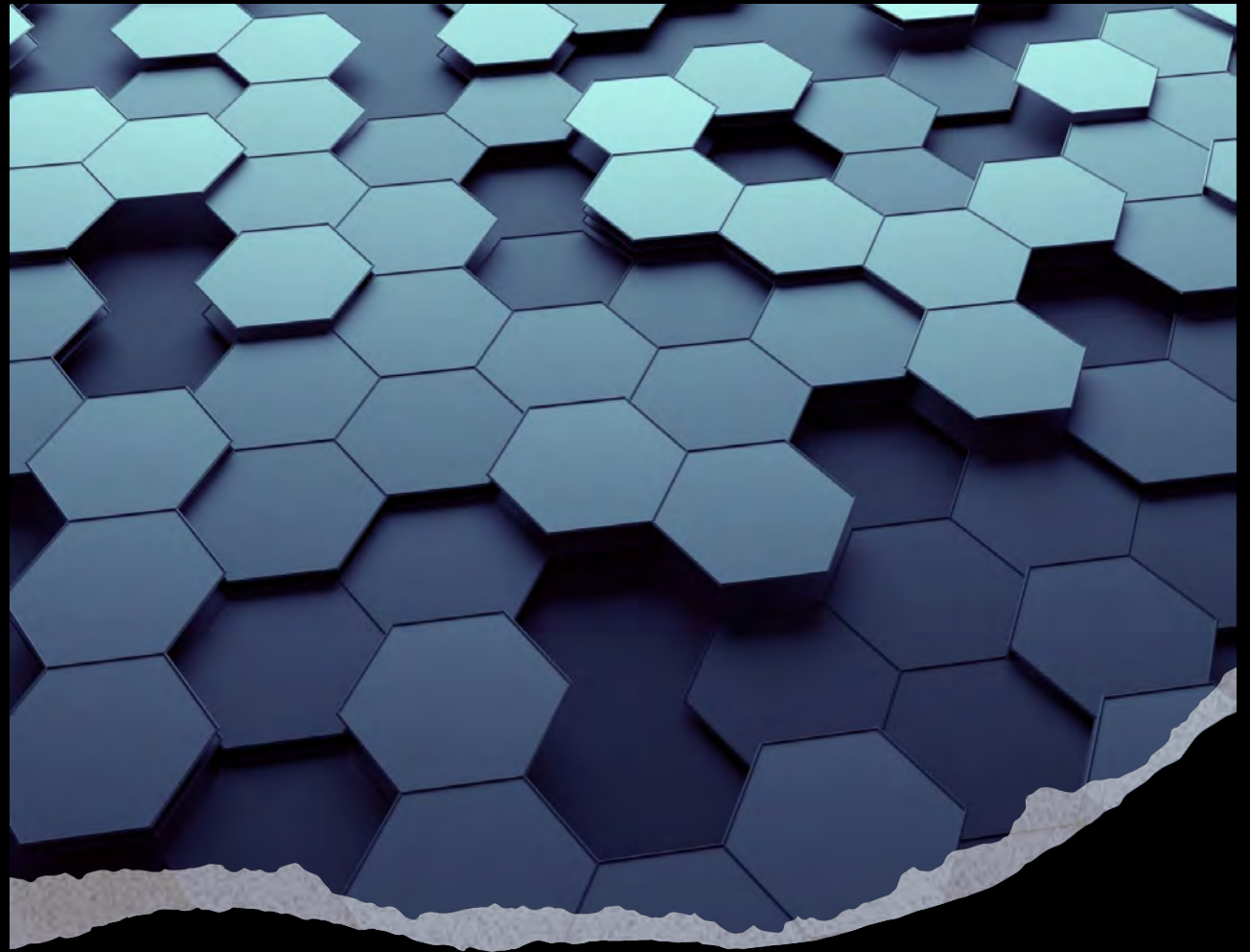


# The Case for Mitigation

Integration of mitigation in the resentencing of Juvenile Life Without Parole (JLWOP) cases





# About Me

- Parents are from Laton, Ca. My 94 year old grandfather still lives there in the same house he grew up in!
- Grateful for this opportunity to share the growing field of defense social work & its potential for impact in the Central Valley
- Randi Balderama: [rbalderama82@gmail.com](mailto:rbalderama82@gmail.com), 831-902-8436

# About me cont.

- Meeting a social worker in treatment led me to enroll in the Masters of Social Work program at Fresno State
- After years of working in corrections, group homes and education I realized the need for systemic change in the criminal justice system
- Systems change when people change!





Cesare Lombroso: the father of the  
positivist criminology theory

Adrian Raine & Rebecca Umbach  
have produced current work (Ling,  
Umbach, & Raine 2019)

3 elements considered:

- search for causation (including biological)
- use of the scientific for testing theory
- rejection of punishment as a response to deviant or delinquent behavior, favoring instead of treatment

# Positivist Criminology Theory

Research in a positivist  
paradigm has sought to  
identify differences  
between those deemed  
criminals and those not.

Modern studies have  
shown that violent  
offenders' brains and  
the brains of other  
individuals differ in both  
structure and function

Assumes that criminal  
conduct has its own  
distinct set of  
characteristics



# History of Juvenile Justice

The New York House of Refuge (NYHR) is noted as the first juvenile reformatory in the United States (SenGupta, 2009)

The NYHR has a history spanning over 110 years, from 1825 to 1935

The NYHR received praise for tackling juvenile delinquency and subsequent reform (SenGupta, 2009).

Both males and females were accepted, with the largest population rising to over 1,800 in total (SenGupta, 2009)

Every juvenile was committed indefinitely as the NYHR exercised authority over each youth.



- Juvenile Justice and Delinquency Act of 1974 gave states financial incentives for deinstitutionalization (Butts et al., 1991).
- The acts in the 1970s and 1980s shift from incarceration to rehabilitation
- However, studies of the 1980s suggest little change
- Lawmakers and the juvenile justice system became focused on both social control and punishment in the 1990s
- The rise in crime rates pushed lawmakers to become punitive against juveniles (Butts et al., 1991).
- The public supported the idea of locking all criminals up and throwing away the key.

# Life without parole

# Mr. W

Arrested at 16

Rape, murder, attempted murder convictions

Changes made during prison

Started to make a change when he saw his lawyer fight for him

Now mentors incoming juveniles







# Which way is the pendulum swinging

- San Francisco has begun to shut the doors of their juvenile facilities 81 percent drop in juveniles
- San Francisco creates individualized community resource plans to keep from traumatization of juveniles with lesser charges
- By 2023, all state juvenile detention facilities will close and responsibility for youth offenders will shift to counties

# Quick Rundown: Supreme Court Cases

Graham v. Florida

Miller v. Alabama

Montgomery v.  
Louisiana



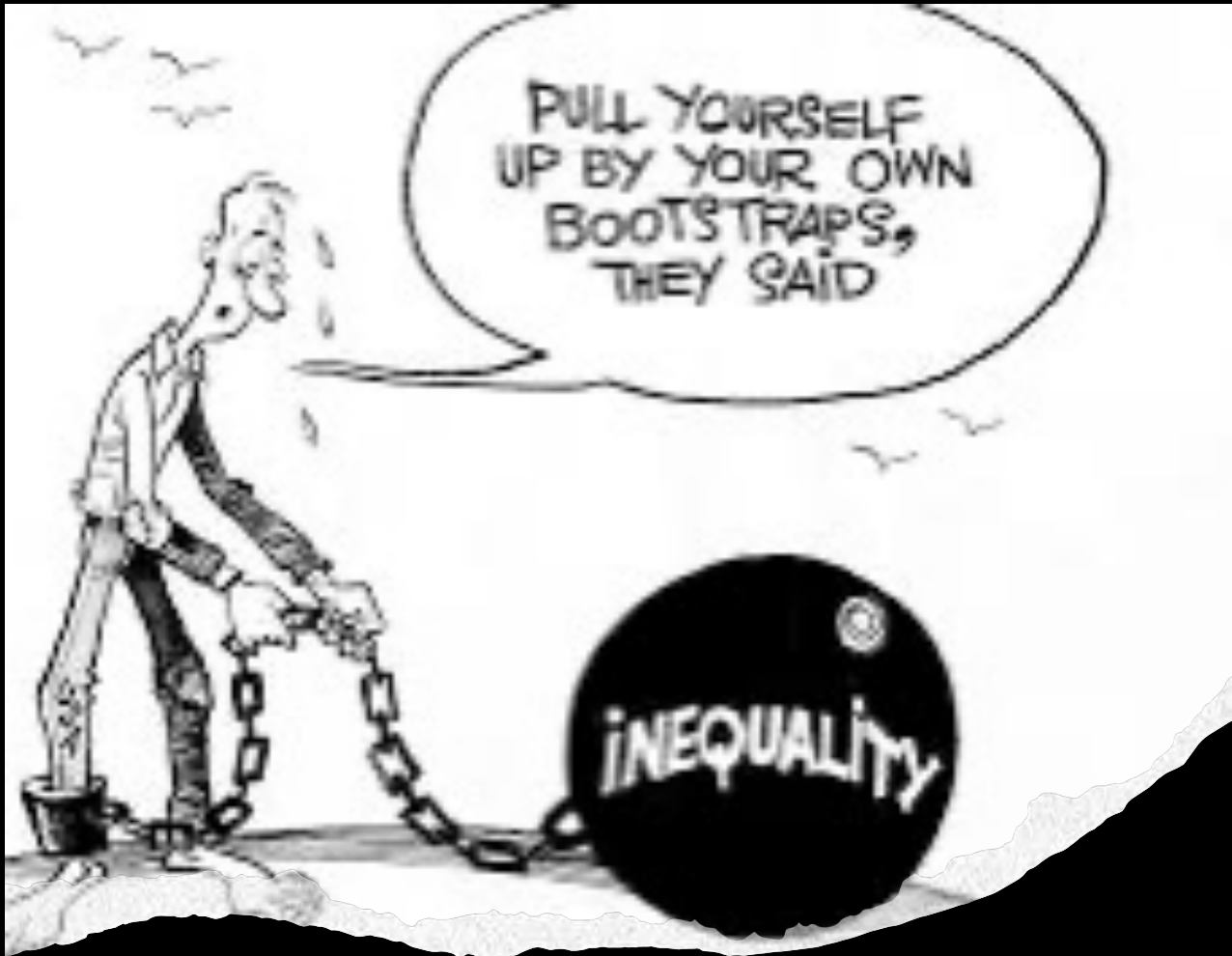
# Aftermath

- Each ruling reiterated the trauma that occurs with juvenile incarceration
- Over-sentencing does not make a difference in juvenile crime rates
- Amnesty International and The Human Rights Watch reported that juveniles accounted for 11% of homicide offenders (Benekos & Merlo, 2019)
- Ten years later, this only dropped by 1% despite the tough on crime initiative presented during the 1990s (Benekos & Merlo, 2019)

# Results of mitigation

- Without acknowledgement of mitigating factors in instances of expungement a juvenile's future can be stunted
  - *A child may not gain employment in areas like the military, law enforcement, or even firefighting*
  - *A juvenile under the age of 18 may be impacted by his delinquency record when he or she attempts to return to their academic career*
  - *Their future academic career may be significantly stunted by a lack of access to scholarships or student loans*
- The majority of youth facing delinquency charges are **more often than not** in socioeconomically deprived situations, have mental health concerns, and have been victims of some form of abuse
- Resentencing of JLWOP cases gives an individual for a chance at parole if appropriate





# We don't all have the same pair of shoes

- Social determinants of health need to be addressed when decisions are made about future options of a young adult
- The use of mitigation opens up the possibility of lowering recidivism. It can benefit society in the long run
- By refusing to acknowledge the mitigating factors in a youth's life, society is, in effect, violating the Eighth Amendment that prohibits cruel and unusual punishment (Puzone, 2016)





# How public belief hinders juveniles

- With the Supreme Court rulings regarding life without prison for juveniles, the highest authorities have acknowledged that harsh punishments are not beneficial for those whose brain development is still in progress (Puzone, 2016)

# Trauma Informed Approach

- In early 2000s literature began to address the emergence of trauma to juveniles even with minor exposure
- Trauma continues once juveniles have been placed in custody and exposed the violence, uncertainty and lack of safety in facilities
- A continual state of hypervigilance, can lead to long term health concerns & a lesser chance at building resiliency





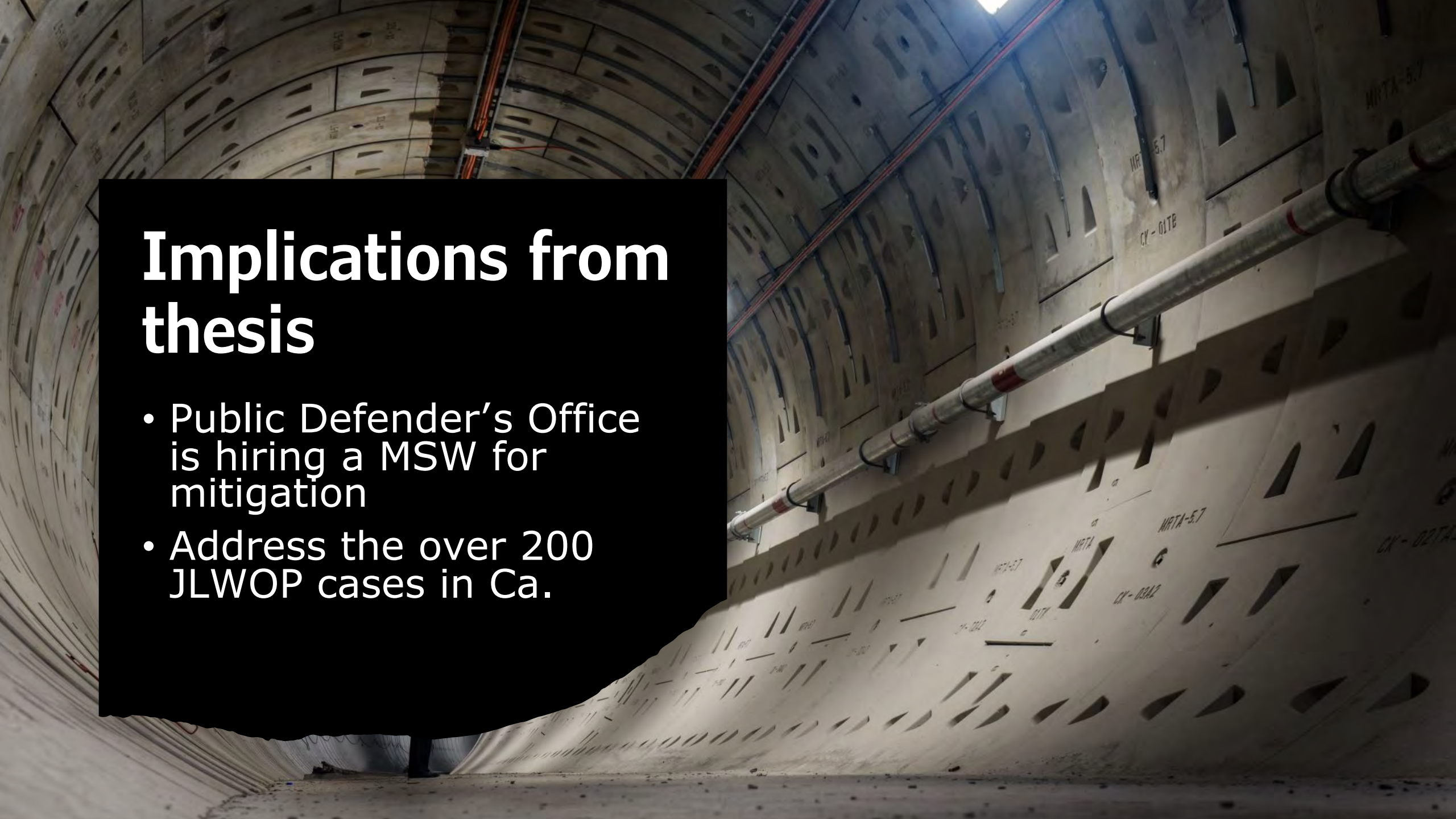
# Relevancy

- Adolescence is a time of change in human development.
- Juvenile offenders have often been at a disadvantage in criminal proceedings. If the fundamental developmental differences are acknowledged in these types of laws, they most certainly should be applied in the sentencing for juvenile offenders.
- Juvenile Delinquency has operated in a silo but with the introduction of defense social work there is an opportunity for true interdisciplinary change.
- One example is the switch to dual jurisdiction giving county staff a chance to collaborate in cases



# Implications from thesis

- Public Defender's Office is hiring a MSW for mitigation
- Address the over 200 JLOWP cases in Ca.





# CCASSC

Thank you for your continued  
support!

