



# COUNTY OF SONOMA

575 ADMINISTRATION  
DRIVE, ROOM 102A  
SANTA ROSA, CA 95403

## SUMMARY REPORT

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**Agenda Date:** 8/13/2024

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**To:** Sonoma County Board of Supervisors

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

**Staff Name and Phone Number:** Andrew McLaughlin 707-565-3776, Joshua A. Myers 707-565-2421

**Vote Requirement:** Majority

**Supervisorial District(s):** Countywide

**Title:**

Assignment of Contract for Alternate Indigent Defense Counsel Services

**Recommended Action:**

Authorize County Counsel to execute an assignment agreement whereby Kristine Burk, Esq., proposes to assign the interest in and duties under the existing contract for the provision of alternate indigent defense counsel services to Nathan Poulos, Esq.

**Executive Summary:**

The County is obligated by law to 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 representing indigent defendants. When the Public Defender has a conflict of interest, conflict counsel must be appointed and the County is responsible for their fees, as well as necessary ancillary costs.

On June 6, 2023, your Board authorized the Chair to execute a four-year agreement with Indigent Defense Administration of Sonoma County, LLC, operated by Kristine Burk, Esq., to provide for indigent defense services for a term beginning on July 1, 2023, through June 30, 2027, with one (1) two-year option to extend.

Ms. Burk was recently elected to serve as a Superior Court Judge for Sonoma County, with her term commencing on January 7, 2025. As such, she will not be able to continue as the Program Administrator of the alternate indigent defense services program. County staff and Ms. Burk conducted outreach and interviewed several qualified candidates who were interested in being assigned the existing Contract. Ms. Burk and Staff recommend your Board approve assigning the Contract to Nathan Poulos, Esq.

**Discussion:**

The County is obligated by law to 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 representing indigent defendants. When the Public Defender has a conflict of interest, conflict counsel must be appointed and the County is responsible for their fees, as well as necessary ancillary costs.

Larger counties may operate a County Department for provision of second level representation ("Alternate Public Defender"). Other counties contract with an outside administrator who maintains a list 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 an Alternate Public Defender

office.

Sonoma County has used a hybrid method which has ensured consistent, qualified and effective representation to all indigent defendants who cannot be represented by the Public Defender’s Office. The administrator ensures 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. Hourly rate programs require substantial administration, frequently resulting in cost overruns and are less consistent in terms of quality.

The County has utilized the fixed-price contract structure since 2005. The last request for proposal was issued in 2023 and resulted in a contract award to Indigent Defense Administration of Sonoma County, LLC, operated by Kristine Burk, Esq. The term of the contact was four-years, with one (1) two-year option to extend.

At the March 5, 2024, primary election, Ms. Burk was elected to the position of Superior Court Judge for the County of Sonoma. Her term of office begins January 1, 2024. Ms. Burk cannot continue to perform her work as the Program Administrator when she becomes a Superior Court Judge.

Paragraph 11 of the Contract states: “Assignment and Delegation. Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.”

Therefore, Staff and Ms. Burk solicited applications from attorneys who may be interested in assuming the responsibilities and obligations of the Contract. In response, several attorneys submitted applications. Ms. Burk, Staff and a local Superior Court Judge interviewed the applicants. Of the applicants, Nathan Poulos, Esq., was the unanimous choice to assume or take over the Contract. Mr. Poulos has extensive management and indigent legal defense experience. Mr. Poulos previously worked as a Deputy Public Defender in Sonoma County. He later moved to San Jose, California, where he established a criminal defense law practice and also opened and managed a craft brewery. He has handled the types of legal representation that the Program requires and has shown himself to be a good manager of staff and attorneys. Mr. Poulos has now relocated to Sonoma County.

Mr. Poulos has agreed to assume the duties under the Agreement. Ms. Burk and Mr. Poulos anticipate transferring the duties under the Agreement on December 31, 2024.

Staff recommend your Board approve the assignment of the Contract to Nathan Poulos and delegate authority to County Counsel to execute any documents necessary to effectuate the assignment.

**Strategic Plan:**

N/A

**Racial Equity:**

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

No

**Prior Board Actions:**

March 5, 2024 - Authorized County Counsel to execute an amendment to the Alternate Defense Counsel Legal Services Agreement with the current program administrator, Indigent Defense Administration of Sonoma County, LLC, to increase the monthly payments to the Program Administrator.

June 6, 2023 - Authorized Chair to execute a four-year agreement with Indigent Defense Administration of Sonoma County, LLC, to provide for indigent defense services for July 1, 2023, through June 30, 2027 with one (1) two year option, at a cost of \$2,689,025.70 for FY 23-24, increasing by 3% annually through the term of the agreement.

May 17, 2022 - Authorized CAO to execute a one-year agreement with Indigent Defense Administration of Sonoma County, LLC.

April 9, 2019 - Approved three-year agreement with Kristine Burk for indigent defense services.

May 7, 2013 and June 21, 2016 - Approved three-year agreement with Harry Allen for indigent defense services.

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY24-25 Adopted</b>	<b>FY25-26 Projected</b>	<b>FY26-27 Projected</b>
Budgeted Expenses			
Additional Appropriation Requested			
<b>Total Expenditures</b>			
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
General Fund Contingencies			
<b>Total Sources</b>			

**Narrative Explanation of Fiscal Impacts:**

Funds for this contract are included in the FY 2024-25 Non-Departmental-Court Support recommended budget. Appropriations for future years will be requested as part of the annual budget process.

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>

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**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Professional Services Agreement for the provision of Alternate Indigent Defense Legal Services.

Proposed Assignment Agreement

Transition Offer from Burk to Poulos

**Related Items "On File" with the Clerk of the Board:**

None.