



SUMMARY REPORT

Agenda Date: 5/6/2025

To: Sonoma County Board of Supervisors

Department or Agency Name(s): County Administrator's Office, County Counsel

Staff Name and Phone Number: Robert Pittman/Josh Myers 707-565-2421, M. Christina Rivera/Andrew McLaughlin 707-565-3776

Vote Requirement: 4/5th

Supervisory District(s): Countywide

Title:

Contract Amendment for Conflict Indigent Defense Administration

Recommended Action:

Authorize the County Counsel or their designee to execute an amendment to the agreement between the County of Sonoma and the Indigent Defense Administration of Sonoma County, LLC, (IDASC) operated by Nathan Poulos, Esq., to provide to the panel increased funding in the amount of \$128,000 in FY 24-25 using existing appropriations and in the amount of \$848,875 in FY 25-26 using discretionary General Fund pursuant to the reopener provisions as outlined and required in the agreement.

Executive Summary:

The County contracts with the Indigent Defense Administration of Sonoma County, LLC (Conflict Panel Administrator) to provide mandated legal indigent defense representation when the Public Defender's Office is unable to represent clients due to a conflict, such as when there are multiple defendants in one case. The laws that govern this practice are the 6th Amendment to the United States Constitution, Article I, Section 15 of the California Constitution, and California Penal Code section 987, et seq. These laws require that the County provide an attorney at public expense to any defendant who cannot afford one and who is charged with a crime that might result in incarceration.

The existing contract includes language calling for the agreement to be reopened if cases increase beyond a certain level over the term of the agreement. The cases assigned to the Conflict Panel attorneys have increased by more than 10 percent in two consecutive quarters multiple times over the past year, thereby triggering the reopener stated in the existing contract.

The proposed contract amendment contains two separate funding increases:

- Effective to the retroactive date of February 1, 2025, the monthly payment will increase from \$234,808.04 to \$260,408.04 to support the addition of 2 attorneys to work felony cases assigned to the conflict panel.
- FY 25-26, the monthly payment to the IDASC, LLC, will increase to \$312,471.91 to support the above added attorneys for felony cases and increased ancillary and emergency retention amounts for extraordinary contingencies.

This additional support is designed for the conflict panel to assist with its increased workload. The current FY

24-25 costs are anticipated to increase from the current contract amount by \$128,000, the ongoing annual cost for FY 25-26 will increase by \$848,875, and in FY 26-27 the annual cost will increase by \$875,782. The cost increase will be financed with discretionary General Fund which finances about 70% of the Court Support & Grand Jury programs. With this additional support, the conflict panel will be able to better handle its existing caseload as well as caseload that emerges from Prop 36 and other legislative actions.

Discussion:

The 6th Amendment to the United States Constitution, Article I, Section 15 of the California Constitution and California Penal Code section 987, et seq., require that governments provide representation to and pay the costs associated with the representation of indigent people facing incarceration in the criminal courts.

The Sonoma County Public Defender's Office provides the first level of representation for indigent defense. However, when the Public Defender has a conflict of interest, conflict counsel must be appointed by a judicial officer of the Superior Court, and the County is responsible for their fees as well as ancillary costs of defense.

Some large counties operate a county department for provision of second-level representation ("Alternate Public Defender"). Other counties contract with an outside administrator who maintains a list or panel of attorneys and those attorneys are appointed by the Court and paid an hourly rate by the County. These attorneys represent defendants at the second and consecutive levels of conflict even in counties with Alternate Public Defender offices.

Sonoma County utilizes a hybrid method which has ensured effective representation of indigent defendants who cannot be represented by the Public Defender because of a conflict, whether multiple co-defendants or other matter. The contract administrator ensures that there are sufficient qualified attorneys to address the needs of the criminal justice system including cases involving felonies, misdemeanors, juvenile delinquency, contempt, misdemeanor appeals and witnesses who require representation. The fixed-price agreement is sufficiently flexible to adjust to extraordinary circumstances while ensuring predictability for budgeting purposes as well as cost containment. The contract is managed by County Counsel and costs are paid out of the Court Support budget, which is over 70% funded by General Fund. Except from marginal court fines and fees, there is no state or other outside funding allocated to support Alternate Defense costs.

Sonoma County has utilized the fixed-price contract structure since 2005. The last request for proposal (RFP) was issued in April 2023, resulting in the County entering into an agreement with the incumbent administrator's predecessor, Kristine Burk.

Two contract re-opener provisions exist within the current agreement, the first of which states that the contract costs may be subject to negotiated adjustments if the number of case appointments increases by more than 10 percent in two consecutive fiscal quarters as compared with the baseline year of January 1, 2022-December 31, 2022. This provision was met in 2024, with increases in adult and juvenile felony assignments triggering a renegotiation and this item's recommended action. The report prepared by the Conflict Panel Administrator demonstrating these figures is attached with this item, and shows, across all case types, a 16 percent increase from the baseline year of 2022 to 2023 and increased 34 percent from the baseline year of 2022 to 2024.

The negotiated adjustment to the contract will use existing appropriations in the adopted 2024-25 Court

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Support budget to provide additional funding to the Conflict Panel Administrator in an amount sufficient to fund 2 additional felony attorneys for the remainder of this fiscal year to provide immediate relief to the attorneys on the panel who are assigned to felony cases.

The panel will be paid a lump sum backdated to February 1, 2025, and then paid at the updated monthly amount through June 30, 2025. Additional General Fund support is requested for FY 25-26 to fund on an ongoing basis the added attorneys necessary to support the increased felony caseload reported by the panel administrator.

These increases should allow the Panel Administrator to manage the conflict panel attorney caseloads such that they are within the best practices guidelines established by the California Office of the State Public Defender.

The current contract expires June 30, 2027, and will require an extension or a new RFP procedure.

Strategic Plan:

N/A

Racial Equity:

Was this item identified as an opportunity to apply the Racial Equity Toolkit?

No

Prior Board Actions:

June 6, 2023, the Board of Supervisors approves the agreement with the conflict panel and monthly payment schedule for FY 23-24.

FISCAL SUMMARY

Expenditures	FY24-25 Adopted	FY25-26 Projected	FY26-27 Projected
Budgeted Expenses	\$3,069,697	\$3,749,663	\$3,862,153
Additional Appropriation Requested			
Total Expenditures		\$3,749,663	\$3,862,153
Funding Sources			
General Fund/WA GF	\$3,069,067	\$3,749,663	\$3,862,153
State/Federal			
Fees/Other			
Use of Fund Balance			
General Fund Contingencies			
Total Sources	\$3,069,697	\$3,749,663	\$3,862,153

Narrative Explanation of Fiscal Impacts:

The \$128,000 increased contract cost for FY 24-25 will be absorbed in the Alternate Defense Counsel's FY 24-

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25 adopted budget. Additional costs, in the amount of \$848,875 in FY 25-26 and 875,782 in FY 26-27 will be built into the Court Support budget and financed with discretionary General Fund.

Staffing Impacts: N/A

Narrative Explanation of Staffing Impacts (If Required):

Attachments:

1. Current contract with the Indigent Defense Panel of Sonoma County LLC
2. December 2024 Quarterly Panel Summary and Contract Re-Opener Request
3. Conflict Panel monthly payment analysis
4. Proposed Contract Amendment

Related Items “On File” with the Clerk of the Board: