

MEMORANDUM

TO: RON GELTZ, Director, Branch & Area II  
LAURA JANE KESSNER, Director, Central Operations

FROM: VAL COLE, Head Deputy, Compton Branch Office  
Chairperson, VIP Policies and Procedures Subcommittee

SUBJECT: Countywide VIP Staffing Issues and Concerns

DATE: April 7, 2022

The purpose of this memorandum is to bring to your attention a countywide crisis in the highly regarded Victim Impact Program (VIP).<sup>1</sup> Critical staffing shortages, combined with drastically increased caseloads and additional work requirements for VIP DDAs and DICs, are creating operational and organizational risks with a significant potential for negative public safety impacts.

A statistical analysis of VIP filings, declinations, and open cases was performed for the years from 2017 to 2021, and compared with historical staffing numbers for the same period.<sup>2</sup> The results of this analysis are staggering and bleak: every VIP unit but one is currently at its lowest staffing for that period (some with staffing reduced by up to 50%) while, at the same time, every unit is handling the highest number of open cases.

**1. Increased numbers of cases.**

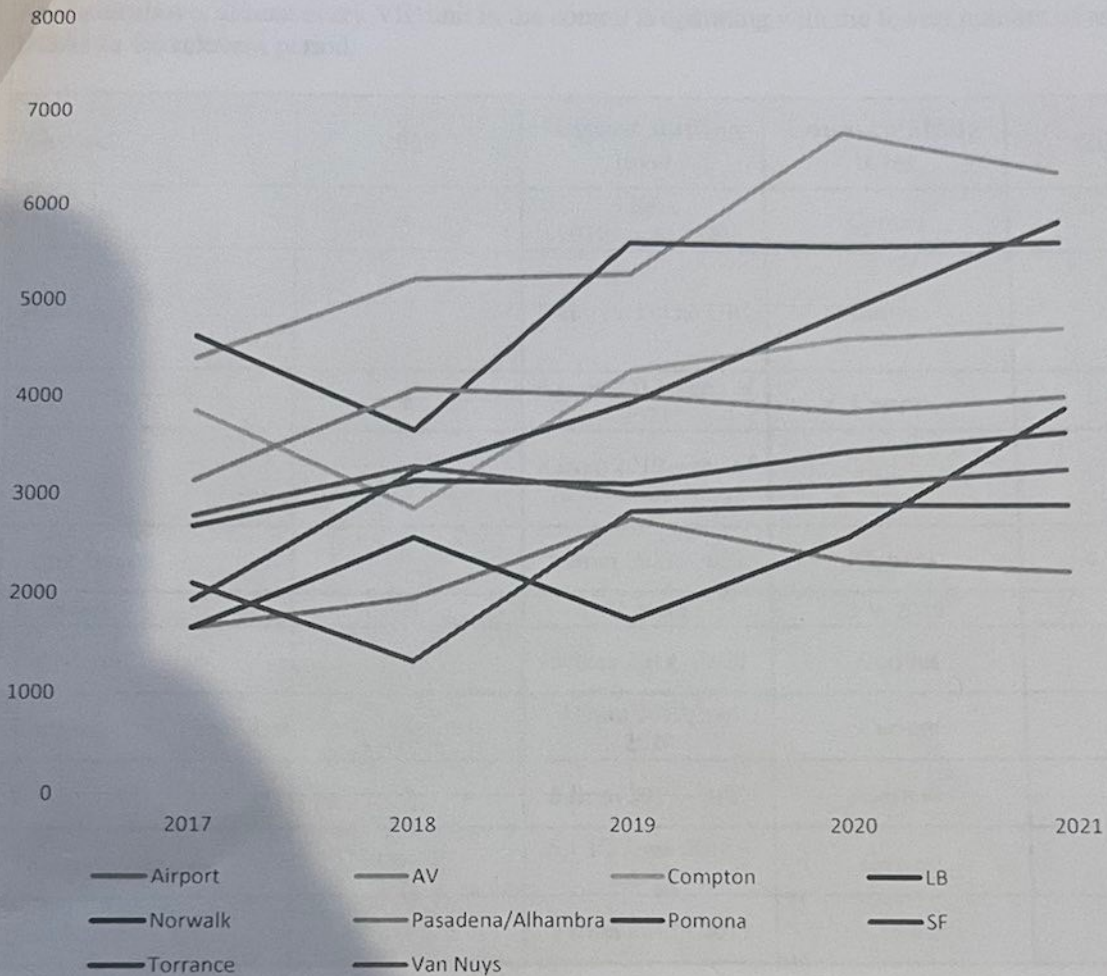
The total volume of cases being presented by law enforcement and filed for prosecution has increased significantly from 2017 through 2021, and that trend remains constant in 2022. Separate analyses were performed of the numbers of: 1) felony and misdemeanor filings; 2) open cases; and 3) declinations, referrals, and probation violations in lieu of filing.

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<sup>1</sup> VIP places a unit of specially-trained Deputy District Attorneys (DDAs), supervised by a Deputy-in-Charge (DIC), at each Branch Office. As reviewed by the Harris Report (2007), VIP policies and best practices address the needs of victims with unique vulnerabilities and comprises prosecutions of crimes against elders, child physical and sexual abuse, hate crimes, sexual assaults, stalking, and intimate partner violence (IPV). VIP prosecutions are governed by the protocols set forth in Special Directive 08-02, which imposes special requirements such as specified training for all VIP DDAs, victim and witness interviews before filing determinations, vertical prosecution of all VIP category offenses, notification to victims regarding court dates, possible settlements, sentencing and other significant events, referral of victims to Victim Witness Services Representatives (VSRs), expanded file documentation, the issuance and tracking of Criminal Protective Orders (CPOs), and specified requirements regarding bail and disposition on VIP cases.

<sup>2</sup> During this period, the Alhambra Branch Office was an Area Office under the Pasadena Branch Office for approximately half the time. For ease of reference, statistics from the Alhambra Branch Office have been combined with those from the Pasadena Branch Office for the entire period.

### Filings, Open Cases and Declinations



For example, in 2017, the Airport Branch VIP unit had an average of 63 open cases. In 2021, that average was 108. Similarly, the Compton Branch VIP unit had an average of 134 open cases in 2017, but an average of 204 in 2021. The Pomona Branch VIP unit increased its average number of open cases in that period from 111 to a staggering 266. No VIP unit was immune from this increase in the number of cases being handled. The Antelope Valley Branch VIP unit had a 98% increase in the number of cases handled; the Long Beach Branch VIP unit's volume increased by 59%; the San Fernando Branch VIP unit saw a 52% increase in the number of open cases. And, as discussed below, those Branch Offices having the smallest percentage increase in the total number of cases moving through their VIP units were among the hardest hit by staffing reductions, resulting in drastic increases in caseloads despite their number of total cases not increasing as dramatically as in other locations.<sup>3</sup>

<sup>3</sup> Torrance and Van Nuys.

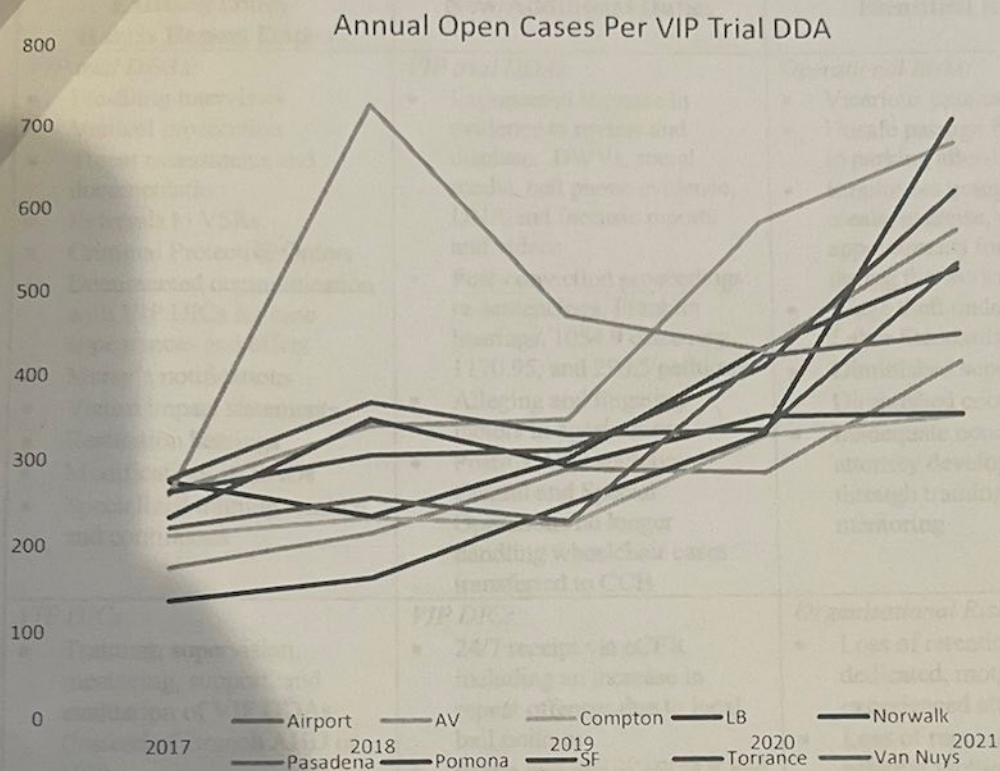
## 2. Exploding caseloads.

As stated above, almost every VIP unit in the county is operating with the fewest number of assigned DDAs in the relevant period.

Branch	2017	Highest staffing level	Lowest staffing level	Current
Airport	4	5 from 2019 – mid 2020	Current	3
Alhambra	2	3 current but no DIC	Current	2 + filer
AV	6	6 from 2017 – end of 2021	Current	5
Compton	7	8 from 2019 – end of 2021	Current	7
Long Beach	5	5 from 2017 – 4/21	Current	4 + PT filer
Norwalk	7	Current	5 in 2018	7
Pasadena	4	5 from 2019 – 9/20	Current	4
Pomona	9	9 from 2017, mid 2020	Current	4 + PT
SF	5	5 from 2017 – 4/21	Current	3 + PT
Torrance	5 + PT	5 + PT from 2018 – 4/21	Current	3 + PT
Van Nuys	7	7 from 2017 - 2019	Current	4

The hardest hit Branch VIP units are in Pomona, Torrance and Van Nuys. Pomona VIP had 9 trial DDAs in 2017; today it has 4. Torrance VIP began 2017 with 5 trial DDAs and ended 2021 with 3. At its highest staffing level, Van Nuys VIP had 7 trial DDAs; it now has 4. Fewer assigned VIP DDAs means VIP caseloads have exploded across the county.

Traditionally, the number of cases handled by each VIP DDA was capped to ensure that these specific responsibilities outlined in the Harris Report, as well as the extra efforts required by the nature of VIP cases in general, could be managed on top of the ordinary prosecution of cases. VIP DDAs county-wide are currently carrying more than twice as many cases as previous protocols recommended. It is impossible for this work to be completed during normal business hours, and no mechanism exists for DDAs to be compensated for what amounts to mandatory overtime hours.



### 3. Increased work obligations in addition to open cases.

In addition to open cases, each lawyer assigned to a VIP unit is currently tasked with significant additional work created by changing legislation and technology.<sup>4</sup> VIP DDCs, filing DDAs and trial DDAs routinely work outside of normal business hours to finish their assigned work. Their exponentially increased workload, combined with their passion and commitment to the difficult work they do, inevitably results in VIP DDAs across the county going uncompensated for a significant portion of work they are required to perform as part of their regular assignment duties, in violation of Federal labor laws and Los Angeles County guidelines.

<sup>4</sup> See Chart, at pg. 5, for detail.

Existing Policy/ Harris Report Duties	New/Additional Duties	Identified Risks
<p><i>VIP trial DDAs:</i></p> <ul style="list-style-type: none"> <li>• Pre-filing interviews</li> <li>• Vertical prosecution</li> <li>• Threat assessments and documentation</li> <li>• Referrals to VSRs</li> <li>• Criminal Protective Orders</li> <li>• Documented communication with VIP DICs for case appearances and offers</li> <li>• Marsy's notifications</li> <li>• Victim impact statements</li> <li>• Restitution hearings</li> <li>• Modifications of SAOs</li> <li>• Specialized training—initial and continuous</li> </ul>	<p><i>VIP trial DDAs:</i></p> <ul style="list-style-type: none"> <li>• Exponential increase in evidence to review and disclose: BWVs, social media, cell phone evidence, DNA and forensic reports and videos</li> <li>• Post-conviction proceedings: re-sentencings, Franklin hearings, 1054.9 discovery, 1170.95, and 290.5 petitions</li> <li>• Alleging and litigating factors in aggravation</li> <li>• Post-COVID shutdown, Central and Special Operations no longer handling wheelchair cases transferred to CCB</li> </ul>	<p><i>Operational Risks:</i></p> <ul style="list-style-type: none"> <li>• Vicarious trauma</li> <li>• Unsafe passage from office to parking after-hours</li> <li>• Employees going without meals, exercise, medical appointments for lack of time during the workweek</li> <li>• Wage theft under the Fair Labor Standards Act (FLSA)</li> <li>• Diminished supervision</li> <li>• Diminished coordination</li> <li>• Inadequate opportunity for attorney development through training and mentoring</li> </ul>
<p><i>VIP DICs:</i></p> <ul style="list-style-type: none"> <li>• Training, supervision, mentoring, support, and evaluation of VIP DDAs (instead of Branch AHD or HD)</li> <li>• Screening and declining or assigning cases for pre-filing interviews</li> <li>• Case settlement offers</li> <li>• Review of dispositions</li> <li>• Review of complaints about declinations or other results in VIP cases</li> <li>• Community outreach</li> <li>• Performance Evaluations</li> <li>• Law Clerk mentoring and evaluations</li> </ul>	<p><i>VIP DICs:</i></p> <ul style="list-style-type: none"> <li>• 24/7 receipt via eCER including an increase in repeat offenses due to local bail policies</li> <li>• Filing reviews of eSCAR and DCS databases; review of BWV footage, law enforcement liaison duties to obtain signatures on cases submitted electronically</li> <li>• Requests for approval for alleging firearms and GBI allegations and for deviation from SD on offers</li> <li>• PRA requests</li> <li>• Post-conviction proceedings: re-sentencings, Franklin hearings, 1054.9 motions for discovery, 1170.95, and 290.5 petitions</li> <li>• ACE, JACE, Special Circumstance retention memoranda review</li> </ul>	<p><i>Organizational Risks:</i></p> <ul style="list-style-type: none"> <li>• Loss of retention of dedicated, motivated, experienced attorneys</li> <li>• Loss of reputation to the office if victims do not experience interactions as trauma-informed or opposing counsel and courts do not perceive VIP-assigned personnel as adequately prepared</li> <li>• Public safety impact if/when operational risks diagnosed in Harris Report recur and result in failure or if backlog of matters pending filing determination cannot be addressed in a timely fashion</li> </ul>

**4. DICs working as filing DDAs and carrying caseloads of open cases.**

VIP trial DDAs are not the only members of VIP units who are performing work that is outside their

listed assignment duties. Five of the county's 11 VIP units have no filing DDA, resulting in the DICs in those VIP units acting as the units' full-time filing DDA as well as a supervisor<sup>5</sup>. In essence, those five DICs are working two full-time jobs at the same time. In 2021, the VIP DIC in the Pomona Branch reviewed 1,318 cases submitted for filing. For comparison, in a 12-month period between 2020 and 2021 the full-time VIP filing DDAs in the Pasadena Branch and Alhambra Area Office reviewed a total of 761 and 684 cases respectively. Even more remarkably, in 2021 the VIP DIC in the Antelope Valley Branch reviewed a staggering 2,694 cases. Even in VIP units which have a lower volume of cases, the lack of a VIP filing DDA puts a significant burden on the VIP DIC: the VIP DIC in the Airport Branch reviewed 751 cases in 2021, more than equaling the work of full-time filing DDAs elsewhere in the county. The Long Beach Branch VIP unit has only a part-time filing DDA, which means that the VIP DIC must still devote an enormous amount of time to reviewing case submissions. Even with the help of the part-time filer, in 2021 the Long Beach Branch VIP DIC reviewed approximately 1,000 cases in addition to her stated job responsibilities.<sup>6</sup> Filing cases has also become a more complicated and time-consuming responsibility as the office moves towards a fully online filing platform. Filing DDAs are now required to take on responsibilities previously included in the job descriptions of LOSAs, paralegals, and law enforcement liaisons.<sup>10</sup>

In addition to the six VIP DICs operating without a full-time filing DDA, the VIP DICs in Airport, Pasadena and San Fernando carry caseloads of between 20 and 35 open cases. While this is done to provide some relief to VIP trial DDAs with astronomical caseloads, it nevertheless negatively affects those DICs' ability to mentor and supervise the trial DDAs working for them.

A supervisor in this Office is tasked with observing, training, and mentoring the attorneys in their group. It is impossible to adequately mentor and train assigned VIP trial DDAs while also performing the work of a full-time filing DDA or carrying what amounts to a full trial DDA caseload. VIP DICs in these units find it difficult, if not impossible, to go to court to observe their trial DDAs and have drastically reduced time to work with their trial DDAs on developing and preparing their cases. It is routine for VIP DICs to work on nights and weekends without compensation in order to keep up with the demands of their assignments. There are additional duties specific to VIP DICs that result in uncompensated work outside of office hours, resulting in disproportionate workloads for multiple supervisors and negative impacts on the work experience for the trial DDAs in those units.<sup>11</sup>

##### **5. VIP DDAs required to perform work for line operations.**

In the past, VIP units have generally operated without being expected to work on the line operation cases being prosecuted in their courthouses. That has changed. In addition to the issues noted above, due to critical staffing shortages in line operations, VIP DDAs are routinely required to perform line operation work at levels never before experienced in the Office.

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<sup>5</sup> Airport, Antelope Valley, Compton, Norwalk and San Fernando.

<sup>6</sup> See, County of Los Angeles District Attorney Performance Work Plan, Work Related Duties and Characteristics for a detailed list of expected job requirements in a Supervision Assignment. Filing and declining cases is not listed as a performance standard whereby a supervisor's job performance is evaluated in the Office.

<sup>10</sup> See Chart at pg. 5, for details.

<sup>11</sup> See Chart at pg. 5, for details.

At the Pasadena Branch, there is only one line operations filing DDA, so when he is out of the office the VIP filing DDA is required to cover all filings for the entire branch. In 2021, this occurred on at least 20 days – meaning the Pasadena Branch VIP filing DDA worked the equivalent of an entire month as the Pasadena line filing DDA as well. In 2020 and 2021, Pomona Branch VIP DDAs were often required to review line cases for filing, and the Long Beach Branch’s part-time VIP filer is also tasked with assisting line operations on a regular basis.

At the Airport Branch, the VIP unit is called on every day to cover calendar, conduct line operation preliminary hearings, and even do line operation jury trials. Several times a week, the Antelope Valley Branch VIP trial DDAs cover calendars, while Pomona VIP DDAs cover misdemeanor calendars at least once a week and San Fernando Branch VIP DDAs cover calendars one to two times a week. The Alhambra Branch Office has no VIP DIC, and the two VIP trial DDAs are called upon regularly to cover the felony calendar court for which there is no line operation DDA at all. Even in branches where no formal schedule exists, VIP deputies are asked to help to fill in gaps in line operation staffing on a regular and recurring basis by filing cases, covering calendars or taking line operations cases as specials.

The Norwalk Branch VIP unit presents a particularly stark example of this issue. VIP staffing in the Norwalk Branch has remained at seven trial DDAs from 2017 to the present. The Norwalk Branch VIP unit has experienced a 38% increase in open cases in that period (a significant increase, but still one of the lowest among VIP units). The external factor that places the Norwalk Branch VIP unit in a dire position is the drastically reduced line staffing in the Norwalk Branch. At normal staffing levels, the Norwalk Branch has six line operations trial DDAs to staff its three trial courts. Currently, there are only two line operations trial DDAs in Norwalk. As a result, the VIP trial DDAs are constantly required to perform line work – in addition to their already increased VIP caseloads. Most VIP DDAs have line murders as a part of their caseload and are regularly required to cover calendars. The most significant burden to Norwalk Branch VIP DDAs is covering the preliminary hearing court, which is staffed with two DDAs every day. The schedules for the Norwalk preliminary hearing court for March, April and May of this year show that one, if not two, VIP trial DDAs are staffing the preliminary hearing court and conducting line operations preliminary hearings almost every single day. In March, out of 23 days, 17 days had one VIP trial DDA doing line operations preliminary hearings, and two days had two VIP DDAs assigned to cover. In April, out of 21 days, 16 have a VIP trial DDA assigned to cover line preliminary hearings. The schedule for May shows that out of 21 days, 13 days will have one VIP DDA covering line operations preliminary hearings, and on five days the preliminary hearing court will be covered by two VIP DDAs. Each of these days represents a full day that those DDAs cannot work on their assigned caseloads, further impacting the Norwalk Branch VIP DDAs’ ability to meet the obligations of their challenging assignment.

While acknowledging that line operations staffing is also at critically low levels countywide, the requirement that VIP DDAs perform line operations work is only occasionally reciprocated by line operations DDAs. Line operations filing DDAs rarely file cases for VIP. Line operations trial DDAs do not do VIP preliminary hearings and VIP trials, with the exception of those few Branch Offices where “VIP Adjacent” cases are assigned to line operations DDAs who are interested in VIP cases.<sup>12</sup> Calendar DDAs generally do not respond to post-conviction motions on VIP cases. The same is also true for supervisors. While VIP DICs are required to cover for Assistant Head Deputies and Head

<sup>12</sup> Antelope Valley, Compton, Pomona and Torrance.

Deputies on their days off, there is no back up coverage for VIP DICs when the Assistant Head and/or Head Deputies have not received training and/or have no experience handling VIP cases.

Every day a VIP DDA is redirected to line operations tasks is one less day they have to do their assigned work. Adding these line responsibilities to already staggering VIP caseloads puts unimaginable stress on understaffed VIP units across the county.

#### **6. The current situation is unsustainable.**

The Harris Report, in conjunction with Special Directive 08-02, dictates that an exemplary level of care be taken by VIP DDAs to ensure the safety of the victims in their cases, and the successful prosecution of some of the county's most heinous crimes. The public safety risks created when VIP cannot meet these requirements are significant.<sup>13</sup> Although VIP DDAs are extraordinarily dedicated and passionate about their cases, it is universally recognized that their work is challenging and difficult even when caseloads are manageable, and adequate support and resources are available. The current depletion of staffing levels, coupled with a stark increase in caseloads, additional work requirements imposed by the Office and new legislation, and being forced to compensate for the critical understaffing of line operations, has created a crisis in VIP units across the county.

Without a swift and efficacious response from the Office, the operational risks of this crisis include vicarious trauma and burnout for VIP DDAs and DICs. The organizational risks of this untenable situation include loss of employee retention, potential liability for chronic violations of the FLSA, and DDAs who cannot provide the level of preparation and care that has allowed our office to maintain our reputation as one of the most highly skilled, knowledgeable and effective prosecutors' offices in the world. Most importantly, however, the crisis outlined in this memorandum creates unacceptable risks to public safety if the level of coordination and follow-up required by office policy, and reaffirmed in the root cause analysis of the Harris Report, are not continually adhered to.

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<sup>13</sup> Vertical prosecution by VIP DDAs is a trauma-informed approach intended to reduce potential revictimizing effects of the criminal justice system and to prevent the public safety risks inherent in these types of crimes. See, e.g., T K Logan and Robert Walker, "Separation as a Risk Factor for Victims of Intimate Partner Violence: Beyond Lethality and Injury: A Response to Campbell" in *Journal of Interpersonal Violence*, Vol.19, issue 12: pgs. 1478-1486; Firearms in home associated with dramatic increase in lethality in IPV cases: David Studdert et al., "Homicide Deaths Among Adults Living With Handgun Owners in California, 2004-2016: A Cohort Study" in *Annals of Internal Medicine*, published April 5, 2022 at <https://doi.org/10.7326/M21-3762>; Skyrocketing rates of hate crimes in Los Angeles County: "2020 Hate Crime Report" published by Los Angeles County Commission on Human Relations online at [www.LAHumanRelations.org](http://www.LAHumanRelations.org); Continued risks of re-offense by adult sexual offenders: Leslie Helmus, R. Karl Hanson, et al., "Absolute Recidivism Rates Predicted By Static-99R and Static-2002R Sex Offender Risk Assessment Tools Vary Across Samples: A Meta-Analysis" in *Criminal Justice and Behavior* Vol. 2012, issue 39 at 1148; Prevalence and types of co-occurring elder abuse increasing with aging population: Ramsey-Klawnsnik, H. (2017) "Older adults affected by polyvictimization: A review of early research," in *Journal of Elder abuse & Neglect*, Vol. 29, issue 5, pgs. 299-312; One-third of stalkers commit a violent re-offense within two years of first police intervention: Eke, Hilton, et al., "Predictors of Recidivism by Stalkers: A Nine-year Follow-Up of Police Contacts," in *Journal of Behavioral Science and the Law*, 2011.



## 7. Recommendations:

1. Increase VIP staffing to no less than 2017 levels, prorated to include increases in cases presented for filing as demonstrated in chart on page 2, including staffing at least one dedicated VIP filing DDA per branch. Increase line operations staffing in the Branch Offices to eliminate need for VIP DDAs to cover line operations work assignments;
2. Redistribute duties from understaffed attorney personnel to paralegals, LOSAs, witness assistants and VSRs, especially in those areas where non-attorney staffing has not been decreased, or has increased due to additional funding having been secured. Appropriate items for non-attorney handling would include ESCARS entries, alleging priors, PRA and 1054.9 requests, filing probation violations, preparing CPOs and ensuring copies are provided to victims and law enforcement, initial workup on 290.5 petitions, 1054.9 requests, 17(b)(4)/expungement motions, motions to terminate probation, resentencing motions, and U-Visa applications;
3. Review the Harris Report and SD 08-02 requirements to determine which obligations can be redistributed to more fully staffed special units and/or office bureaus;
4. Re-assess the delegation of post-sentencing matters between post-conviction units and branch VIP units. Compare staffing levels and caseloads to determine whether litigation might better be handled by the fully staffed post-sentencing units or by creating a centralized unit to handle each type of motion countywide (such as the 290.5 petitions and PRAs) with a combination of attorneys, paralegals and LOSAs trained in the new procedures, and not burdened with filing obligations, victim interviews or court appearances;
5. Authorize compensatory time for work outside regular business hours and streamline the process to apply for it;
6. Provide VIP training to all DDAs and supervisors county-wide so that there is some level of reciprocity in coverage while total staffing levels are critically depleted.