



**COUNTY OF SAN MATEO**  
Inter-Departmental Correspondence  
County Manager



**Date:** September 19, 2012  
**Board Meeting Date:** October 2, 2012  
**Special Notice / Hearing:** None  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors  
**From:** John L. Maltbie, County Manager  
**Subject:** Private Defender Program Contract

**RECOMMENDATION:**

- A) Adopt a Resolution authorizing an agreement with the San Mateo County Bar Association for Private Defender Program services for FY 2012-13
- B) Approve an Appropriation Transfer Request transferring \$411,226 from Non-Departmental Reserves to Other Professional Contract Services in the Private Defender Program budget unit

**BACKGROUND:**

The County is obligated to provide legal representation for those persons accused of crimes and subject to certain civil proceedings who are determined by the courts to be indigent and thus entitled to the appointment of counsel at public expense. Through a contractual agreement with the County, the San Mateo County Bar Association (Association) has been providing legal counsel through its Private Defender Program (PDP) to all financially eligible persons since 1968.

The Association is the contracting agency and manages its PDP consistent with the terms of the agreement. It is unique in that its carefully screened attorneys who serve on the PDP panel are not employees, but are independent private attorneys who accept appointments to represent persons determined financially eligible by the courts. Attorneys are compensated by the Association at rates established for various types of appearances in the judicial process.

The County thus avoids the considerable expense of having to enter into additional contracts for legal services in conflict of interest situations, and since the PDP panel attorneys are responsible for maintaining their own offices, the contractual arrangements avoids the costs associated with a traditional public defender office, such as facility costs and employee benefits. The current one-year agreement expired on

June 30, 2012 and the County and the Association entered into a continuing resolution until September 30, 2012 to finalize contract negotiations.

In recent years, to further help reduce expenses to the County, the PDP waived the contract negotiated 4% annual increase saving the County \$657,962 in FY 2010-11 and held the contract amount flat for FY 2011-12, for a total savings to the County of \$1,315,924 over the two year period. Additionally, staff within the PDP, much like in the County, has not had any salary increases in the last four years and the last fee schedule increase for the attorneys and investigators occurred in 2008.

### **DISCUSSION:**

Under the new agreement, the Association will continue to provide legal services for all financially eligible persons entitled to a court-appointed counsel. The Association will provide representation in criminal cases, juvenile cases, mental health cases, and certain civil and miscellaneous cases. Attorneys will appear at all arraignment calendars, drug court calendars, probable cause hearing calendars, and all other calendars as requested by the Superior Court. The Association will continue to provide, within 60 days of the end of the second and fourth quarter of FY 2012-13, the names of all attorneys who represented clients during that quarter. Attorney-client confidentiality will be carefully observed in all reports furnished to the County under this and other provisions of the contract. Annually the Association will report to the County on its efforts to provide sufficient training of all attorneys accepting cases and shall evaluate the performance of all attorneys. The actual evaluations will be confidential, but reported by number and results to the County. The Association will have an experienced attorney on duty on each business day to receive feedback about the performance of PDP attorneys. Any complaints will be processed in accordance with a written procedure which is specified in the contract. The number and nature of all such complaints as well as their disposition will be reported annually to the County. The Association shall continue to maintain caseload information and report the results to the County on a monthly basis. The Association recognizes the importance of community outreach efforts and will work closely with the Court and the County to ensure that successful outreach programs are provided to the citizens of San Mateo County.

Under the terms of the agreement, the County will increase the contract amount by \$411,226; or 2.5% for FY 2012-13 in acknowledgement that there has been an increase in investigator and expert witness fees incurred by the Association. The 2.5% increase in the Agreement is tied to the Consumer Price Index (CPI) for the San Francisco Consolidated Metropolitan Statistical Area (CMSA), which includes the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma.

Additionally, pursuant to Section 11 of the Agreement, the County will be conducting a performance evaluation of the Private Defender Program in FY 2012-13 with an anticipated completion date of December 2012.

The Agreement includes all provisions that are required by County ordinance and administrative memoranda, including but not limited to insurance, hold harmless, non-discrimination, equal benefits, and the contractor jury service policy. County Counsel has reviewed and approved the agreement and resolution as to form.

Approval of this Agreement contributes to the Shared Vision 2025 outcome of a Healthy Community by ensuring that all residents of San Mateo County, regardless of their socio-economic standing, receive competent legal representation in the court of law as provided for by the United States Constitution.

**PERFORMANCE MEASURE(S):**

<b>Measure</b>	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Projected</b>
Superior Court Cases*	1,718	1,650
Municipal Court Cases**	14,369	14,500
Lanterman Petris Short Act Cases	548	515
Juvenile Dependency Cases	466	460
Juvenile Delinquency Cases	1,971	1,900
Total Case Counts	19,072	19,025
Number of Training Seminars	21	21
Client Complaints:		
-Relationship Issues	88	80
-Performance Issues	10	10

\*This category includes Superior and Municipal Court civil cases, such as contempt's, paternity, probate, etc.

\*\*This category includes an increase in projected probation violations due to AB109 Public Safety Realignment.

**FISCAL IMPACT:**

In FY 2012-13, the County will increase the compensation to the Association from \$16,449,046 to \$16,860,272; an increase of 2.5%, or \$411,226. The Appropriation Transfer Request transfers \$411,226 from Non-Departmental Reserves to Other Professional Contract Services in the Private Defender Program budget unit for this purpose.