



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

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

Department Name: CEO
Department No.: 012
For Agenda Of: August 16, 2022
Placement: Administrative
Estimated Time:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Director(s) Contact Info: Mona Miyasato, County Executive Officer
Nancy Anderson, Assistant County Executive Officer

DocuSigned by:
Nancy Anderson
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SUBJECT: **Authorization to Issue Request for Proposals for Conflict Indigent Defense Services**

County Counsel Concurrence

As to form: Yes

Other Concurrence:

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

- a) Approve and authorize the issuance of the Request for Proposals (RFP) for Conflict Indigent Defense Services; and
- b) Determine pursuant to CEQA Guidelines 15378(b)(5) that the above actions are not a project subject to CEQA review, because they are government administrative activities that will not result in direct or indirect physical changes to the environment.

Summary Text:

Contracts for conflict indigent defense legal services have been previously administered by the Superior Court on behalf of the County to provide legal services when the Office of Public Defender declares a conflict of interest on a case. Superior Court recently indicated a desire to transfer the administration of these contracts back to the County. The County Executive Office is seeking authorization to immediately issue an RFP for Conflict Indigent Defense Services that would begin on January 1, 2023. Costs for these services are included in the Fiscal Year 2022-23 adopted budget.

Background:

By law, counties are required to fund and provide legal representation to individuals who cannot afford to obtain their own. There are a variety of ways counties can meet these requirements including: through County departments such as the Office of the Public Defender; through contract public defenders in which a private sector law firm acts as a contractor to the County; and lastly, through assigned counsel, where cases are typically assigned directly by the Court and are paid on either a flat fee or hourly basis.

While the County of Santa Barbara relies on the Office of the Public Defender to provide these services, on occasion, the Public Defender must declare a conflict of interest in a case at which time the Superior Court Judge will assign an alternate attorney to represent the client. Historically, the Superior Court, on behalf of the County, has managed contracts for conflict indigent defense representation when the Office of the Public Defender declares a conflict of interest in a case with criminal allegations.

As the County is responsible for funding and providing the representation, contracted conflict defense services are typically administered by the County and often through the County Executive Office. Since 1983, the Superior Court has maintained two contracts for services, one in north County and one in the south County. The Superior Court has indicated that it will no longer be handling the management of these services after December 31, 2022 and the responsibility for procurement and administration of the contracted services will be transferred to the County Executive Office.

The costs for conflict indigent defense services are budgeted annually as a General Fund expense and are estimated at \$2.9 million for Fiscal Year (FY) 2022-23. The chart below shows the number and type of cases handled by contracted attorneys over the last four years. Case rates were affected by the pandemic during FY 2020-21 but have rebounded to an average of 2,000 cases annually.

Conflict Defenses Case Activity - Past Four Fiscal Years

| Case Type (Court Area) | 2018-19 | | 2019-20 | | 2020-21 | | 2021-22 | |
|---|--------------|--------------|------------|------------|------------|------------|--------------|------------|
| | South | North | South | North | South | North | South | North |
| Death Penalty | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other Felony - Adult | 272 | 254 | 224 | 258 | 206 | 131 | 367 | 286 |
| Misdemeanor - Adult | 522 | 412 | 470 | 365 | 287 | 169 | 657 | 340 |
| Probation Violation Hearings - Adult | 159 | 115 | 113 | 94 | 81 | 46 | 68 | 107 |
| Probation Violation Hearings - Juvenile | 39 | 183 | 36 | 44 | 20 | 16 | 18 | 9 |
| Adult - Other/Appeal | 6 | 0 | 3 | 0 | 3 | 0 | 0 | 0 |
| Witness in Jeopardy/Advisement | 3 | 0 | 2 | 0 | 2 | 0 | 0 | 0 |
| Parole Violation | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 |
| PC1170.95 Petition Eligibility | 0 | 0 | 0 | 0 | 3 | 0 | 1 | 0 |
| Adult Infraction | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 |
| Juvenile Misc | 0 | 0 | 0 | 0 | 1 | 0 | 2 | 0 |
| Juvenile Delinquency (W&I 600/602) | 84 | 0 | 131 | 0 | 47 | 0 | 45 | 0 |
| Juvenile - Other W&I's | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Juvenile - Felony | 0 | 75 | 0 | 71 | 0 | 10 | 0 | 85 |
| Juvenile - Misdemeanor | 0 | 80 | 0 | 27 | 0 | 16 | 0 | 86 |
| Total | 1,086 | 1,119 | 979 | 859 | 653 | 388 | 1,158 | 913 |

Discussion: In order to ensure services will be in place by January 1, 2023, the County Executive Office is seeking to issue a Request for Proposals (RFP) from qualified law firms and associations to provide conflict indigent defense services in Santa Barbara County for all criminal and quasi-criminal matters subject to appointment by a Santa Barbara County Superior Court Judge, including but not limited to the following:

1. Misdemeanor complaints and misdemeanor appeals;
2. Felony complaints and indictments;
3. Juvenile delinquency petitions pursuant to Welfare & Institutions Code Sections 601 and 602;
4. Drug Court and Proposition 36 cases;
5. Domestic violence cases;
6. Mental Health Court cases;
7. Sexually Violent Predator (SVP) cases;
8. LPS and Probate Conservatorship cases;
9. Child Support contempt proceedings; and
10. All other matters for which indigent counsel is appointed or required.

In addition to County Counsel, the RFP and sample contract (Attachment A) have been reviewed by the Office of Public Defender and Superior Court and both entities have agreed to participate in the evaluation process for the proposals.

Fiscal and Facilities Impacts: There are no costs associated with the issuance of the RFP. The FY 2022-23 adopted budget includes a General Fund Contribution for these services totaling \$2.9 million. The County is seeking proposals which establish a fixed monthly rate for all services provided pursuant to this solicitation. The fixed rate shall be inclusive of all expenses, costs and travel.

Attachments:

Attachment A: Proposed RFP for Conflict Indigent Defense Services

Authored by:

Reese Ellestad, Fiscal & Policy Analyst, County Executive Office