salary)

Total cost for Client Advocate

\$56,250

Investigator

Investigators will work directly with attorneys to provide investigation services for clients, including talking to witnesses, locating and preserving evidence, and conducting on-scene investigations to help attorneys present an effective case for the client’s defense. Having an investigator early in a case is key to allowing attorneys to timely investigate cases, prepare for trial, serve subpoenas and ensure evidence of innocence is obtained and preserved.

\$45,000 per year salary

\$11,250 in benefits (estimated at 25% of salary)

Total cost for Investigator

\$56,250

The Need for Institutional, Holistic Indigent Defense

For the past four years, Douglas County has worked to improve criminal justice outcomes, reduce the County's reliance on jail, and reduce racial disparities in the justice system. An institutional defender using the holistic model is the next crucial step in achieving the goal of equal justice for all. The Governor's Commission on Racial Justice and Equity has recommended that counties of our size invest in a public defender office, and this is also the suggestion of the National Association of Criminal Defense Attorneys.

Improved Outcomes

The benefits of a dedicated, institutional office for providing criminal defense are clear; institutional public defenders achieve better outcomes for clients than an appointment panel system does alone. Rigorous research has shown counties that have invested in a public defender office in addition to appointed panels have seen:

- Lower rates of pre-trial detention, through more robust motions to reduce bond
- Higher rates of acquittal, ensuring innocent people are not found guilty nor are pressured to take a plea
- Higher rates of success on appeal
- Lower rates of incarceratory sentences, and higher use of probation or diversion
- Shorter jail sentences
- Lower rates of failure to appear or bond revocation
- Fewer delays in resolving cases

All of these outcomes mean lower costs to the county, and improved stability for our county's most vulnerable populations. These improved outcomes are achieved by ensuring consistent training, adoption of best practices, oversight and coordination among defense providers in a way that is impossible without an institutional defender. This is the crucial next step for Douglas County's work to improve criminal justice outcomes, reduce the County's reliance on jail, and reduce racial disparities in the justice system.

Potential for Systemic Cooperation and Reform

In the current system of defense by appointment-panel attorneys only, there is no defense institution that can support consistency of practices or the implementation of systemic reforms. Having an institutional public defender handling the majority of indigent defense cases means that the County would gain a partner that can coordinate systemically with other actors in the justice system, and other community partners, to ensure implementation of best practices. An institutional public defender also provides a site of important data collection, allowing for

systematic analysis and targeted solutions. A more robust discussion of the potential for systemic reform through a dedicated public defender is included in the section below discussing the impacts on equity and reducing racial disparities.

Support for All Indigent Defense Providers

An institutional non-profit public defender can serve as a resource for all indigent defense providers. Appointed counsel will always be necessary to represent clients where the institutional defender already represents a party that would create a conflict of interest. A public defender office is not a competitor to the private bar, but rather, a partner. Public defender offices provide institutional resources, training and coordination that also helps private defense attorneys. We have seen this at the Federal level with the exemplary work done by the Kansas Federal Defenders in supporting stronger federal defense across the bar. Kansas Holistic Defenders would make its holistic services available to panel indigent defense providers when their clients would benefit from these resources. Kansas Holistic Defenders would also partner with KU Law School and the School of Social Work to provide training, research, and field placement opportunities to strengthen the practice of indigent defense at all levels.

Committed to Collaborating with BIDS

Kansas Holistic Defenders is a pilot program for indigent defense in other areas of interested to Douglas County. We understand that the Board of Indigent Defense Services is also looking at placing a public defender office in Douglas County to handle felonies. We are committed to partnering with BIDS as closely as possible – whether that means rolling our infrastructure into a BIDS office, or contracting with BIDS to take on felony cases. We want to make sure there is just one office for indigent defense, and are open to adapting as those solutions take shape.

Alignment to County Focus Areas and Collaboration

| Focus Area | Humans Services; Public Safety & Emergency services |
|--|---|
| <p data-bbox="128 337 373 370">Human Services</p> <p data-bbox="128 410 1923 589">The provision of direct legal services is an important component of the County’s goals for providing human services. Holistic defenders in particular are an important point of coordination between service providers and the Court to ensure sustainable access to services at a moment of acute crisis. Our office will ensure timely, effective, and sustained referrals to other services, and our client advocates workers will provide services related to the collateral effects of clients’ criminal cases. This means coordinating with Bert Nash, DECCA, RADAC, pretrial services, probation, the Housing Authority and other human services agencies.</p> <p data-bbox="128 630 667 662">Public Safety and Emergency Services</p> <p data-bbox="128 711 1881 816">Effective, holistic, dedicated public defense is a matter of public safety. The population of those charged with committing misdemeanor offenses is often the same population most likely to be themselves victims of crimes. This is a vulnerable population that deserves and requires investment in additional services.</p> <p data-bbox="128 857 1955 1068">The ability to provide consistent, effective counsel has long-lasting impacts on rates of crime. Pre-trial detention has been shown in other jurisdictions to increase an individual’s likelihood to commit future crimes, largely due to the destabilizing effects of pre-trial detention and the collateral consequences thereof. Holistic, dedicated public defenders reduce the likelihood of pre-trial detention by intervening earlier in the case, and helping craft effective release plans which can ensure clients return to court without the need for bond or pre-trial detention. Holistic public defense can also help ensure the success of non-incarceratory interventions, reducing the likelihood of failures to comply with probation and diversion.</p> | |

Equity

What is your organization doing to advance equity?

Public defense is fundamentally about advancing equity. Our mission to ensure that people charged with misdemeanors consistently receive zealous and effective defense, regardless of their ability to pay. The holistic model of defense is an expansion of this principle. A holistic office works to mitigate the collateral consequences of prosecution, which fall disproportionately along racial and socioeconomic lines. In this way, a holistic office can work to mitigate the consequences of racial disparities in individual cases and can work with other partners in the community and justice system to implement reforms designed to reduce disparities.

An Analysis of Racial Disparities in Misdemeanors

We see significant racial disparities in the pattern of misdemeanors in Douglas County. In 2019, Black people represented 16% of the misdemeanor-only bookings at Douglas County jail, despite making up only 4.2% of the population of Douglas County. Six percent of Black people booked at the county jail were arrested on driving while suspended charges, compared to only 3% of white inmates. This gap could point to a disparity in traffic stops, but it could also highlight the need for defenders to help those charged with driving while suspended offenses clear the fines and fees that may be responsible for the license revocation.

Native Americans made up 5.5% of misdemeanor-only bookings at the jail, despite making up only 3.3% of the population of Douglas County. Native Americans also have a much longer length of stay in the county jail (6.6 days on average, in comparison to 3.3 for white non-Hispanic defendants).

Hispanic people made up 6.2% of misdemeanor-only bookings at Douglas County jail, despite making up only 3.3% of the population of Douglas County. Hispanic people were more likely to be held on cash/surety/credit bond than their non-Hispanic counterparts (50% of Hispanic defendants, compared to 35% of non-Hispanic white defendants). Hispanic people were also the least likely of any racial group to be released on their own recognizance, (17% of Hispanic defendants, compared to 25% of white non-Hispanic defendants).

These numbers suggest that by strengthening the resources provided for the defense of misdemeanor defendants, the county would be investing in communities that suffer from implicit or explicit racial bias in the legal system. This investment in misdemeanor defense would thus be a means to reduce those disparate impacts.

Mitigating Collateral Consequences

The collateral consequences of misdemeanor arrest and prosecution can be life-altering; and this especially so for people of color. Some of the most significant racial disparities live in the “collateral consequences,” i.e. the non-criminal effects that a conviction has on the defendant’s life even after the case is resolved. A holistic office which has staff, training and coordination to mitigate these consequences can thereby mitigate racial disparities. “The experience of incarceration represents a great deal more than a period of incapacitation; it can also include the loss of certain civil liberties, the disruption of family ties, the loss of work and permanent housing, and an aggregate impact on neighborhoods and communities.” Pager, Devah. 2003. “The Mark of a Criminal Record”. *American Journal of Sociology* 108 (5):937-975.

For instance, misdemeanor criminal records often keep people from obtaining or maintaining jobs. Kansas permits employers to discriminate against applicants on the basis of their criminal history. K.S.A. 22-4710 et seq. A 2009 audit study found that “the magnitude of the criminal record penalty suffered by Black applicants (60%) is roughly double the size of the penalty for whites with a record (30%).” In other words, a misdemeanor criminal conviction is much likelier to have a negative economic impact on a Black defendant than on a white defendant.

Pager, Devah et al. “Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records.” *The Annals of the American Academy of Political and Social Science* vol. 623,1 (2009): 195-213.

Likewise, an individual may be evicted based on a criminal conviction, and they will likely face permanent difficulty securing housing. In Kansas, it is legal for landlords to discriminate against renters on the basis of a prior drug offense. (K.A.R. 21-60-15). Because landlords may legally discriminate on this basis, housing options are extremely limited for individuals with drug convictions. Such individuals may be relegated to living in substandard, sometimes even unsafe housing conditions, with little recourse. Black people are disproportionately more likely to be evicted than any other group – nationwide from 2012-2016, Black renters were twice as likely to face eviction as white renters.

Limited employment opportunities and housing insecurity are two of many possible collateral consequences. These consequences are, in effect, additional punishments associated with a misdemeanor conviction based on race, gender, socioeconomic status, or other life circumstances. Holistic defense reduces the disparate impact of these collateral consequences because holistic defenders are trained to spot these potential consequences at the first meeting with a client, pursue a resolution to the case that will limit these consequences and timely coordinate with the appropriate specialist on staff to mitigate those consequences.

“Experience on the ground from around the country now demonstrates that timely and targeted services can help stabilize a family during the crisis of a criminal case and address many of the underlying social problems (such as addiction and homelessness) that contribute to the cycle of poverty and crime. By mitigating the collateral damage of criminal proceedings (such as eviction or job loss), these services can address the root problems that lead to crime and help individuals reenter society as productive citizens.” J. McGregor Smyth Jr., “From Arrest to Reintegration A Model for Mitigating Collateral Consequences of Criminal Proceedings,” Yale Law School 2009. This approach, while useful for all indigent clients, is particularly valuable for the most marginalized clients, who are most-likely to face harsh collateral consequences after prosecution.

Averting Down-Stream Consequences and Disparities

If a holistic defender office in Douglas County is able to achieve results comparable to those of other offices that have implemented this model, the office will have the potential to impact not only disparities in the misdemeanor system, but also in the felony system where disparities are more pronounced. By mitigating the negative effects of misdemeanor justice system involvement and helping to ensure timely and effective use of services, KHD can reduce the impact of racial disparities in the Kansas justice system as a whole.

In the state's prison population, Black Kansans are overrepresented at nearly five times their share of the Kansas population, and Native Americans are overrepresented by three times their share. Our prison population skews in other important ways, too. Among adult prisoners, 36 percent have not completed high school, and 33 percent are diagnosed with a serious or severe mental illness.

Misdemeanor convictions, and the way they are handled, are a major driver of both the underlying offenses that lead to incarceration and the length of the sentences ultimately imposed. The consequences of a misdemeanor offense can shape the outcomes of all future legal system involvement for a client. Criminal history scores drive up sentencing ranges under the Kansas Sentencing Guidelines. Judges also consider an individual's criminal history when setting bail, and prosecutors may consider such histories in making charging decisions. Given these future impacts of a misdemeanor case, the county can reduce the impacts of racial disparities that may come into play even after a client's misdemeanor case is resolved by devoting more resources to misdemeanors and ensuring the best outcomes possible for clients. See Irene Oritseweyinmi Joe, *Rethinking Misdemeanor Neglect*, 64 UCLA L. REV. 738 (2017).

The consequences of a misdemeanor case can also influence recidivism. A study of pre-trial detention in Harris County, Texas found that pre-trial detention increases the likelihood that an individual will commit a future crime by 30%. Paul Heaton, Sandra Mayson & Megan Stevenson, *The Downstream Consequences of Misdemeanor Pretrial Detention*, 69 STAN. L. REV. 711 (2017). Our office would be available to represent clients at earlier stages of their prosecution than in the current system, and it would use holistic resources to create effective release plans that reduce the Court's need to rely on bonds. If our office is able to handle cases more consistently and quickly than the existing model is able, the length, severity, and frequency of criminal justice involvement will be substantially reduced for our clients.

Potential for Institutional Partnership

Ultimately, the resolution of racial disparities in the justice system is too large a task for any single institution. Nonetheless, it is also impossible to address without institutions.

Across the country, institutional public defender offices have been able to work with other institutional actors in the justice system to arrive at systemic changes. For instance, in Washington, the Public Defender Association created the Racial Disparity Project (RDP), working to reduce racial disparity in the criminal legal system. The RDP organized the Drive to Survive Campaign in its formative years, launching driver re-licensing programs throughout Washington State in recognition that people of color disproportionately and in large numbers were losing their licenses due to unpaid traffic fines. The Public Defender Association went on to partners with law enforcement, the Seattle

District Attorney, city officials and county government to create the Law Enforcement Assisted Diversion (“LEAD”) program. The LEAD program reduces racial disparity in the justice system by providing an alternative outcome for police engagement with people who commit law violations due to unmet behavioral health needs, particularly addiction.

Likewise, other public defender offices around the country have created positions such as the Racial and Ethnic Disparity Practice Coordinator Position in Wisconsin’s State Public Defender Office. Offices like these have had great success in creating standards of practice to mitigate racial disparities, as well as to work institution-to-institution for solutions at a scale that would be impossible for a panel-only system. An institutional defender office is therefore a necessary step to make further reduction of racial disparities possible. Especially in Douglas County, where other institutional actors meet and confer frequently to pursue reforms, an institutional public defender would be a key partner in ensuring the successful implementation of these reforms.

Have you employed strategies to mitigate equity considerations? Please list those below.

Data Collection and Analysis

One deficiency in the current system of indigent misdemeanor defense in Douglas County is the lack of centralized, consistent, and coordinated data collection. There is currently no system to track case outcomes, attorney caseloads, or to review performance. A major advantage of an institutional provider is the ability to track and analyze a variety of data from cases.

Our metrics for success will be quantitative and qualitative. Quantitatively, we will measure 1) length of pretrial detention, 2) length and type of sentence imposed, and 3) number of acquittals at trial.

Qualitatively, holistic public defenders have used a variety of strategies to measure success. The Bronx Defenders, for instance, has used “client satisfaction surveys” to evaluate how clients feel about the quality of representation they received.

Our office would utilize both of these evaluative tools to measure our success, and would also work with educational institutions and other organizations to evaluate the data we collect through our case management system to inform discussions on potential justice system reforms or efficiencies. In this way, we can ensure that we see the results in disparities that we predict we will see through institutional, holistic defense, and can make changes to the practice based on the data.

2022 Community Partner Budget Details

double click on spreadsheet to open

2022 Budget Request Detail

calculated fields

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| Community Partner: | Kansas Holistic Defenders | | | | | |
|--|---------------------------|-----------------|-----------------|---------------------------|------------------------------|---------------------------|
| | 2018 Actuals | 2019 Actuals | 2020 Actuals | 2021 Adopted Budget | 2021 Current Estimates | 2022 Budget Request |
| Revenues: | | | | | | |
| Unrestricted Fund Balance 1/1/xx | | 0 | 0 | | 0 | 72,000 |
| Douglas County | 0 | 0 | 0 | 0 | 0 | 425,000 |
| City of Lawrence | 0 | 0 | 0 | 0 | 0 | 0 |
| United Way | 0 | 0 | 0 | 0 | 0 | 0 |
| Grants | 0 | 0 | 0 | 0 | 40,000 | 0 |
| Fundraisers | 0 | 0 | 0 | 0 | 2,000 | 0 |
| Contributions | 0 | 0 | 0 | 0 | 30,000 | 0 |
| Other: | 0 | 0 | 0 | 0 | 0 | 0 |
| Other: | 0 | 0 | 0 | 0 | 0 | 0 |
| Interest | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Revenues: | 0 | 0 | 0 | 0 | 72,000 | 425,000 |
| Total Revenues and Fund Balance | 0 | 0 | 0 | 0 | 72,000 | 497,000 |
| Expenditures: | | | | | | |
| Salaries | 0 | 0 | 0 | 0 | 0 | 340,000 |
| Employee Benefits/Healthcare | 0 | 0 | 0 | 0 | 0 | 85,000 |
| Supplies | 0 | 0 | 0 | 0 | 0 | 10,000 |
| Utilities, Building Maintenance | 0 | 0 | 0 | 0 | 0 | 12,000 |
| Travel & Training | 0 | 0 | 0 | 0 | 0 | 0 |
| Office Equipment | 0 | 0 | 0 | 0 | 0 | 8,000 |
| Debt Payments | 0 | 0 | 0 | 0 | 0 | |
| Other: | 0 | 0 | 0 | 0 | 0 | |
| Other: | 0 | 0 | 0 | 0 | 0 | |
| Other: | | | | | | |
| Total Expenditures: | 0 | 0 | 0 | 0 | 0 | 455,000 |
| Ending Fund Balance 12/31/xx | 0 | 0 | 0 | 0 | 72,000 | 42,000 |

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Budget Request Analysis

Analysis of Revenue Sources

County Funding Sources

There are two pools of funding through which the County may fund Kansas Holistic Defenders. The first is through the community partners budget. However, the second is through the re-allocation of funds already earmarked for indigent defense services, which is currently paid out on a per-case basis through vouchers to attorneys on the appointment panel list. In 2018 and 2019, approximately \$300,000 was paid out each year in vouchers to appointment panel attorneys, with \$425,000 budgeted for indigent defense services as part of the District Court budget in 2020. We anticipate that part of our requested funding would come from this budget item as part of a formal contract process to be appointed those cases.

Private Donations

Though we believe that the core of the practice should be funded by the County as part of its statutory and constitutional duty to provide indigent defense, Kansas Holistic Defenders will seek grants and donations to expand the scope of our practice (e.g., immigration, housing and family court services) after assessing the needs of our client community. The organization has already secured a \$30,000 matching ‘challenge’ pledge, which will match the donations the organization is currently soliciting from private donations and grants. We will continue to fundraise for private donations to supplement funds provided by the county.

Precedent for the Model

In other communities, non-profit public defenders have successfully provided indigent defense services through government funding and have also used grants or private donations to add additional practice areas or services to clients. Examples include The Bronx Defenders, Neighborhood Defender Services, The Defender Association (TDA), Northwest Defenders Association (NDA), Society for Counsel Representing Accused Persons (SCRAP), Associated Counsel for the Accused (ACA) and the Douglas County Legal Aid Society.

Analysis of beginning & ending fund balances and dedicated or restricted cash reserves

As discussed above, a holistic public defender office is a crucial next step in Douglas County’s work to improve criminal justice outcomes, reduce the County’s reliance on the jail, and reduce racial disparities in the justice system. As a new organization, we do not have prior fund balances or expenditures.

Analysis of expenditure changes

n/a

Supplemental Request for Additional Funding

(Fill this out for any amount in addition to the request amount listed on page 1)

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| | | |
|---|----------------------------------|--------------|
| Community Partner | Kansas Holistic Defenders | \$N/A |
| Purpose of additional revenue from County | | |
| n/a | | |
| Impact if supplemental request is not funded | | |
| n/a | | |