

**SANTA BARBARA COUNTY  
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Agenda Number:**  
**Prepared on:** 3/11/04  
**Department Name:** CAO  
**Department No.:** 012  
**Agenda Date:** 3/23/04  
**Placement:** Administrative  
**Estimate Time:** NA  
**Continued Item:** NO  
**If Yes, date from:**

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**TO:** Board of Supervisors

**FROM:** Michael F. Brown  
County Administrator

**STAFF** Ken Masuda and John Jayasinghe  
**CONTACT:** 568-3411 568-2246

**SUBJECT:** Court Appointed Counsel Juvenile Dependency Representation, Fiscal Year 2004-05

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**Recommendation(s):**

That the Board of Supervisors:

Authorize the County Administrator to execute and transmit a letter notifying the Superior Court that the District Attorney (DA) and Public Defender (PD) will discontinue court appointed counsel for juvenile dependency representation services beginning October 1, 2004, pursuant to Government Code 77212(b).

**Alignment with Board Strategic Plan:**

The recommendation(s) are primarily aligned with Goal No. 1. An Efficient Government Able to Respond Effectively to the Needs of the Community.

**Executive Summary and Discussion:**

Pursuant to Government Code 77212, the County and the Superior Court are supposed to enter into an agreement for certain services between Court and County, including court appointed counsel for juvenile dependency representation each year. Court appointed counsel for juvenile dependency representation is required to be funded and provided by the Court for any child who is the subject of a petition under Welfare and Institutions code section 300, as well as for the parents of these children who are otherwise unrepresented by counsel. These proceedings are instigated when there is suspected abuse or neglect that may result in the removal of the child or children from the family home. The purpose of these Welfare and Institutions code sections is to provide immediate and maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, neglected, or exploited, and to ensure the future safety, protection, and physical and emotional well-being of children who are at risk of that harm.

In these proceedings, County Counsel represents the County Department of Social Services Child Protective Services program and the DA represents the minors, (individual who is under age 18). The DA reviews case referrals and represents the minors in all stages of the Dependency Court Process. These court appearances include, but are not limited to, initial jurisdiction, detention, trial, disposition, placement, and semiannual review hearings. In all of these proceedings, the DA's role is to advocate for the safety and best interests of the minor. If prosecution of one or both of the minor's parents arises from these proceedings, cases are referred to criminal court prosecutors to handle. The DA will also visit the minor during post-adjudication placement, as deemed necessary. The PD represents parents who are threatened with the loss of their parental rights and or of having children removed from the family because of alleged abuse, which children face the possibility of foster care, institutional housing, or adoption.

In fiscal year (FY) 2002-03 and continuing into the current year, the State of California has provided the Court with only approximately \$137,000 in funding for this Superior Court obligated service, while costs have substantially exceeded this amount and have been increasing. The Court has persistently sought additional deficiency funding from the State for this function. This additional funding remains uncertain. As a result of this continuing deficiency, the County General Fund will provide an estimated \$276,000 subsidy to this service during 2003-04, unless the additional State funds are received by the Court. Due to funding constraints within the County, the DA and PD have both submitted their budgets without this service in order to meet FY 2004-05 Board adopted General Fund budget principle targets. If the County were to continue this service, the County General Fund would have to provide an estimated \$304,000 subsidy in FY 2004-05.

As it stands, during FY 2003-04 the State swept \$456,000 of Undesignated Fees and reallocated \$352,000 of Court administrative fees to the Courts; both fees previously remained with the County and these actions result in an on-going loss to the General Fund. In addition, \$503,000 of previous workers compensation premiums and Bailiff services billings of \$600,000 remain unpaid by the Courts. The County and Court are still negotiating payment of the existing difference of actual Bailiff services costs and the actual amount the Courts are willing and able to pay. Including the likely juvenile dependency representation subsidy of \$276,000, the potential General Fund loss for FY 2003-04 totals approximately \$2,187,000.

Government code 77212(b) provides that in order to discontinue a service to the Court in an upcoming fiscal year, the County must notify the Court not later than 90 days before the end of the FY (April 1, 2004) to terminate the service as of July 1, 2004. However, the Board of Supervisors and County Administrator is recommending that this service continue through the first quarter of the FY 2004-05, until October 1, 2004, to allow time during June budget deliberations to make any final funding decisions while all funding requests are available for concurrent review. This will require an estimated General Fund subsidy of approximately \$76,000 for the first quarter of FY 2004-05. If at that time both the County and the Court were interested in continuing this service relationship, the County could extend representation services at an estimated cost of approximately \$228,000 of General Fund money through the remaining three quarters of FY 2004-05. In light of the social significance of juvenile dependency representation and the impacts to the children and parents involved in the system, the extension of services until October 1, 2004, will provide additional time for the Superior Court to obtain further assurance of any pending additional State funding. The Court has expressed appreciation for and agrees with the 90-day extension and will commit the first quarter of State funding for these services totaling approximately \$34,000.

The DA and PD are not legally mandated to provide juvenile dependency representation. The Court will need to obtain and compensate alternative legal counsel. Consistent with the practices of other local courts throughout the State, the Court can issue a Request for Proposal (RFP) to initiate the bidding process.

**Mandates and Service Levels:**

Pursuant to the provisions of Government Code Section 77003(a)(4) and Rule 810(a)(4) of the California Rules of Court, the State of California is responsible for funding court-appointed counsel for the juvenile dependency representation required by Welfare & Institutions Code Section 300. The requirements for court-appointed counsel are more fully set forth in California Rules of Court, Rule 1438. The County is not required to provide funding or service for court appointed counsel for juvenile dependency representation.

For FY 2003-04 the DA has provided one (1) full time equivalent (FTE) Deputy DA and one-tenth (.1) FTE Legal Secretary. For FY 2003-04 the PD has provided three and a quarter (3.25) FTE employee, which was allocated as two (2.00) Deputy PDs and one and one quarter (1.25) Legal Secretaries.

For FY 2004-05, this service level would continue through the first quarter only (July – September).

**Fiscal and Facilities Impacts:**

The Superior Court has represented that the State has budgeted \$137,228 for Juvenile Dependency Representation in FY 2003-04, \$45,630 and \$91,598 for the DA and PD respectively. For FY 2003-04 only, County will fund the difference between the State budget for Juvenile Dependency Representation and the actual cost of service. This difference is estimated to be \$276,372 for FY 2003-04, \$73,202 and \$203,170 for the DA and PD respectively.

For FY 2004-05, the Court has represented that the State has again budgeted \$137,228 for Juvenile Dependency Representation, \$45,630 and \$91,598 for the DA and PD respectively. For the first quarter of FY 2004-05 only, it is proposed that the County will fund the difference between the State budget for juvenile dependency representation and the actual cost of service, unless the County Administrator determines and your Board approves the recognition of sufficient additional State Trial Court Funding revenue to continue the program for the balance of the year. This subsidized difference for the first quarter of 2004-05 is estimated to be \$76,059, \$18,130 and \$57,929 for the DA and PD respectively.

	2003-04 Fiscal Year	2004-05 1 <sup>st</sup> Quarter	2004-05 2 <sup>nd</sup> – 4 <sup>th</sup> Quarter	2004-05 Total
Court Revenue	\$ 137,228	\$ 34,307	\$ 102,921	\$ 137,228
DA Cost	(164,800)	(29,538)	(88,613)	(118,150)*
PD Cost	(248,800)	(80,828)	(242,483)	(323,310)
GF Subsidy	\$ (276,372)	\$ (76,059)	\$ (228,175)	\$ (304,232)

\* Reflects funding at Deputy II level, versus current assignments to more experienced staff.

The Courts receive funding directly from the State and reimburses less than 32% for the cost of this service.

**Concurrence:**

County Counsel, District Attorney, and Public Defender

- cc: Stephen Shane Stark, County Counsel
- Thomas Sneddon, Jr., District Attorney
- James Egar, Public Defender
- Superior Court

**Attachments:**

Notification Letter

Special Instructions:

Clerk of the Board is requested to deliver original letter to Brenda Castillo in the Office of the County Administrator for distribution to Santa Barbara County Superior Court.

March 23, 2004

Gary Blair, Executive Officer  
Santa Barbara County Superior Court of California  
1100 Anacapa Street, 2<sup>nd</sup> Floor  
Santa Barbara, California 93121-1107

Dear Mr. Blair:

Pursuant to Government Code Section 77212(b), the County of Santa Barbara (County) hereby notifies the Santa Barbara County Superior Court of California (Court) that the District Attorney (DA) and Public Defender (PD) will discontinue juvenile dependency representation services to the Court beginning October 1, 2004, pursuant to Government Code 77212(b).

The County recognizes the social significance of juvenile dependency representation and remains committed to providing high quality services to this sector of the community. Consistent with the agreement of the parties, the DA and PD will continue to provide services to the Court until October 1, 2004, to allow time during June budget deliberations to make any final funding decisions while all funding requests are available for concurrent review. The extension of services until October 1, 2004, will also provide additional time for the Superior Court to obtain increased State funding. If at that time, both the County and the Court are interested in continuing this service relationship, the County may extend representation services subject to an agreement between the parties.

As the Court is aware, the County has not been fully reimbursed for the costs of juvenile dependency representation services in recent years. Although the County would like to continue providing representation in juvenile dependency cases, the lack of funding made available for this service leaves the County with no alternative but to discontinue the services of the DA and the PD as court appointed counsel in these cases. In light of this notice to discontinue services to the Court as of October 1, 2004, the Court will need to make alternate arrangements to obtain and compensate legal counsel appointed by the Court in juvenile dependency cases.

In an effort to minimize the impact of the termination of juvenile dependency representation services to the Court and the community, the County will provide these services until October 1, 2004. In turn, the Court has acknowledged its agreement with the 90-day extension and will commit the first quarter of State funding for these services totaling approximately \$34,000.

We remain hopeful that a solution to this particular funding problem can be found. Please continue to work with the Judicial Council and Administrative Office of the Courts to increase the funding provided for juvenile dependency representation in Santa Barbara County. The current funding level of \$137,000 per year

is grossly inadequate to provide representation for the current WI300 case load. A conservative estimate of actual costs for court appointed counsel would be in excess of \$500,000. Please note that we would be happy to provide additional information that you think would be helpful with your funding requests.

Sincerely,

Michael F. Brown  
County Administrator

cc: Stephen Shane Stark, County Counsel  
Thomas Sneddon, Jr., District Attorney  
James Egar, Public Defender