

**San Francisco  
Public Defender's  
2005 Annual Report**

**Justice for All:  
Diversity and Equality**

“The mission of the San Francisco Public Defender’s Office is to protect and defend the rights of our indigent clients through effective, vigorous, compassionate, and creative legal advocacy.”

Cover image: “Clara Foltz, Founder of the Public Defender”  
Sculpture by William T. Farnan © 2006

*This report was not printed at public expense.*

## BREAKING THE GLASS CEILING: Moving Towards Greater Diversity & Equality

It is hard to believe that just over a century ago, women were barred from becoming lawyers, from serving on juries and even from attending law school in California and most states. Ethnic minorities were also excluded from entering the legal profession and were legally ineligible to testify in criminal cases.

Fast forward to 2006. Today, California's legal profession, while still not reflective of the state's gender and ethnic population, has made substantial progress towards greater diversity. The Public Defender's office, which has had a strong tradition of hiring women and people of color from the early 1970s, is today one of the most diverse mid-size law firms in the country. Currently, the office attorney staff and management team is made up of 55% women and 45% minorities.

In December 2005, the office was recognized by the Bar Association of San Francisco for achieving its diversity goals and piercing the "glass ceiling." The Public Defender's office was the only law firm to receive awards for both gender and ethnic diversity. I am extremely proud of the example our office has set in acting upon our core belief that the 24,000 clients we represent each year are entitled to a diverse staff that reflects the public we serve.

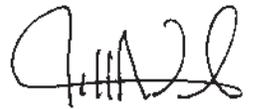
2005 has been a year of great accomplishment for the attorneys and staff of our office. We have tried more cases than ever and received positive outcomes for the vast majority of our clients. We have set a high bar for the quality of legal representation we provide, through our annual employee evaluations and adherence to the office's manual of policy and procedures.

Our legal advocacy efforts have gone beyond the Hall of Justice. This year, our research unit filed a writ in the California Supreme Court challenging the California Department of Corrections and Rehabilitation's policy denying juvenile parolees the right to an attorney at parole revocation hearings. This is one of dozens of important issues that the office has brought to the appellate courts.

We have continued to make a difference in the community through our Clean Slate criminal record expungement program and Bayview MAGIC, a youth and family juvenile justice collaboration which has now grown to include 42 community-based organizations. In 2005, we continued to lead the charge to expand services for the mentally ill through Behavioral Health Court and to implement the Mental Health Act (Proposition 63). Our work in the Drug Courts and Proposition 36 court offers treatment as an alternative to incarceration for persons charged with drug offenses, and our drug addiction unit helps clients promptly enter into residential treatment when warranted.

Our work continues to challenge us each and every day. Public defenders still face heavy workloads and the difficult task of ensuring that each client's case receives the attention it deserves. And, as we move forward, we recognize that the struggle for gender and ethnic equality is far from over and we must continue to fight to achieve social justice.

Sincerely,



Jeff Adachi  
Public Defender



Public Defender Jeff Adachi and Chief Attorney Teresa Caffese receive awards from the Bar Association of San Francisco for minority hiring and for women in management.

### CLARA SHORTRIDGE FOLTZ (1849-1934)

**O**ur cover features Clara Foltz, the first woman lawyer in the state of California, and the founder of the Public Defender system. Said to be a direct descendent of Daniel Boone, Foltz, a single mother of five children, decided to challenge the law excluding women from the legal profession. Foltz began lobbying for the passage of the Woman Lawyer's bill in the California legislature. Following intense battles over passage of the bill in the State Assembly and Senate, the Governor signed the bill into law in March of 1878, and Clara Foltz passed the bar exam and was admitted to the bar in September of that same year. Even after being sworn in as a lawyer, a judge in San Francisco refused to recognize Foltz's admittance.



*Clara Foltz was the first female attorney in California and the founder of the public defender.*

In 1879, after already passing the bar, Foltz decided to challenge the exclusion of women from law schools by applying to U.C.'s Hastings College of the Law in San Francisco. She was refused admittance. Foltz argued the case herself before the same judge who earlier had refused to recognize her bar license. She won, but Hastings appealed, and the case ultimately reached the California Supreme Court. The high court also ruled in Foltz's favor, paving the way for women to enter law schools not only in California but also throughout the country.

Foltz became a skilled trial lawyer, trying and winning cases before all male juries.

However, her greatest achievement was to create the office of the Public Defender. After years of writing articles and giving speeches across the country on the need for court-appointed lawyers for indigent persons accused of crimes, she introduced the Foltz Defender Bill in 1892. Some 29 years later, in 1921, the California Legislature passed the Foltz Bill, and the San Francisco Public Defender's Office was created the same year.

### FREDERICK D. SMITH (1917-2001)

**F**redrick D. Smith was the office's first African-American attorney.



*Fred Smith, the office's first African-American attorney, rose to the position of Chief Attorney in 1974.*

Fred Smith was born in Kansas in 1917. He attended the University of Iowa but left after three years to fly planes in Chicago. During World War II, Smith joined the Tuskegee Airmen, a training program for an elite group of African-American pilots who paved the way for the admission of blacks into the military. After the war, Smith moved to San Francisco, where he worked as a longshoreman.

In 1951, Smith entered Hastings College of the Law and, upon graduation, entered private practice. Smith was active in the Bayview Hunters Point Community Foundation and also was very involved in the National Lawyer's Guild, at one point serving as its president.

In 1961, Fred Smith joined the San Francisco Public Defender's office as its first African-American attorney. He earned a reputation as a top trial lawyer, trying 11 consecutive homicide cases, and earning acquittals in nine of those cases. He eventually rose to the position of Chief Attorney under Public Defender Robert Nicco, and served in this capacity from 1974 to 1979. He retired from the office's juvenile division in 1986.

In December 2005, Fred Smith was posthumously honored by the Public Defender for his contribution to the office and for the improvement of justice for the poor. A photo of Fred Smith, donated by his family, now hangs in the hallway adjoining the Chief Attorney's office.



*Photo by Christine Jegan.*

*Attorney Vilaska Nguyen with client.*

### Expanding and Coordinating Services for Parolees Returning to the Community

In November 2005, San Francisco Supervisor Ross Mirkarimi convened the San Francisco Re-entry Council, a collaboration of government agencies including state parole offices, community-based organizations, treatment providers and educational and employment agencies to examine how re-entry services for persons released from state prison could be better coordinated. The Council is conducting a citywide survey of services available to parolees, and is developing a multi-agency plan to prepare for and enhance ex-prisoners' successful re-entry into the community. The Public Defender's office will continue to play a leading role in this effort.

### Holistic Representation of Juvenile Clients

In 2004, California Rule of Court 1479 expanded the duties of a juvenile attorney to include advocating "that the child receive care, treatment, and guidance consistent with his or her best interest." This rule now requires attorneys representing minors to ensure that these clients receive services consistent with this mandate.

The Public Defender's office has adopted a comprehensive, holistic approach to serving the 1,400 youth it represents each year. The office's staff of three social workers will be expanded to five in 2006, with a special program established for girls. The girls' social worker pilot project was initially funded by the SF Foundation and the VanLobenSels Foundation, and is now a permanent program of the office. The Public Defender will also continue to provide educational advocacy and placement services for youth.

### Improving Access to Technology

In 2005, the Public Defender replaced decade-old computer equipment, and updated its software systems. The office's new servers provide greater stability for the 150 PCs con-

nected to it. As a result, the Public Defender now has a modern computer network capable of handling the high workload of our staff. The Information Technology staff has designed and implemented a shared database/intranet, resulting in greater efficiency and cost savings. The office has also completed the first phase of developing a new Case Tracking System, a comprehensive database of all cases handled by the office.

### Enhancing Mental Health Systems

Of the 24,000 indigent clients the Public Defender represents each year in misdemeanor and felony courts, at least 10% suffer from severe mental disorders. In November 2004, Proposition 63, known as the Mental Health Services Act (MHSA), was passed by California voters, providing funding for the expansion of mental health services.

A 41-member task force was created by the mayor's office and charged with the responsibility of identifying and prioritizing mental health needs in preparation for the development of San Francisco's three-year plan for the allocation of state funds to be disbursed through the Act. Several public defenders testified at the hearings on the importance of ending the inappropriate incarceration of the mentally ill, and on the recent establishment of the Behavioral Health Court.

### Improving Cost Efficiency by Increasing Attorney-Support Staff Ratio

Upon entering office in 2003, Public Defender Jeff Adachi requested that the Controller conduct a comprehensive study of the office's operations. The Controller issued a report, finding that the attorneys needed more investigators, paralegals and clerks to support the office's high caseload. The office has added staff each year to increase efficiency as well as the quality of legal representation.



*Photo by Christine Jegan.*

*Intern Lateef Gray and Attorney Steve Gayle.*

## Leading Juvenile Justice

The office's juvenile unit serves as a model for defender offices throughout California and the nation. By providing holistic wrap-around services to its clients, the unit works to meet the legal, educational, social and behavioral health needs of youth to ensure their long-term success at home and in the community.

The unit reduced the number of youth detained at the Youth Guidance Center by preparing individualized release plans that emphasize gender and culturally appropriate services. In almost 90% of school expulsion hearings handled by our legal and social work staff, the unit succeeded in keeping the youth in school and on track. The office's educational advocacy unit provided 194 educational placements to youth.

In 2005, the unit's nine attorneys tried 42 cases, and represented 1,386 youth in court proceedings. The office opposes all commitments to the California Youth Authority (CYA), and, in 2005, only four juveniles from San Francisco were committed to the CYA.

### Juvenile Justice Summit

On May 17, 2005, the Public Defender's Office held its second Juvenile Justice Summit at the Civic Center Main Library. Entitled "Re-forming Juvenile Justice: Prevention, Accountability and Empowerment," the one-day summit brought together 200 youth, parents and youth advocates to discuss the difficult issues confronting young people in the juvenile justice system.

Panelists discussed developing a stronger collaborative relationship between agencies within the juvenile justice system, helping families navigate the juvenile justice system, and forging more effective partnerships between community-based agencies. For information about the upcoming Public Defender's Juvenile Justice Summit, which will be held May 9, 2006, please call (415) 753-8174.



Panelists at the 2005 Juvenile Justice Summit.

### Edgar: From Gang Member to Youth Counselor

Edgar was arrested for a serious gang-related assault and committed to the San Francisco County Camp for boys. He is a monolingual youth from El Salvador who was deeply involved in Sureño gang activity. While at the camp, he began working with a social worker from the Public Defender's Office. Upon his release, he enrolled in a full-time school program and graduated from high school. He also became involved in counseling with Vision Youthz, a community-based youth organization. The Public Defender's social worker was able to find an individualized paid internship for Edgar to counsel other youth involved in gang lifestyles. Despite ongoing danger and harassment from gang members, Edgar was able to change his life. He now works full time, is not involved with gangs, and has successfully completed his juvenile probation.

### Bayview MAGIC

Bayview MAGIC (Mobilization for Adolescent Growth in our Communities) is a governmental and community-based collaboration formed to implement a comprehensive strategy to reduce crime and violence in targeted communities. Initiated by the Public Defender's office in 2004, MAGIC has now grown to encompass over 42 youth and family agencies.

MAGIC meets every other week and works with groups that provide services to youth and families in Bayview Hunters Point.

MAGIC's activities in 2005 included: a Back-to-School celebration where MAGIC distributed over 2,000 backpacks filled with school supplies; a mentor fair; training for community-based agencies; and a book and technology festival. In addition, MAGIC opened a new computer technology center in partnership with the Bayview YMCA and AT&T.

MAGIC also works with youth and parents who become involved in the juvenile justice system. MAGIC's juvenile justice committee meets regularly with youth who are held at the Youth Guidance Center and provides them with advice, support and access to community-based services.

For more information about MAGIC or to volunteer, please call 415-558-2475 or visit <http://www.bayviewmagic.com>



Photo by Christine Jegan.  
Bayview MAGIC distributed 2,000 backpacks and school supplies to city youth.

To view the 2005 Public Defender's Juvenile Justice Summit, please visit our website at [www.sfgov.org/pd](http://www.sfgov.org/pd).

## Felony Unit

This year, the felony unit provided representation to over 7,100 clients charged with felony offenses, crimes which carry the possibility of a state prison sentence. The unit is comprised of 48 lawyers who staff fourteen courtrooms. The felony unit provides “vertical representation” in all cases, meaning that a single lawyer is assigned to represent the client from arrest to disposition. Each felony trial lawyer is responsible for investigating, researching and litigating all issues in his or her caseload. Attorneys meet clients at their first appearance in court and work to develop a relationship of trust and confidence. The office has teamed attorneys with a paralegal and investigator to provide comprehensive advocacy for clients.

Felony attorneys perform a myriad of duties and tasks in representing their clients. On one day, this may mean accompanying an investigator to interview witnesses and photograph a crime scene, and, on yet another day, it may involve cross-examining a police officer about an unlawful search and seizure or giving a closing argument in a homicide trial. The attorneys work closely with two managers who provide support and coaching to help attorneys constantly improve their courtroom advocacy. The office sets rigorous standards to ensure that clients receive the best possible legal representation.

In 2005, the attorneys in the felony unit completed 64 jury trials, an increase of more than 25% from 2004. The unit also handled 33 murder cases. This year, the felony unit established a DNA unit to assist lawyers who are handling cases involving DNA evidence and “cold-hit” cases, unsolved cases that are re-opened, often decades later, because of DNA testing.



Photo by Christine Jegan.

Attorney Alex Lilien with intern Craig Bessenger.

## Misdemeanor Unit

The misdemeanor unit consists of 15 attorneys who staff five courtrooms and handle over 10,000 cases per year. Each courtroom has three attorneys who represent clients vertically, i.e. the clients are assigned to the same attorney from arraignment to the case's conclusion. In 2005, 4,728 cases were arraigned and assigned to public defenders. 2,940 of these cases were dismissed. A total of over 1,100 cases were diverted out of the court system into the pre-trial diversion program.

In 2005, the unit had 128 jury trials. Seventy cases (55%) resulted in outright acquittals, partial acquittals or hung juries.

## Training Unit

The office provides its lawyers and staff with training necessary to insure the highest level of professional services through a training program that keeps staff apprised of changes in the law as well as building the skill base of the lawyers.



Thomas Mesereau addresses the 2005 Public Defender's Trial College

In 2005, the office held 36 in-house workshops on subjects including jury selection, opening statements, closing arguments, presentation of evidence in gang cases and immigration laws. Featured guest speakers included lawyers John Kecker, Angela Alioto, Elisabeth Semel and Bob Waggener. The office also held its second annual Trial College in December 2005. This year, the college featured attorney Thomas Mesereau who successfully represented Michael Jackson against charges of molestation. Participants learned cross-examination skills and engaged in interactive learning sessions. Over 100 attorneys from the private bar and the office attended.

The office's training director, Martin Sabelli, also holds regular case conferences with office attorneys and conducts orientation programs for new lawyers. In 2005, through scholarships generously provided by private firms, the training unit sent two felony lawyers to intensive two-week trial trainings at the National Criminal Defense College in Macon, Georgia.

## Building a World-Class Public Defender's Office

### Research Unit

The Research Unit's mission is to write motions, writs and appeals and to provide advice, research training and assistance to office attorneys. The five-person unit consists of a manager, three lawyers and one research assistant. The unit does legal research and writing, writes memoranda and motions, and handles pre-trial writs and appeals. The unit also researches and writes materials for in-office trainings.

In 2005, the unit instituted a monthly case-law update on legal issues and twice-a-month legal brainstorming sessions. The unit has adopted an aggressive approach, requiring that attorneys press all viable issues. In 2005, the unit produced 52 writ petitions, 155 motions, 63 memoranda, and nine appeals. The unit filed a petition for writ of habeas corpus in the California Supreme Court challenging the California Department of Corrections and Rehabilitation's policy of refusing to appoint lawyers for juveniles facing parole violations, while appointing lawyers for adults facing the same proceedings.

### Investigation Unit



*Photo by Christine Jegan.*

*Attorney Marla Zamora with Investigator Nigel Phillips and Legal Processing Clerk Tala Winterstein.*

Each case assigned to an attorney must be fully investigated. Witnesses may change their stories, or tell police different stories, or police may fail to interview other onlookers. Investigators locate and interview witnesses, take photos, measure and map crime scenes, and subpoena witnesses to appear in court. Fourteen investigators and one paralegal work with attorneys to perform these critical functions. Each investigator is assigned to seven lawyers.

In 2005, the unit handled over 2,255 investigation requests. While many cases are still pending, of the cases completed in 2005, investigators conducted 3,382 interviews, served

2,000 subpoenas, performed more than 250 database searches and made over 800 oral or written reports to attorneys.

### The Paralegal Unit



*Photo by Christine Jegan.*

*Paralegals Noah Barish, Julia Deutsch, and Michelle Tong-Choyce.*

The Public Defender's Office established the Paralegal Unit in 2003 to provide support to attorneys handling heavy caseloads. Attorneys delegate many tasks such as follow-up interviews with clients and witnesses and the ordering of documents and records. Paralegals support the attorneys in a variety of ways including writing motions, reviewing and summarizing records, and helping maintain contact with witnesses and family members. They also assist attorneys during trial by making trial binders, preparing jury instructions and creating exhibits and electronic presentations for the jury. Paralegals translate and interpret for Spanish, Cantonese, and Mandarin-speaking clients.

During 2005, seven paralegals were assigned to support attorneys in the felony unit and one paralegal each was assigned to Drug Court, Domestic Violence Court, Investigation and the Juvenile unit.

### Clerical, Word Processing and Information Technology Units

*While I was working at the inpatient psychiatric unit in the county jail, I called your office as many as three times in one hour. I appreciate the professionalism and assistance of your phone staff. I was always greeted by a friendly voice and a willingness to help. It meant a lot.*

*— Sincerely, D. W.*

The Clerical Unit is responsible for creating, maintaining and archiving over 24,000 client files each year. The unit files attorney motions (requests for court action), delivers missives to and from other criminal justice agencies, and

staffs 18 courtrooms. The Word Processing Unit provides accurate transcriptions of witness statements. In 2005, the three-person unit transcribed 398 witness statements in English, Spanish, and Cantonese for a total of 4,915 pages. They also use their translation and interpretation skills to assist attorneys and clients. Front desk staff answered approximately 104,000 phone calls and answered over 35,000 questions. The Information Technology Unit provides technical support for the office's computer and information systems.

### Volunteer Attorney Program

The volunteer attorney program offers a full-time work experience for attorneys from private firms and new lawyers who wish to obtain experience handling a misdemeanor case-load. In addition, the program benefits law firms who want their associates and partners to gain experience trying cases before a jury. Chosen through a competitive process, "loaners" receive intensive training and join the misdemeanor unit for four-month stints.

In 2005, nine attorneys participated in the program. Participating firms included: Pillsbury Winthrop; Shook, Hardy & Bacon; and Cooley Godward. The volunteer attorneys completed a total of 35 jury trials.



Volunteer attorney Jake Sorensen

*"I want to thank you for the four months I spent working in the misdemeanor unit. I learned a great deal, enjoyed working with your lawyers, and tried three cases to verdict. My courtroom skills improved vastly and I am a better trial lawyer now because of my experience at your office."*

— Jake Sorensen, Pillsbury Winthrop Shaw Pittman LLP



Photo by Christine Jegan.

Volunteer interns David Muñoz, Jennifer Proctor and Justin Sterling

### Volunteer Intern Program

*"My externship at the San Francisco Public Defender's office was one of the best experiences of my law school career. I learned far more in one semester than in any of the law school classes I had taken up until that point. The externship was a great mix of courtroom observation and substantive writing assignments — I would recommend it to anyone interested in a career in criminal law!"*

— Michelle Skinner, Stanford Law School student intern, 2005

The San Francisco Public Defender's Volunteer Internship Program (VIP) provides internship opportunities for law students, paralegals, investigators, college students and any age volunteers who are interested in receiving hands-on experience meeting with clients, writing motions, conducting investigations and assisting attorneys in trial. Students apply to participate in the fall, spring or summer internship programs. The office has established programs with criminal law clinics at Hastings College of the Law, Golden Gate University School of Law, and Stanford University School of Law.

In 2005, 205 volunteers representing over 10 undergraduate colleges and 28 law schools from across the United States and other countries provided over 72,000 work hours to support the office.

Many interns, who have gained their first experience in a law firm at the Public Defender's Office, have found fulfilling jobs after learning valuable skills in the Public Defender's fast-paced, stimulating environment. To apply, or for more information, please call (415) 553-9630.

# Treating, Not Punishing, Mental Illness and Drug Addiction

## The Mental Health Unit

### One Man's Struggle with Mental Illness

*B. D. was charged with making annoying phone calls and threats. He had a long history of mental illness and suffered from schizophrenia. He was found incompetent to stand trial, and the criminal proceedings were suspended. After the doctors at the state hospital determined that B. D. would not regain his competency, the Mental Health Unit worked with B. D. to successfully transition him into the mental health system. Instead of further incarceration, B. D. was released from the state hospital and placed into a conservatorship, a civil proceeding which is used when a person is unable to care for himself. B. D. began receiving psychiatric treatment and care, and his criminal charges were later dismissed.*

Too often, clients with mental health issues are incarcerated after failing to receive adequate mental health services in the community. The rate of serious mental illness among the jail population is three to four times higher than in the general population. To assist these individuals, the Mental Health Unit advocates for the rights of mentally ill clients, and advocates against inappropriate incarceration.

In 2005, the unit, which consists of two attorneys and two investigators, represented over 3,500 clients in competency, civil commitment and conservatorship proceedings. Additionally, the unit represented over 100 clients found incompetent to stand trial or not guilty by reason of insanity. The goal in many of these cases is to help the client transition from the criminal justice system to the mental health system.

The unit provided testimony and submitted position papers to the Proposition 63 (Mental Health Services Act) task force, which was formed to facilitate new state funding for counties in need of mental health services. The unit also wrote a grant proposal for a mental health case manager who will assist attorneys in achieving positive outcomes for mentally ill clients.

## Prop 36 Court

In 2000, Californians passed Proposition 36, which requires convicted drug users with drug or non-violent offenses to receive drug treatment in lieu of being sent to jail. A special court known as Prop 36 Court was established to hear these cases and provide access to treatment. In 2005, the court handled 610 cases. So far, 78 clients have successfully completed their drug program requirements and had their cases dismissed.



*Photo by Christine Jegan*

## The Behavioral Health Court

The Behavioral Health Court, instituted in 2003, is a collaborative mental health court which provides treatment assistance to individuals charged with crimes stemming from their mental illnesses. The court works with service providers and mental health advocates to provide support for these clients which may include housing, treatment and employment assistance. Clients who are accepted to the court agree to participate in a comprehensive treatment plan, and, upon completion, their charges are reduced or dismissed.

In 2005, the court accepted 157 clients, and handled nearly 300 cases. Of the 37 clients who successfully graduated from the court, all are now free of the criminal justice system and instead receive treatment through the community mental health system.

San Francisco's Behavioral Health Court is considered one of the most innovative and successful courts of its type in the country. The court is part of a comprehensive study by the MacArthur Foundation, which is conducting one of the first national studies on the efficacy of mental health courts. The court is in the process of developing a separate track designed to help women.

## Drug Assessment and Placement

The office's drug assessment specialist finds placements for clients whom the court has sentenced to residential drug treatment programs. This year, the drug addiction specialist evaluated 297 clients. Despite a reduction in the number of residential treatment beds, 125 clients were placed in 2005 compared to 117 in 2004.

## Drug Court

Drug Court is an intensive rehabilitation and supervision program to divert non-violent felony offenders with serious substance abuse problems into treatment rather than sending them to prison or jail. Members of Drug Court seek to identify addicts and find appropriate treatment services in the community which address their addictions and reintegrate them into society through vocation and educational programs. Drug court is a proven solution to the

*Judge Cynthia Lee with Assistant District Attorney Michele Dawson and Deputy Public Defender Maria Lopez.*

devastating cycle of drug addiction, homelessness, and criminal activity that plague San Francisco. The re-arrest rate of those who complete Drug Court is 15%, compared to 56% of those who do not graduate from Drug Court. The idea of Drug Court is to deal with the source of criminal conduct: drug use. The Court acknowledges that addicts often engage in criminal activity including drug sales, theft and prostitution in order to support their habits.

In 2005, over 120 clients successfully completed the Drug Court program. Each graduate stayed drug-free for a year, building a solid foundation for recovery. More than 50% of the participants were homeless when they entered the program; by the time of graduation, less than 10% of the graduates were homeless. Ninety percent of participants were unemployed when they entered the program; by graduation, nearly half of all graduates had a stable source of income. Ten percent of graduates were enrolled in school while participating in Drug Court, and more than 10% reunified with their children while in the program.

### Clean Slate Program



*Clean Slate team members accept the Mayor's Fiscal Advisory Committee's team award: (L-R) Louise Winterstein, Mayor Gavin Newsom, DeMarris Evans, and Kathy Bull.*

The Clean Slate Program assists individuals to clear their records of past convictions and arrests so that they are able to obtain employment, housing, student loans, state issued licenses and qualify for other opportunities. The Clean Slate Program was instituted by the Public Defender in 1998.

In 2005, the unit participated in over 50 community outreach activities, including presentations, community events, job fairs, legal fairs and hearings. The program's total number of clients has doubled from 1,102 in 2004 to 3,029 in 2005. In 2005, the unit filed over 1,000 motions. It also obtained over 700 expungements of criminal convictions, numerous orders sealing arrest records and recommendations for pardons from the Governor.

This year, the unit opened new satellite locations in Visitacion Valley and in the Western Addition/Fillmore community. The unit now has a total of three community satellite locations, including the Bayview location, which was opened in 2003.

In December 2005, the Clean Slate Program was awarded the Mayor's Fiscal Advisory Committee's Public Managerial Excellence Team Award. This competitive award is given annually to a team of city employees that has demonstrated collective leadership and innovative approaches to good government. This is the second time employees of the Public Defender's office have been chosen for this award.

### The Innocence Project

The Innocence Project investigates claims of factual innocence made by state prison inmates who were originally convicted in San Francisco courts. Under the authority of Penal Code Section 1405, the project provides assistance and representation to inmates seeking DNA testing of biological evidence. The Project tries to locate new evidence, witnesses, and records that may lead to the exoneration of a wrongly convicted individual. It advises prisoners of their right to seek DNA testing if this testing was unavailable at the time of their trial.

In 2005, the San Francisco Public Defender's Innocence Project received 51 new requests for assistance. Two cases were inherited from Golden Gate Law School. In 2005, 11 cases were closed, and 17 remain active. Motions for DNA testing were filed in two cases, with testing to be conducted in early 2006.

### Children of Incarcerated Parents

The Children of Incarcerated Parents program assists attorneys and in-custody clients with issues relating to relationships with their children. A caseworker meets with the incarcerated parent to determine if the other parent or caretaker needs assistance to care for the children. The caseworker gives contacts for necessary services for the children and provides logistical support to the families.

The caseworker also attends court proceedings to advocate for the parent or child, and provides training to educate attorneys, judges, law enforcement personnel and others about the effects of incarceration on children and families. This is the first program of its kind and is funded by a grant through the Zellerbach Family Foundation. Since the caseworker was hired in October 2005, she has handled 28 cases.

## Public Defender 2005 Case Statistics

**Total Cases Handled by the Public Defender's Office:**  
24,000

### Felony Unit:

Total cases: 7,132  
Arraignments: 4,694  
Cases dismissed: 1,506  
Cases resolved by plea bargain before preliminary hearing: 1,715  
Number of cases held to answer: 841  
Total guilty pleas: 2,846  
Jury trials: 64  
Ave. cases per attorney (Annual): 165  
Ave. caseload per attorney (At any given time): 55

### Type of Cases:

Homicides: 33  
Sex offenses: 50  
Violent or serious felonies: 743  
Burglary, Theft, Receiving Stolen Property: 840  
Drug offenses: 2,363  
Miscellaneous: 677  
Probation violations: 2,426

### Misdemeanor Unit:

Total cases: 10,341  
Arraignments: 4,728  
Cases dismissed: 2,940  
Cases resolved by guilty plea before trial: 1,781  
Trials: 128  
Ave. cases per attorney (Annual): 646  
Ave. caseload per attorney (At any given time): 89

### Juvenile Unit:

Total cases: 1,386  
Court appearances: 2,943  
Court trials: 42  
Contested dispositions: 61  
Ave. cases per attorney (Annual): 184  
Ave. caseload per attorney (At any given time): 50  
Total educational placements: 194  
Total Youth Authority (CYA) Commitments: 4

### Research Unit:

Appeals: 9  
Petitions for writs: 52  
Motions to suppress/Motions to set aside Information: 85  
Legal memoranda: 63  
Miscellaneous motions: 70

### Mental Health Unit:

Total cases: 3,690

#### Civil:

Certification review hearings: 2,793  
Conservatorship: 210  
Renewal of conservatorship: 489  
Writs: 83

#### Criminal:

Maximum term extensions: 14  
Writ of conditional release: 2  
Restoration of sanity: 3  
Conditional release/out-patient parole: 2  
Revocation of out-patient: 4  
In-patient progress reports: 44  
Out-patient status reports/renewals: 34  
1370 Top-Out: 9  
Miscellaneous: 3

### Behavioral Health Court:

Total cases: 281  
Total number of graduates: 37

### Drug Court:

Total cases: 997

### Proposition 36:

Total cases: 610

### Substance Abuse Unit:

Clients evaluated: 297  
Clients placed into treatment programs: 125

### Clean Slate:

Cases: 3,029  
Motions: 1,037

### Innocence Project

Total letters: 51  
Referrals: 39  
Closed investigations: 11  
Active cases: 17  
DNA motions filed/heard: 2

### Investigation Unit

Attorney investigation requests: 2,255  
Subpoenas served: 2,000  
Interviews: 3,382

### Recruitment/Volunteer Intern Program:

Interns: 205

**Public Defender:** Jeff Adachi  
**Chief Attorney:** Teresa Caffese  
**Executive Assistant to the Public Defender:** Angela Auyong  
**Felony Managing Attorneys:** Will Maas and Rebecca Young  
**Misdemeanor Managing Attorney:** Niki Solis  
**Juvenile Managing Attorney:** Patricia Lee  
**Mental Health Managing Attorney:** Robert Bunker  
**Research Managing Attorney:** Chris Gauger  
**Director of Training:** Martin Sabelli  
**Director of Investigations and Support Services:** Kathy Bull  
**Director of Interns and Recruitment:** Kathy Asada

**Felony Unit:**

Bicka Barlow	Elizabeth Hilton	Kwixuan Maloof
Gabriel Bassan	Chris Hipps	Randall Martin
Frank Brass	Christopher Hite	Articia Moore
Linda Colfax	Daro Inouye	Steve Olmo
Henry Doering	Katherine Isa	Craig Peters
Roberto Evangelista	Mark Iverson	Aleam Raja
Peter Fitzpatrick	Mark Jacobs	Stephen Rosen
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## Public Defender Teamwork Frees an Innocent Man

In May 2003, M. M. was caring for his girlfriend's children when 20-month old C. fell out of his chair and began choking. M. M. wrapped him in a blanket and ran to the hospital. In the emergency room, doctors performed CPR and other emergency procedures, but the child died. Several doctors observed internal bleeding and broken blood vessels in C.'s eyes, and concluded that the child had been shaken to death, a condition sometimes referred to as "Shaken Baby Syndrome" (SBS).

At the hospital, police questioned M. M. for hours. M. M., a hard-working immigrant with a sixth grade education, was fully cooperative. Officers interrogated him three times, and, each time, he told the police how the accident occurred. When M. M. was arrested and charged with murder, he was shocked. M. M. had never been in any trouble before, and his girlfriend completely supported his claim of innocence.

### ***Charged with Murder***

Because M. M. had lost his job, he was unable to hire an attorney. The Public Defender's office agreed to represent M. M. and defender Craig Peters was assigned to the case. Along with investigator Jill Schroeder, paralegals Nicole Holland and Liliana Vera, and three volunteer legal interns, Thomas Master, Preston Morgan, and Tricia Povah, the defense team began its year-long investigation of the case.

**When M. M. was arrested and charged with murder, he was shocked. M. M. had never been in any trouble before, and his girlfriend completely supported his claim of innocence.**

The defense team first researched all of the literature behind "Shaken Baby Syndrome," and learned that the diagnosis is quite controversial. While broken blood vessels in the eyes are common in shaken

babies, no studies have been performed to show whether babies who choke or fall might experience retinal bleeding. The defense also found that many well-respected doctors and researchers disagreed that C. had died of SBS. The defense team filled ten binders with medical literature, including many studies by medical experts who questioned SBS.

The defense contacted SBS experts, including a Harvard-trained ophthalmologist, a pediatric neuroradiologist from Stanford and a forensic pathologist. The experts all agreed that the series of events—the fall, the choking, and the vigorous CPR—could have caused the toddler's injuries. They also discovered two overlooked factors: C. had taken steroids for asthma, which made him more susceptible to injuries from a fall; and medical records proved that C. had choked on food prior to arriving at the hospital (just as M. M. had told the police).

### ***The First Trial***

The first trial, in May 2004, became a "battle of the experts." The prosecutor presented an ophthalmologist, a pediatrician, and a radi-

ologist. They all claimed that C.'s injuries could only have been caused by SBS.

On the defense side, the emergency room physician testified on M. M.'s behalf. The ER doctor contended that he, as the first person to see C., never suspected child abuse or foul play. He described how the ER staff "pounded" on C.'s tiny body for almost ten minutes in an attempt to resuscitate him. He stated that many of the injuries the doctors later found on C. could have, in fact, been exacerbated by such vigorous CPR. The defense also presented other experts whose findings fully supported the ER doctor's opinion.

The jury deliberated for over two weeks, and deadlocked: six to six. However, M. M. remained in custody while the prosecutor decided if the case should be retried. The jury foreman, an engineer, wrote a letter to the prosecutor. "I do not believe that the facts, evidence and expert testimony provided during the trial showed proof of murder, beyond reasonable doubt. I do not believe justice will be served by retrying this case, unless new and compelling evidence and testimony is provided." The foreperson believed that his jury did not reach a "not guilty" verdict because of racism, and because some of the jurors had misconceived notions of the presumption of guilt. Despite the jury foreman's plea, the prosecutor decided to retry the case.

**The jury foreman wrote: "I do not believe justice will be served by retrying this case. . ." Despite the jury foreman's plea, the prosecutor decided to retry the case.**

### ***The Second Trial***

A year later, in May 2005, the second trial began. M. M.'s public defender did not change his strategy, but brought in an engineer who analyzed C.'s fall and the amount of force necessary to cause his injuries. This expert was able to explain how C.'s fall resulted in the injuries later mistaken by doctors to be SBS.

Also, M. M. testified in both trials. M. M.'s public defender decided to have him testify because M. M. was credible and truthful. Despite persistent cross-examination by the prosecutor, M. M. never wavered in his account of the incident.

### ***The Verdict***

After five weeks of testimony and evidence, the jury deliberated for two days and returned with "not guilty" verdicts on all counts.

After the verdict was announced, a juror asked to speak to the defendant. The juror told M. M. that she was sorry that he had gone through this experience, that it could have happened to anyone, and that he should try to get something positive out of this negative experience. M. M. wept.

After three years in jail, M. M. was a free man. He returned to his family. While this was a victory for the defense, it was an even greater victory for M. M., who, throughout his years in jail, continually maintained his innocence, his dignity, and his hope for justice.

“The remedy for many of the evils of the present criminal court practice lies in the election or appointment of a public defender. For every public prosecutor there should be a public defender chosen in the same way and paid out of the same fund as the public prosecutor. Police and sheriffs should be equally at his command and the public treasury should be equally open to meet the legitimate expenses.

Let the criminal courts be reorganized upon a basis of exact, equal and free justice; let our country be broad enough and generous enough to make the law a shield as well as a sword, and there will come to the State, as a natural consequence, all those blessings which flow from constitutional obligations conscientiously kept and government duties sacredly performed.”

— Clara Foltz, in her address to the Congress of Jurisprudence and Legal Reform, delivered at the 1893 World Columbian Exhibition.



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