

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
BOARD ACTION SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA #: \*B-9

AGENDA DATE: June 13, 2017

**SUBJECT:**

Approval to Renew Agreements for Indigent Defense Legal Services with Grisez, Orenstein & Hertle, and Perry & Associates and Authorize the Chief Executive Officer to Finalize and Execute the Agreements for the Period of July 1, 2017 through June 30, 2019

**BOARD ACTION AS FOLLOWS:**

No. 2017-297

On motion of Supervisor Withrow, Seconded by Supervisor Olsen  
and approved by the following vote,

Ayes: Supervisors: Olsen, Withrow, Monteith, and Vice-Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: Chairman Chiesa

Abstaining: Supervisor: None

1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:

  
\_\_\_\_\_

ATTEST: PAM VILLARREAL, Assistant Clerk

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
AGENDA ITEM**

DEPT: Chief Executive Office BOARD AGENDA #: \*B-9  
Urgent  Routine

AGENDA DATE: June 13, 2017

CEO CONCURRENCE:



4/5 Vote Required: Yes  No

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**SUBJECT:**

Approval to Renew Agreements for Indigent Defense Legal Services with Grisez, Orenstein & Hertle, and Perry & Associates and Authorize the Chief Executive Officer to Finalize and Execute the Agreements for the Period of July 1, 2017 through June 30, 2019

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**STAFF RECOMMENDATIONS:**

1. Authorize the Chief Executive Officer to finalize and execute the agreements for the period of July 1, 2017 through June 30, 2019, with the law firm of Grisez, Orenstein & Hertle and the law firm of Perry & Associates for the continued provision of legal representation of indigents which the Public Defender is unable to represent due to conflict of interest.

**DISCUSSION:**

The existing Contracts with Grisez, Orenstein and Hertle (Conflicts I) and Perry & Associates (Conflicts II), the two local law firms providing representation to indigent persons in Stanislaus County for whom the Public Defender cannot represent, are due to expire June 30, 2017. The County has contracted with both Grisez, Orenstein and Hertle and Perry & Associates for over twenty-five years to provide legal services for indigent clients.

These contracts cover the cost of professional legal and investigative services for indigent clients that the Public Defender's office is unable to represent due to a conflict of interest. Many of the conflicts are associated with multiple defendant cases. In these cases the Public Defender can represent only one defendant. The co-defendants are then represented by Conflicts I and II respectively and when there are more than three co-defendants, members of the private bar are appointed by Superior Court.

The legal system and code of professional conduct does not permit the Public Defender to keep all cases. It is advantageous to the County to keep a majority of cases within the Public Defender's Office and the two conflict firms where the total cost to the County is fixed. Both conflict firms have complied with their existing contracts to represent indigent clients that they are legally and ethically able to retain.

Agreement has been reached through negotiation with both firms to renew the contracts through June 30, 2019. The recommended contracts for Conflicts I and Conflicts II include an annual increase in compensation of 3%, consistent with negotiated increases for County employed attorneys and other contracted services. Both Conflict firms accepted 10% pay reductions starting Fiscal Year 2011-2012, consistent with budget and compensation reductions taking place throughout the County. This reduction was restored in a phased

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approach over the term of the current three year agreement. As of June 2017, each conflict firm is being paid at the same level as they were paid in June 2011. The terms of the recommended new agreements would increase total compensation in the amount of \$126,900 to support increased business costs over the two-year life of the agreements.

Barring a valid conflict of interest, keeping the majority of cases within the Public Defender's Office and the two conflict firms where the total cost is fixed, continues to be advantageous to the County. The Public Defender and Chief Executive Office staff are currently working on a Request for Proposal to secure a Conflict III firm. Over the past few years, as cases have increased, the Indigent Defense fund costs have also grown. By implementing a Conflicts III firm, the County hopes to see reduced costs of the appointed attorney funds.

**POLICY ISSUE:**

California Penal Code section 987 provides that an accused has a right to counsel prior to arraignment and that the court shall assign counsel to represent persons charged with a commission of a public offense but who are unable to employ counsel. This section supplements the Constitutional guarantee of right of accused to assistance of counsel in his or her defense.

California Penal Code section 987.2 provides that in the case in which the court finds that because of a conflict of interest or other reasons the Public Defender has properly refused to represent the person accused, counsel shall be assigned and receive a reasonable sum for compensation and necessary expenses to be determined by the court and paid out of the general fund of the County.

The County has the obligation to provide indigent defense in the most cost-effective manner possible, while ensuring an adequate defense for those persons found to be indigent by the Superior Court. Contracting with Conflicts I and Conflicts II ensures that, in cases where the Public Defender is unable to represent a person due to a conflict of interest, representation can still be provided in the most costs effective manner. If the County chooses to discontinue the contracts with Conflicts I and Conflicts II, the selection of counsel will default to the Superior Court on a case by case basis with costs paid by the County General Fund.

It is the County's assessment that indigent persons in Stanislaus County are receiving effective legal representation in accordance with the provisions of the law. Additionally, feedback was requested from the Superior Court that handles criminal and juvenile dependency matters. They indicated satisfaction with the services provided by both firms on behalf of the County.

In evaluating the renewal to extend both contracts, the Board may consider whether the continuation of the contracts at fixed rate amounts is consistent with the Board priorities of maintaining A Safe Community and Efficient Delivery of Public Services.

**FISCAL IMPACT:**

A 3% annual increase to the monthly compensation is included in each of the conflicts contracts for Budget Year 2017-2018 and for Budget Year 2018-2019. This increase results in a monthly compensation of \$59,844 and \$61,640 each budget year respectively for Conflicts I

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and a monthly compensation of \$59,964 and \$61,763 each budget year respectively for Conflicts II. In addition, the contracts continue to include \$500 per month to support costs related to electronic discovery implementation. The total compensation for both 24-month contracts is \$2,942,532. The Community Corrections Partnership plan provides \$90,000 per year to offset the net county cost of these services. The resulting net county cost over the 24-month period is \$2,762,532.

<b>Cost of recommended action:</b>		<b>\$ 2,942,532</b>
<b>Source(s) of Funding:</b>		
Community Corrections Partnership Funds	180,000	
<b>Funding Total:</b>		<b>\$ 180,000</b>
<b>Net Cost to County General Fund</b>		<b>\$ 2,762,532</b>

<b>Fiscal Year:</b>	2017-2019
<b>Budget Adjustment/Appropriations needed:</b>	No

**BOARD OF SUPERVISORS' PRIORITY:**

This action supports the Board of Supervisors' priorities of maintaining A Safe Community and Efficient Delivery of Public Services.

**STAFFING IMPACT:**

Existing Chief Executive Office staff will continue to monitor the agreements with the two conflict firms.

**CONTACT PERSON:**

Jody Hayes, Assistant Executive Officer. Telephone: (209) 525-6333

**ATTACHMENT(S):**

Attachment 1 – Agreement with Grisez, Orenstein & Hertle

Attachment 2 – Agreement with Perry & Associates

# **Attachment 1**

**CONTRACT FOR LEGAL REPRESENTATION OF ELIGIBLE  
INDIGENTS WHERE THE PUBLIC DEFENDER HAS A  
LEGAL CONFLICT OF INTEREST OR OTHER INABILITY TO ACT**

THIS CONTRACT, made this first day of July 2017, between the County of Stanislaus (hereinafter referred to as "COUNTY") located at 1010 - Tenth Street, Modesto, California, 95354, and Grisez, Orenstein and Hertle (hereinafter referred to as "CONFLICTS I") located at 724-10th Street, Modesto, CA 95354.

WHEREAS, the Stanislaus County Superior Court is required by law to appoint alternative counsel in cases in which the court finds that, because of a legal conflict of interest or other inability to act, the Public Defender has properly refused, is not legally required or permitted, is otherwise unable, or has otherwise failed to represent an eligible indigent; and

WHEREAS, section 987 and following of the Penal Code provides that the court shall assign counsel to represent persons charged with commission of a public offense but who are unable to employ counsel; and

WHEREAS, section 987.2 provides that, in the case in which the court finds that because of a conflict of interest or other reasons the Public Defender has properly refused to represent the person accused, counsel shall be assigned and receive a reasonable sum for compensation and necessary expenses to be determined by the court and paid out of the general fund of the COUNTY; and

WHEREAS, section 987.2 further provides that compensation of assigned counsel may be determined by contract between the court and one or more responsible attorneys after consultation with the Board of Supervisors as to the amount thereof which shall be within the amount of funds allocated by the Board of Supervisors; and

WHEREAS, COUNTY has entered into a contract with a law firm (hereinafter referred to as "CONFLICTS I") to provide legal services to indigent persons not served by the Public Defender; and

WHEREAS, COUNTY deems it appropriate to insure the competence and availability of counsel to discharge COUNTY'S statutory obligation to provide representation of indigent persons not served by the Public Defender, and it is in the

interest of justice and judicial economy that COUNTY employ by contract additional private counsel, hereinafter referred to as "CONFLICTS I", to render the usual and customary legal services where required by law to be provided to individuals and in circumstances where the Public Defender declares a legal conflict of interest or is unable to act as determined by the court; and

WHEREAS, COUNTY has determined that the program contemplated herein to be performed by CONFLICTS I is within its legal authority to grant and will provide competent legal representation to persons financially unable to employ counsel; and

WHEREAS, CONFLICTS I represents it has the requisite experience, training, skill, and competence to provide competent legal services as assigned counsel and is willing to provide the services agreed upon herein.

NOW, THEREFORE, the parties hereto agree as follows:

**I. DUTIES:**

A. CONFLICTS I shall provide legal representation for eligible indigents in the Superior Court in Stanislaus County when appointed as required by law after a determination that the Public Defender is unable to represent an indigent due to a legal conflict of interest or other inability to act as provided in Section VII, and where a conflict of interest is discovered after the effective commencement date provided by the terms of the contract.

B. For purposes of this contract, an "eligible indigent" shall be defined as a person for whom the Superior Court is required by current statute or case law, to appoint and compensate counsel at public expense for whom the Public Defender's Office is unable to represent.

C. For purposes of this contract, "unable to represent" on the part of the Public Defender, includes, but is not limited to, cases of which the Public Defender has been relieved following Marsden hearings and all cases where the court relieves the Public

Defender. The term "unable to represent" does not include cases where there is a refusal to act for reasons other than those contemplated herein.

D. CONFLICTS I staff and subcontractors shall consist of such attorneys, in-office interpreters, paralegal and clerical personnel in sufficient quantity and abilities to meet all constitutional, statutory, and case law requirements for the defense of indigents in Stanislaus County and to adequately and professionally carry out the duties and obligations set forth in this contract.

E. Cases requiring travel outside Stanislaus County may be considered extraordinary, and COUNTY may, by prior order, provide for reimbursement for such travel and other related expenses. CONFLICT I shall be reimbursed by COUNTY for actual and reasonable costs associated with and caused by change of venue cases. The costs reimbursed to CONFLICT I shall include lodging, meals, transportation, and other expenses not to exceed that which is paid COUNTY employees.

F. CONFLICTS I shall complete in a professional and diligent manner all legal representation of indigent persons it is properly appointed to represent consistent with section 27706(a) of the Government Code, but excluding post-trial appeals to the appellate and supreme courts.

G. When the Public Defender is unable to provide representation, CONFLICTS I shall provide legal representation and support services for all of Stanislaus County in any manner which the Public Defender may be appointed, including, but not limited to, all misdemeanor and felony cases in the Superior Court of Stanislaus County; or delinquency matters including periodic review hearings; commitment for developmentally disabled persons (Welfare and Institutions Code Section 6500); mental health, guardianship, and conservatorship hearings, including periodic review hearings;



habeas corpus proceedings, appeals from misdemeanor cases to the Appellate Department of the Superior Court, probation violations; civil contempt matters; civil paternity matters, including minor indigents for whom a Guardian Ad Litem has been appointed; and all cases where second counsel is ordered by the respective court.

H. CONFLICTS I agrees to meet and confer with COUNTY, upon receipt of ninety (90) days notice by COUNTY, concerning any needs for further indigent legal services not specifically set forth above or in the subject contract, including modifications associated with potential changes to the indigent legal services system.

I. CONFLICTS I shall provide legal representation in the appellate courts when CONFLICTS I deems that an adequate legal representation requires application for extraordinary relief prior to conviction or pending appeal.

J. CONFLICTS I shall not be permitted to decline court appointment in any cases except for a legal conflict of interest.

K. CONFLICTS I will assist in the preparation and filing of all necessary financial documents to enable the Court to determine reimbursement to the COUNTY for services under Penal Code Sections 987.4 and 987.8 and/or other law (to be heard at the same time as the probation and sentencing hearing; or immediately following verdict or judgment).

L. CONFLICTS I agrees to honor the following requests made by the Superior Court as follows:

1. CONFLICTS I shall provide adequate staffing to ensure that all adult courts are covered five (5) days a week.

2. CONFLICTS I shall attend Superior Court and Criminal Justice Forum meetings as set by the Superior Court. These typically are held on the third Monday of each month.
3. CONFLICTS I agrees to provide and maintain an e-mail address, pager number and/or cell phone number with the Superior Court.

## **II. OFFICES:**

A. CONFLICTS I shall, at its sole expense, maintain its principal office in Modesto, California, within fifteen (15) minutes response time to the courthouse. CONFLICTS I shall maintain business hours at the principal office Monday through Friday from 8:00 a.m. to 5:00 p.m., and it shall be available in all other areas of Stanislaus County to serve all the courts in Stanislaus County as the need arises. Offices shall be of sufficient size to accommodate clients in a reasonable and professional manner at the sole expense of CONFLICTS I.

## **III. STAFF:**

A. CONFLICTS I shall maintain sufficient staff to fulfill the terms of the contract, to provide daily representation as necessary, and to avoid otherwise unnecessary delays and continuances.

B. CONFLICTS I agrees to maintain one full-time staff Attorney qualified under Rule 4.117(d) or 4.117(f) of the California Rules of Court, or any such successor Rule of Court, to provide representation in capital cases. CONFLICTS I agrees to confirm the qualifications of the qualified Attorney by providing COUNTY a written statement from the Stanislaus County Superior Court record confirming their qualifications under Rule 4.117(d) or 4.117(f) of the California Rules of Court, or any such successor Rule of Court. CONFLICTS I agrees to notify COUNTY in writing within seven calendar days if

CONFLICTS I no longer employs the Attorney qualified under Rule 4.117(d) or 4.117(f) of the California Rules of Court, or any such successor Rule of Court, and will communicate a plan to fill the vacancy with a qualified attorney. Rules 4.117(d) and 4.117(f) of the California Rules of Court are attached to this agreement for reference as Exhibit A.

C. Upon request, CONFLICTS I shall provide COUNTY, and the Court in Stanislaus County, a list of CONFLICTS I attorneys providing services. Each list shall contain a brief biographical sketch pertaining to each attorney's professional experience. CONFLICTS I shall notify COUNTY and the Court of any proposed changes in attorney staffing, to include subcontractors, and court's approval of such attorney and changes shall be obtained by CONFLICTS I prior to any work being done by such attorney.

D. CONFLICTS I shall designate, in writing, a managing attorney who shall be authorized to speak for CONFLICTS I with respect to the contract and its performance.

#### **IV. REPORTS:**

A. CONFLICTS I shall maintain proper records to enable the Court and COUNTY to verify the separate categories of costs of representing each indigent person in court proceedings including the number of persons represented and the types of proceedings and the average number of hours per type of case. CONFLICTS I shall make such records and/or copies thereof available to COUNTY and Court for inspection and/or in any proceedings to recover such costs from the state or whoever may be obligated to reimburse COUNTY.

B. CONFLICTS I shall provide the COUNTY and the Public Defender with a monthly report as shown in Exhibit C. The report includes total cases assigned and

concluded per month and fiscal year, average time spent on cases, and reason for case closure. The report also includes court appearances per type of case, any other activities, and open PC 187 case names and case numbers. The report shall be provided on forms designated by the COUNTY and received in final form by the COUNTY from CONFLICTS I by the fifteenth (15th) day of the month following the month in which the services are rendered. Sample of monthly report is referenced as Exhibit C II. All reports shall be sent to the Chief Executive Office of Stanislaus County and the Public Defender. CONFLICTS I agrees to join in discussions with the Public Defender, COUNTY and Conflicts II in order to agree to a consistent method of reporting cases handled, including those cases conflicted. CONFLICTS I agrees to provide documentation as requested by the Public Defender and/or court on juvenile dependency cases, to include time spent by CONFLICTS I on the case. At the County's request, CONFLICTS I agrees to begin tracking and reporting each month the case number and case name for cases initially referred to CONFLICTS I in which CONFLICTS I declares a conflict and refers the case to other counsel for representation. CONFLICTS I agrees to note those cases that involved a conflict due to co-defendants in the case. CONFLICTS I agrees to join in discussion with the Public Defender, COUNTY and Conflicts II to review the statistical caseload data gathered by CONFLICTS I and the potential for automated reporting of caseload data to the COUNTY.

C. CONFLICTS I shall maintain for at least ten (10) years following the completion of the case all files and time records. COUNTY shall provide reasonable space accessible for storage of those files which are five (5) or more years old. CONFLICTS I shall have access to such files as necessary, and COUNTY shall

guarantee the confidentiality and protection of said files.-Time records, and all reports maintained by CONFLICTS I directly related to the services performed pursuant to this contract, shall be available for inspection by COUNTY or the courts at all reasonable times.

**V. TERMINATION:**

A. This contract shall be effective for all cases assigned on July 1, 2017 and shall continue in effect for all cases on, and including, June 30, 2019, unless the parties agree to extend the contract an additional period of time, provided that the funds are budgeted by the COUNTY and the contract has not been canceled as provided herein.

B. Upon termination of this contract as herein provided or by natural expiration of this contract on June 30, 2019, unless the parties agree to an extension of the contract, COUNTY shall have no obligation to compensate or pay CONFLICTS I except for services provided prior to termination subject to the following terms:

Upon expiration or termination (by cancellation or otherwise), unless specifically relieved by the Superior Court, CONFLICTS I shall be required to complete representation of all clients in all cases where previously appointed to do so where the case is resolvable within 30 days. This includes cases wherein CONFLICTS I was appointed pursuant to Section I, "DUTIES", paragraph H (non-conflict cases). All cases in post-trial litigation shall become COUNTY'S responsibility thirty (30) days following termination of the contract. In all instances where the case becomes the responsibility of COUNTY following termination of the contract COUNTY may, at COUNTY'S option, deem that the attorneys in the law firm of Grisez, Orenstein and Hertle have been appointed to handle the cases at the then prevailing COUNTY rate commencing with the day after the termination of the contract.

C. The term of this contract is from July 1, 2017, to June 30, 2019. This contract may be extended for an additional one or up to two-year period at the same or different contract price upon the consent of all contract parties beyond June 30, 2019. The parties agree to meet no less than sixty (60) days prior to the expiration of the contract to discuss an extension and the terms and conditions of an extension.

D. Decision to cancel this contract may be made by COUNTY, without cause, upon a ninety (90) day written notice. Upon decision to cancel the contract, COUNTY will advise CONFLICTS I, in writing, with a ninety-day (90) notice of said cancellation.

E. Notwithstanding any other term or provision of this contract, the failure of CONFLICTS I to comply with the terms of this contract and any reasonable directions by or on behalf of the COUNTY or the court pursuant thereto shall constitute a material breach of the contract by CONFLICTS I; and, in addition to other remedy authorized by law, COUNTY shall have the right to terminate the contract immediately. Failure to exercise this right of termination shall not constitute waiver of such right, which may be exercised at any subsequent time. This contract may be terminated, at the option of COUNTY with the approval of the Board of Supervisors, upon the occurrence of any of the following:

1. Violation of any material provision of the contract;
2. Institution of proceedings by, or against, CONFLICTS I or any partner of the firm providing services for CONFLICTS I under this contract pursuant to the bankruptcy laws of the United States;
3. Discovery of COUNTY that this contract was obtained through fraud, by commission or omission;
4. Suspension of business operations, failure, or receivership of attorneys;

5. Assignment of the contract without prior written approval;
6. Cancellation of malpractice liability insurance coverage or Workers' Compensation coverage;
7. The commencement of criminal prosecution against any of the individual attorneys providing services for CONFLICTS I under this contract; and
8. The commencement of a claim or lawsuit by CONFLICTS I against the County of Stanislaus.

**VI. COMPENSATION:**

A. COUNTY shall pay CONFLICTS I for the above-rendered services the sum as described in the following chart with the first payment of this contract made on August 1, 2017 and subsequent payments to be made on the first day of the month following the month services were rendered in the preceding month.

<b>Time Period</b>	<b>Compensation Amount</b>
July 1, 2017 – June 30, 2018	\$59,844
July 1, 2018 – June 30, 2019	\$61,640

The COUNTY may decrease payments to CONFLICTS I by six hundred and fifty-four dollars and fifty-four cents (\$654.54) per calendar day should CONFLICTS I not comply with the staffing standards identified in Section III-B of this agreement for greater than 120 consecutive calendar days.

B. Compensation provided for or pursuant to this contract or any amendment, addendum, or supplement to it shall be subject to offset as provided below.

C. By prior order of the court, CONFLICTS I may employ experts and expert witnesses as may be required for an adequate defense; and the expense of said experts and expert witnesses shall be paid in addition to the compensation provided under this contract upon prior order of the court.

D. CONFLICTS I is responsible for the investigative costs of representing their indigent clients. CONFLICTS I shall have the latitude in determining the appropriate level of investigative services on assigned cases. The amount provided shall cover all investigative costs and CONFLICTS I agrees and understands that petition to COUNTY for provision of these services outside of this contract may be made only in the case of

extraordinary and unusual circumstances. In cases deemed death penalty eligible CONFLICTS I is authorized to petition the appropriate judge pursuant to California Penal Code section 987.9 for funds for investigation. In the event that the "special circumstances" clause is stricken, or prosecution declares that they will not be seeking death, all additional investigations shall be at the expense of CONFLICTS I as provided by this paragraph.

E. COUNTY acknowledges its independent obligation to provide adequate legal defense to indigent criminal defendants in need thereof. The COUNTY does, and will, undertake to provide such representation and reserves the right to take any steps appropriate to meet said obligation. Under extraordinary circumstances or circumstances not contemplated within this contract, COUNTY reserves unto itself the right to consider application by CONFLICTS I for change and terms of this contract. Extraordinary circumstances shall generally be limited to prolonged capital cases or the cumulative effect of multiple homicide cases involving extreme expenses. In the event that CONFLICTS I is required to devote an extraordinary expenditure of time and effort not foreseen by this contract, CONFLICTS I shall apply to the Stanislaus County Chief Executive Officer for additional reasonable compensation. A request for such extraordinary compensation shall be provided to the COUNTY no less than fourteen (14) days prior to said request being filed with the court. The court shall conduct a hearing on the request, and the COUNTY will have a right to contest said request.

F. COUNTY and CONFLICTS I continue to support the implementation of electronic discovery in coordination with the Stanislaus County District Attorney's Office. The COUNTY will pay CONFLICTS I monthly compensation of five hundred dollars



(\$500.00) to cover the cost of electronic discovery services for all cases, to include felonies, in addition to the compensation as specified in Subsection A herein.

**VII. CONFLICT:**

A. It is acknowledged by COUNTY that in cases or related matters involving more than two (2) defendants, in cases where CONFLICTS I or its staff has certain knowledge of the events or parties, and some other circumstances designated justifiable by a court, CONFLICTS I may not be available to represent all defendants because of legal prohibitions or because of canons of professional ethics relating to conflicts of interest. Such determination shall be made by the Court. CONFLICTS I shall seek to immediately minimize the number of conflicts declared and seek waiver of such conflicts whenever it is ethically appropriate. The Public Defender, CONFLICTS I and Conflicts II shall agree to meet to discuss possible standards for such waivers.

B. CONFLICTS I shall not knowingly or negligently provide any legal services outside the scope of this contract if the provisions of such legal services would render CONFLICTS I ineligible to provide legal services to COUNTY under this contract.

C. Should CONFLICTS I be unable, ineligible, or unavailable to provide services as provided for herein for any reason or are dilatory in providing such services, the Court may appoint other counsel. The compensation provided in Section VI shall be offset by an amount equivalent to the cost the COUNTY incurs as a result of services provided by other counsel.

D. Notwithstanding any other provision of this contract, it is agreed by the parties that the judges of the Superior Court shall have the right to review and pass upon the qualifications, experience, and competence of any attorney assigned by CONFLICTS I to a case and to reject any attorney who, in the judge's sole opinion, lacks satisfactory

expertise or experience to handle the case before the court. In the event CONFLICTS I fails, within a reasonable time, to assign an attorney to a given case who is acceptable to a court, the Court may assign other counsel to the case at the sole expense of CONFLICTS I. Should COUNTY incur any expense as a result of court's appointment of other counsel under Section VII, the compensation provided in Section VI shall be offset by an amount equivalent to the cost COUNTY incurred by providing said services.

**VIII. STATUS OF CONFLICTS I:**

A. The parties agree that this contract does not create the relationship of attorney and client nor employee and employer between CONFLICTS I and the COUNTY. CONFLICTS I is an independent contractor. CONFLICTS I is, and shall at all times be, deemed independent and shall be wholly responsible for the manner in which CONFLICTS I performs the services required by the terms of this contract.

B. CONFLICTS I shall be deemed to be independent attorneys, and under no circumstances shall they, or their employees, agents, and servants be deemed to be employees, servants, or agents of the County of Stanislaus.

C. CONFLICTS I shall be wholly responsible for the manner in which it performs the service required by the terms of this contract. CONFLICTS I exclusively assumes the responsibility for the acts of CONFLICTS I subcontractors, associates, and employees relative to the services provided during the term and scope of their employment.

D. CONFLICTS I understands and agrees it has no right to medical, dental, retirement or other such benefits provided to COUNTY employees, and the COUNTY shall not be responsible or pay for any injury of CONFLICTS I staff arising out of services performed under this contract.

## **IX. LIABILITY AND INSURANCE:**

Coverage Required: Conflicts I shall obtain, and maintain at all times during the term of this Agreement, insurance coverage in the amounts and coverage specified in the attached "Exhibit B."

A. To the fullest extent permitted by law, Conflicts I shall indemnify, hold harmless and defend the County and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by Conflicts I or Conflicts I officers, employees, agents, representatives, or subcontractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Notwithstanding the foregoing, Conflicts I obligation to indemnify the County and its agents, officers and employees for any judgment, decree or arbitration award shall extend only to the percentage of negligence or responsibility of Conflicts I in contributing to such claim, damage, loss and expense.

B. Conflicts I obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Conflicts I to procure and maintain a policy of insurance.

C. To the fullest extent permitted by law, the County shall indemnify, hold harmless and defend Conflicts I and its officers, employees, agents, representatives or subcontractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of or resulting from the negligence or wrongful acts of County and its officers or employees.

**X. GENERAL:**

A. CONFLICTS I shall not be prohibited from engaging in the private practice of law, including the defense of those charged with crimes in any and all proceedings, provided that no retained case shall be accepted which may cause a conflict of interest to arise wherein CONFLICTS I would be unable to represent an indigent person whom the Public Defender cannot represent in court.

B. If CONFLICTS I does represent a person in a retained case which then results in his or her inability to accept an appointment by way of this contract, the COUNTY shall be entitled to an off-set as stated in Section VII.

C. CONFLICTS I shall in no event accept anything of value from the indigent in consideration for services rendered under this contract.

D. Upon the request of the contractor, COUNTY agrees to meet three (3) times each year for general discussion purposes.

EXECUTED THIS FIRST DAY OF JULY, 2017.

**COUNTY OF STANISLAUS**

**GRISEZ, ORENSTEIN & HERTLE**

By: 

Stan Risen  
Chief Executive Officer  
COUNTY

By: 

Mary Ellen Hertle  
Managing Attorney  
CONFLICTS I

APPROVED AS TO FORM:  
STANISLAUS COUNTY COUNSEL

By: 

Rob Taro  
Deputy County Counsel

# 2017 California Rules of Court

## Rule 4.117. Qualifications for appointed trial counsel in capital cases

### (d) Qualifications of lead counsel

To be eligible to serve as lead counsel, an attorney must:

- (1) Be an active member of the State Bar of California;
- (2) Be an active trial practitioner with at least 10 years' litigation experience in the field of criminal law;
- (3) Have prior experience as lead counsel in either:
  - (A) At least 10 serious or violent felony jury trials, including at least 2 murder cases, tried to argument, verdict, or final judgment; or
  - (B) At least 5 serious or violent felony jury trials, including at least 3 murder cases, tried to argument, verdict, or final judgment;
- (4) Be familiar with the practices and procedures of the California criminal courts;
- (5) Be familiar with and experienced in the use of expert witnesses and evidence, including psychiatric and forensic evidence;
- (6) Have completed within two years before appointment at least 15 hours of capital case defense training approved for Minimum Continuing Legal Education credit by the State Bar of California; and
- (7) Have demonstrated the necessary proficiency, diligence, and quality of representation appropriate to capital cases.

*(Subd (d) amended effective January 1, 2007.)*

### (f) Alternative qualifications

The court may appoint an attorney even if he or she does not meet all of the qualifications stated in (d) or (e) if the attorney demonstrates the ability to provide competent representation to the defendant. If the court appoints counsel under this subdivision, it must state on the record the basis for finding counsel qualified. In making this determination, the court must consider whether the attorney meets the following qualifications:

- (1) The attorney is an active member of the State Bar of California or admitted to practice *pro hac vice* under rule 9.40;
- (2) The attorney has demonstrated the necessary proficiency, diligence, and quality of representation appropriate to capital cases;
- (3) The attorney has had extensive criminal or civil trial experience;
- (4) Although not meeting the qualifications stated in (d) or (e), the attorney has had experience in death penalty trials other than as lead or associate counsel;
- (5) The attorney is familiar with the practices and procedures of the California criminal courts;
- (6) The attorney is familiar with and experienced in the use of expert witnesses and evidence, including psychiatric and forensic evidence;
- (7) The attorney has had specialized training in the defense of persons accused of capital crimes, such as experience in a death penalty resource center;
- (8) The attorney has ongoing consultation support from experienced death penalty counsel;
- (9) The attorney has completed within the past two years before appointment at least 15 hours of capital case defense training approved for Minimum Continuing Legal Education credit by the State Bar of California; and
- (10) The attorney has been certified by the State Bar of California's Board of Legal Specialization as a criminal law specialist.

*(Subd (f) amended effective January 1, 2007.)*

## EXHIBIT B

### Insurance Requirements for Professional Services

Conflicts I or Conflicts II shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Conflicts I or Conflicts II, its agents, representatives, or employees.

#### MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** If the Conflicts I or Conflicts II or the Conflicts I or Conflicts II's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under the Agreement Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Conflicts I or Conflicts II has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.  
(Not required if Conflicts I or Conflicts II provides written verification it has no employees)
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the Conflicts I or Conflicts II's profession, with limits not less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the Conflicts I or Conflicts II maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or higher limits maintained by the Conflicts I or Conflicts II. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

#### ***Application of Excess Liability Coverage***

Conflicts I or Conflicts II may use a combination of primary, and excess insurance policies which provide coverage as broad as ("follow form" over) the underlying primary policies, to satisfy the Required Insurance provisions.

### ***Other Insurance Provisions***

The insurance policies are to contain, or be endorsed to contain, the following provisions:

#### ***Additional Insured Status***

The County, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy and the Auto Liability policy with respect to liability arising out of work or operations performed by or on behalf of the Conflicts I or Conflicts II including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Conflicts I or Conflicts II's insurance (at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).

#### ***Primary Coverage***

For any claims related to this contract, the **Conflicts I or Conflicts II's insurance coverage shall be primary** insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, agents or volunteers shall be excess of the Conflicts I or Conflicts II's insurance and shall not contribute with it.

**Reporting:** Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employee's, agents or volunteers.

#### ***Notice of Cancellation***

Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the County.**

#### ***Waiver of Subrogation***

Conflicts I or Conflicts II hereby grants to County a waiver of any right to subrogation (except for Professional Liability) which any insurer of said Conflicts I or Conflicts II may acquire against the County by virtue of the payment of any loss under such insurance. Conflicts I or Conflicts II agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

#### ***Self-Insured Retentions***

Self-insured retentions must be declared to and approved by the County. The County may require the Conflicts I or Conflicts II to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.

#### ***Acceptability of Insurers***

Insurance is to be placed with California admitted insurers (licensed to do business in California) with a current A.M. Best's rating of no less than A-VII, however, if no California admitted insurance company provides the required insurance, it is acceptable to provide the required



insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Approved Surplus Line Insurers (LASLI) maintained by the California Department of Insurance.

***Claims Made Policies***

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Conflicts I or Conflicts II must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

***Verification of Coverage***

Conflicts I or Conflicts II shall furnish the County with a copy of the policy declaration and endorsement page(s), original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All **certificates and endorsements are to be received and approved by the County before work commences**. However, failure to obtain the required documents prior to the work beginning shall not waive the Conflicts I or Conflicts II's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

***Subcontractors***

Conflicts I or Conflicts II shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Conflicts I or Conflicts II shall ensure that County is an additional insured on insurance required from subcontractors.

***Special Risks or Circumstances***

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

***Insurance Limits***

The limits of insurance described herein shall not limit the liability of the Conflicts I or Conflicts II and Conflicts I or Conflicts II's officers, employees, agents, representatives or subcontractors. Conflicts I or Conflicts II's obligation to defend, indemnify and hold the County, its officers, officials, employees, agents and volunteers harmless under the provisions of this paragraph is not limited to or restricted by any requirement in the Agreement for Conflicts I or Conflicts II to procure and maintain a policy of insurance.

[SIGNATURES SET FORTH ON THE FOLLOWING PAGE]

APPROVED AS TO INSURANCE CONTENT:

Stanislaus County

Chief Executive Office – Risk Management Division

By: 

Name: Kevin Watson

Title: Liability & Insurance Manager

Date: 06/06/2017

Vendor: Grisez, Orenstein & Hertle

**INDIGENT LEGAL SERVICES MONTHLY REPORT**

Exhibit C

**FIRM:** \_\_\_\_\_  
**CURRENT MONTH:** \_\_\_\_\_  
**FISCAL YEAR:** \_\_\_\_\_

	<i>CASES PER MONTH</i>	<i>CASES PER FISCAL YEAR</i>	<i>AVERAGE TIME SPENT ON CONCLUDED CASES (on cases reported this month)</i>
Murder Cases Assigned	_____	_____	_____
Murder Cases Concluded	_____	_____	_____
Open Murder Cases: #	_____	_____	_____
Other Felony Cases Assigned	_____	_____	_____
Other Felony Cases Concluded	_____	_____	_____
All Open Felony Cases: #	_____	_____	_____
Misdemeanor Cases Assigned	_____	_____	_____
Misdemeanor Cases Concluded	_____	_____	_____
Open Misdemeanor Cases: #	_____	_____	_____
Juvenile Cases Assigned	_____	_____	_____
Juvenile Cases Concluded	_____	_____	_____
Open Juvenile Cases: #	_____	_____	_____
Other Cases Assigned	_____	_____	_____
Other Cases Concluded	_____	_____	_____
Other Open Cases: #	_____	_____	_____
<b>Total Cases Assigned</b>	_____	_____	_____
<b>Total Cases Concluded</b>	_____	_____	_____

<b>COURT APPEARANCES</b>	<i>Per Month</i>	<i>Per Fiscal Year</i>
Murder Cases:	_____	_____
Other Felony Cases:	_____	_____
Misdemeanor Cases:	_____	_____
Juvenile Cases:	_____	_____
All Other Cases:	_____	_____
<b>Total Court Appearances</b>	_____	_____

<b>OTHER ACTIVITY</b>		
Number of Jury Trials	_____	_____
Number of Days in Jury Trial	_____	_____
Cases Closed Due to:		
Conflicts of Interest:	_____	_____
Co-Defendants in Same Case:	_____	_____
Self-Representation:	_____	_____
Marsden Hearings:	_____	_____
Other:	_____	_____



# **Attachment 2**

**CONTRACT FOR LEGAL REPRESENTATION OF ELIGIBLE  
INDIGENTS WHERE THE PUBLIC DEFENDER HAS A  
LEGAL CONFLICT OF INTEREST OR OTHER INABILITY TO ACT**

THIS CONTRACT, made this first day of July 2017, between the County of Stanislaus (hereinafter referred to as "COUNTY") located at 1010 - Tenth Street, Modesto, California, 95354, and Perry & Associates (hereinafter referred to as "CONFLICTS II") located at 948 11th Street, Suite 16, Modesto, California, 95354.

WHEREAS, the Stanislaus County Superior Court is required by law to appoint alternative counsel in cases in which the court finds that, because of a legal conflict of interest or other inability to act, the Public Defender has properly refused, is not legally required or permitted, is otherwise unable, or has otherwise failed to represent an eligible indigent; and

WHEREAS, section 987 and following of the Penal Code provides that the court shall assign counsel to represent persons charged with commission of a public offense but who are unable to employ counsel; and

WHEREAS, section 987.2 provides that, in the case in which the court finds that because of a conflict of interest or other reasons the Public Defender has properly refused to represent the person accused, counsel shall be assigned and receive a reasonable sum for compensation and necessary expenses to be determined by the court and paid out of the general fund of the COUNTY; and

WHEREAS, section 987.2 further provides that compensation of assigned counsel may be determined by contract between the court and one or more responsible attorneys after consultation with the Board of Supervisors as to the amount thereof which shall be within the amount of funds allocated by the Board of Supervisors; and

WHEREAS, COUNTY has entered into a contract with a law firm (hereinafter

referred to as "CONFLICTS II") to provide legal services to indigent persons not served by the Public Defender; and

WHEREAS, COUNTY deems it appropriate to insure the competence and availability of counsel to discharge COUNTY'S statutory obligation to provide representation of indigent persons not served by the Public Defender or CONFLICTS I acting as the primary conflicts law firm, and it is in the interest of justice and judicial economy that COUNTY employ by contract additional private counsel, hereinafter referred to as "CONFLICTS II", to render the usual and customary legal services where required by law to be provided to individuals and in circumstances where the Public Defender and CONFLICTS I declare a legal conflict of interest or is unable to act as determined by the court; and

WHEREAS, COUNTY has determined that the program contemplated herein to be performed by CONFLICTS II is within its legal authority to grant and will provide competent legal representation to persons financially unable to employ counsel; and

WHEREAS, CONFLICTS II represents it has the requisite experience, training, skill, and competence to provide competent legal services as assigned counsel and is willing to provide the services agreed upon herein.

NOW, THEREFORE, the parties hereto agree as follows:

**I. DUTIES:**

A. CONFLICTS II shall provide legal representation for eligible indigents in the Superior Court in Stanislaus County when appointed as required by law after a determination that the Public Defender and CONFLICTS I are unable to represent an indigent due to a legal conflict of interest or other inability to act as provided in Section

VII, and where a conflict of interest is discovered after the effective commencement date provided by the terms of the contract.

B. For purposes of this contract, an "eligible indigent" shall be defined as a person for whom the Superior Court is required by current statute or case law, to appoint and compensate counsel at public expense for whom the Public Defender's Office and CONFLICTS I are unable to represent.

C. For purposes of this contract, "unable to represent" on the part of Public Defender or the CONFLICTS I, includes, but is not limited to, cases of which either the Public Defender or CONFLICTS I have been relieved following Marsden hearings and all cases where the court relieves the Public Defender or CONFLICTS I. The term "unable to represent" does not include cases where there is a refusal to act for reasons other than those contemplated herein.

D. CONFLICTS II staff and subcontractors shall consist of such attorneys, in-office interpreters, paralegal and clerical personnel in sufficient quantity and abilities to meet all constitutional, statutory, and case law requirements for the defense of indigents in Stanislaus County and to adequately and professionally carry out the duties and obligations set forth in this contract.

E. Cases requiring travel outside Stanislaus County may be considered extraordinary, and COUNTY may, by prior order, provide for reimbursement for such travel and other related expenses. CONFLICT II shall be reimbursed by COUNTY for actual and reasonable costs associated with and caused by change of venue cases. The costs reimbursed to CONFLICT II shall include lodging, meals, transportation, and other expenses not to exceed that which is paid COUNTY employees.



F. CONFLICTS II shall complete in a professional and diligent manner all legal representation of indigent persons it is properly appointed to represent consistent with section 27706(a) of the Government Code, but excluding post-trial appeals to the appellate and supreme courts.

G. When the Public Defender and CONFLICTS I are unable to provide representation, CONFLICTS II shall provide legal representation and support services for all of Stanislaus County in any manner which the Public Defender or CONFLICTS I may be appointed, including, but not limited to, all misdemeanor and felony cases in the Superior Court of Stanislaus County; or delinquency matters including periodic review hearings; commitment for developmentally disabled persons (Welfare and Institutions Code Section 6500); mental health, guardianship, and conservatorship hearings, including periodic review hearings; habeas corpus proceedings, appeals from misdemeanor cases to the Appellate Department of the Superior Court, probation violations; civil contempt matters; civil paternity matters, including minor indigents for whom a Guardian Ad Litem has been appointed; and all cases where third counsel is ordered by the respective court.

H. In addition to the foregoing duties, CONFLICTS II agrees to four hundred (400) felony cases for each twelve (12) month term of the contract, excluding only those listed in Penal Code Sections 799 and 800, in which the Public Defender would otherwise be eligible for appointment. COUNTY further agrees that only in the instance of assigned cases as provided by this paragraph, defendants who are eligible for 25 year to life on a three strike case will not be assigned to Conflicts II. These felony cases are in addition to any felony cases received through conflict wherein the exception for three-strike cases and those cases listed by Sections 799 and 800 do not apply.

I. CONFLICTS II agrees to meet and confer with COUNTY, upon receipt of ninety (90) days notice by COUNTY, concerning any needs for further indigent legal services not specifically set forth above or in the subject contract, including modifications associated with potential changes to the indigent legal services system.

J. CONFLICTS II shall provide legal representation in the appellate courts when CONFLICTS II deems that an adequate legal representation requires application for extraordinary relief prior to conviction or pending appeal.

K. CONFLICTS II shall not be permitted to decline court appointment in any cases except for legal conflict of interest.

L. CONFLICTS II will assist in the preparation and filing of all necessary financial documents to enable the Court to determine reimbursement to the COUNTY for services under Penal Code Sections 987.4 and 987.8 and/or other law (to be heard at the same time as the probation and sentencing hearing; or immediately following verdict or judgment).

M. CONFLICTS II agrees to honor the following requests made by the Superior Court as follows:

1. CONFLICTS II shall provide adequate staffing to ensure that all adult courts are covered five (5) days a week.
2. CONFLICTS II shall attend Superior Court and Criminal Justice Forum meetings as set by the Superior Court. These typically are held on the third Monday of each month.
3. CONFLICTS II agrees to provide and maintain an e-mail address, pager number and/or cell phone number with the Superior Court.

## **II. OFFICES:**

A. CONFLICTS II shall, at its sole expense, maintain its principal office in Modesto, California, within fifteen (15) minutes response time to the courthouse. CONFLICTS II shall maintain business hours at the principal office Monday through Friday from 8:00 a.m. to 5:00 p.m., and it shall be available in all other areas of Stanislaus County to serve all the courts in Stanislaus County as the need arises. Offices shall be of sufficient size to accommodate clients in a reasonable and professional manner at the sole expense of CONFLICTS II.

## **III. STAFF:**

A. CONFLICTS II shall maintain sufficient staff to fulfill the terms of the contract, to provide daily representation as necessary, and to avoid otherwise unnecessary delays and continuances.

B. CONFLICTS II agrees to maintain one full-time staff Attorney qualified under Rule 4.117(d) or 4.117(f) of the California Rules of Court, or any such successor Rule of Court, to provide representation in capital cases. CONFLICTS II agrees to confirm the qualifications of the qualified Attorney by providing COUNTY a written statement from the Stanislaus County Superior Court record confirming their qualifications under Rule 4.117(d) or 4.117(f) of the California Rules of Court, or any such successor Rule of Court. CONFLICTS II agrees to notify COUNTY in writing within seven calendar days if CONFLICTS II no longer employs the Attorney qualified under Rule 4.117(d) or 4.117(f) of the California Rules of Court, or any such successor Rule of Court, and will communicate a plan to fill the vacancy with a qualified attorney. Rules 4.117(d) and

4.117(f) of the California Rules of Court are attached to this agreement for reference as Exhibit A.

C. Upon request, CONFLICTS II shall provide COUNTY, and the Court in Stanislaus County, a list of CONFLICTS II attorneys providing services. Each list shall contain a brief biographical sketch pertaining to each attorney's professional experience. CONFLICTS II shall notify COUNTY and the Court of any proposed changes in attorney staffing, to include subcontractors, and court's approval of such attorney and changes shall be obtained by CONFLICTS II prior to any work being done by such attorney.

D. CONFLICTS II shall designate, in writing, a managing attorney who shall be authorized to speak for CONFLICTS II with respect to the contract and its performance.

#### **IV. REPORTS:**

A. CONFLICTS II shall maintain proper records to enable the Court and COUNTY to verify the separate categories of costs of representing each indigent person in court proceedings including the number of persons represented and the types of proceedings and the average number of hours per type of case. CONFLICTS II shall make such records and/or copies thereof available to COUNTY and Court for inspection and/or in any proceedings to recover such costs from the state or whoever may be obligated to reimburse COUNTY.

B. CONFLICTS II shall provide the COUNTY and the Public Defender with a monthly report as shown in Exhibit C. The report includes total cases assigned and concluded per month and fiscal year, average time spent on cases, reason for case closure. The report also includes court appearances per type of case, any other

activities, and open PC 187 case names and case numbers. The report shall be provided on forms designated by the COUNTY and received in final form by the COUNTY from CONFLICTS II by the fifteenth (15th) day of the month following the month in which the services are rendered. A sample of monthly report is referenced as Exhibit C. All reports shall be sent to the Chief Executive Office of Stanislaus County and the Public Defender. CONFLICTS II agrees to join in discussions with the Public Defender, COUNTY and CONFLICTS I in order to agree to a consistent method of reporting cases handled, including those cases conflicted. At the County's request, CONFLICTS II agrees to begin tracking and reporting each month the case number and case name for cases initially referred to CONFLICTS II in which CONFLICTS II declares a conflict and refers the case to other counsel for representation. CONFLICTS II agrees to note those cases that involved a conflict due to co-defendants in the case. CONFLICTS II agrees to join in discussion with the Public Defender, COUNTY and CONFLICTS I to review the statistical caseload data gathered by CONFLICTS II and the potential for automated reporting of caseload data to the COUNTY.

C. CONFLICTS II shall maintain for at least ten (10) years following the completion of the case all files and time records. COUNTY shall provide reasonable space accessible for storage of those files which are five (5) or more years old. CONFLICTS II shall have access to such files as necessary, and COUNTY shall guarantee the confidentiality and protection of said files. Time records, and all reports maintained by CONFLICTS II directly related to the services performed pursuant to this contract, shall be available for inspection by COUNTY or the courts at all reasonable times.

## **V. TERMINATION:**

A. This contract shall be effective for all cases assigned on July 1, 2017 and shall continue in effect for all cases on, and including, June 30, 2019, unless the parties agree to extend the contract an additional period of time, provided that the funds are budgeted by the COUNTY and the contract has not been canceled as provided herein.

B. Upon termination of this contract as herein provided or by natural expiration of this contract on June 30, 2019, unless the parties agree to an extension of the contract, COUNTY shall have no obligation to compensate or pay CONFLICTS II except for services provided prior to termination subject to the following terms:

Upon expiration or termination (by cancellation or otherwise), unless specifically relieved by the Superior Court, CONFLICTS II shall be required to complete representation of all clients in all cases where previously appointed to do so where the case is resolvable within 30 days. This includes cases wherein CONFLICTS II was appointed pursuant to Section I, "DUTIES", paragraph H (non-conflict cases). All cases in post-trial litigation shall become COUNTY'S responsibility thirty (30) days following termination of the contract. In all instances where the case becomes the responsibility of COUNTY following termination of the contract COUNTY may, at COUNTY'S option, deem that the attorneys in the law firm of Perry & Associates have been appointed to handle the cases at the then prevailing COUNTY rate commencing with the day after the termination of the contract.

C. The term of this contract is from July 1, 2017, to June 30, 2019. This contract may be extended for an additional one or up to two-year period at the same or different contract price upon the consent of all contract parties beyond June 30, 2019. The

parties agree to meet no less than sixty (60) days prior to the expiration of the contract to discuss an extension and the terms and conditions of an extension. Furthermore, CONFLICTS II agrees to meet with COUNTY upon request to discuss a modification of the assigned felony cases by CONFLICTS II of the appointed cases outside of the Public Defender's Office, CONFLICTS I and CONFLICTS II.

D. Decision to cancel this contract may be made by COUNTY, without cause, upon a ninety (90) day written notice. Upon decision to cancel the contract, COUNTY will advise CONFLICTS II, in writing, with a ninety-day (90) notice of said cancellation.

E. Notwithstanding any other term or provision of this contract, the failure of CONFLICTS II to comply with the terms of this contract and any reasonable directions by or on behalf of the COUNTY or the court pursuant thereto shall constitute a material breach of the contract by CONFLICTS II; and, in addition to other remedy authorized by law, COUNTY shall have the right to terminate the contract immediately. Failure to exercise this right of termination shall not constitute waiver of such right, which may be exercised at any subsequent time. This contract may be terminated, at the option of COUNTY with the approval of the Board of Supervisors, upon the occurrence of any of the following:

1. Violation of any material provision of the contract;
2. Institution of proceedings by, or against, CONFLICTS II or any partner of the firm providing services for CONFLICTS II under this contract pursuant to the bankruptcy laws of the United States;
3. Discovery of COUNTY that this contract was obtained through fraud, by commission or omission;
4. Suspension of business operations, failure, or receivership of attorneys;

5. Assignment of the contract without prior written approval;
6. Cancellation of malpractice liability insurance coverage or Workers' Compensation coverage;
7. The commencement of criminal prosecution against any of the individual attorneys providing services for CONFLICTS II under this contract; and
8. The commencement of a claim or lawsuit by CONFLICTS II against the County of Stanislaus.

**VI. COMPENSATION:**

A. COUNTY shall pay CONFLICTS II for the above-rendered services the sum as described in the following chart with the first payment of this contract made on August 1, 2017 and subsequent payments to be made on the first day of the month following the month services were rendered in the preceding month.

Time Period	Compensation Amount
July 1, 2017 – June 30, 2018	\$59,964
July 1, 2018 – June 30, 2019	\$61,763

The COUNTY may decrease payments to CONFLICTS II by six hundred and fifty-four dollars and fifty-four cents (\$654.54) per calendar day should CONFLICTS II not comply with the staffing standards identified in Section III-B of this agreement for greater than 120 consecutive calendar days.

B. Compensation provided for or pursuant to this contract or any amendment, addendum, or supplement to it shall be subject to offset as provided below.

C. By prior order of the court, CONFLICTS II may employ experts and expert witnesses as may be required for an adequate defense; and the expense of said



experts and expert witnesses shall be paid in addition to the compensation provided under this contract upon prior order of the court.

D. CONFLICTS II is responsible for the investigative costs of representing their indigent clients. CONFLICTS II shall have the latitude in determining the appropriate level of investigative services on assigned cases. The amount provided shall cover all investigative costs and CONFLICTS II agrees and understands that petition to COUNTY for provision of these services outside of this contract may be made only in the case of extraordinary and unusual circumstances. In cases deemed death penalty eligible CONFLICTS II is authorized to petition the appropriate judge pursuant to California Penal Code section 987.9 for funds for investigation. In the event that the "special circumstances" clause is stricken, or prosecution declares that they will not be seeking death, all additional investigations shall be at the expense of CONFLICTS II as provided by this paragraph.

E. COUNTY acknowledges its independent obligation to provide adequate legal defense to indigent criminal defendants in need thereof. The COUNTY does, and will, undertake to provide such representation and reserves the right to take any steps appropriate to meet said obligation. Under extraordinary circumstances or circumstances not contemplated within this contract, COUNTY reserves unto itself the right to consider application by CONFLICTS II for change and terms of this contract. Extraordinary circumstance shall generally be limited to prolonged capital cases or the cumulative effect of multiple homicide cases involving extreme expenses. In the event that CONFLICTS II is required to devote an extraordinary expenditure of time and effort not foreseen by this contract, CONFLICTS II shall apply to the Stanislaus County Chief Executive Officer for additional reasonable compensation. A request for such

extraordinary compensation shall be provided to the COUNTY no less than fourteen (14) days prior to said request being filed with the court. The court shall conduct a hearing on the request, and the COUNTY will have a right to contest said request.

F. COUNTY and CONFLICTS II continue to support the implementation of electronic discovery in coordination with the Stanislaus County District Attorney's Office. The COUNTY will pay CONFLICTS II monthly compensation of five hundred dollars (\$500.00) to cover the cost of electronic discovery services for all cases, to include felonies, in addition to the compensation as specified in Subsection A herein.

#### **VII. CONFLICT:**

A. It is acknowledged by the COUNTY that in cases or related matters involving more than three (3) defendants, in cases where CONFLICTS II or its staff has certain knowledge of the events or parties, and some other circumstances designated justifiable by a court, CONFLICTS II may not be available to represent all defendants because of legal prohibitions or because of canons of professional ethics relating to conflicts of interest. Such determination shall be made by the court. CONFLICTS II shall seek to immediately minimize the number of conflicts declared and seek waiver of such conflicts whenever it is ethically appropriate. The Public Defender, CONFLICTS I and CONFLICTS II shall agree to meet to discuss possible standards for such waivers.

B. CONFLICTS II shall not knowingly or negligently provide any legal services outside the scope of this contract if the provisions of such legal services would render CONFLICTS II ineligible to provide legal services to COUNTY under this contract.

C. Should CONFLICTS II be unable, ineligible, or unavailable to provide services as provided for herein for any reason other than a legitimate conflict of interest as

determined by the courts or are dilatory in providing such services, the Court may appoint other counsel. The compensation provided in Section VI shall be offset by an amount equivalent to the cost the COUNTY incurs as a result of services provided by other counsel.

D. Notwithstanding any other provision of this contract, it is agreed by the parties that the judges of the Superior Court shall have the right to review and pass upon the qualifications, experience, and competence of any attorney assigned by CONFLICTS II to a case and to reject any attorney who, in the judge's sole opinion, lacks satisfactory expertise or experience to handle the case before the court. In the event CONFLICTS II fails, within a reasonable time, to assign an attorney to a given case who is acceptable to a court, the Court may assign other counsel to the case at the sole expense of CONFLICTS II. Should COUNTY incur any expense as a result of a court's appointment of other counsel under Section VII, the compensation provided in Section VI shall be offset by an amount equivalent to the cost COUNTY incurred by providing said services.

#### **VIII. STATUS OF CONFLICTS II:**

A. The parties agree that this contract does not create the relationship of attorney and client nor employee and employer between CONFLICTS II and the COUNTY. CONFLICTS II is an independent contractor. CONFLICTS II is, and shall at all times be, deemed independent and shall be wholly responsible for the manner in which CONFLICTS II performs the services required by the terms of this contract.

B. CONFLICTS II shall be deemed to be independent attorneys and under no circumstances shall the law firm, or its employees, agents, and servants be deemed to be employees, servants, or agents of the County of Stanislaus.

C. CONFLICTS II shall be wholly responsible for the manner in which it performs the service required by the terms of this contract. CONFLICTS II exclusively assumes the responsibility for the acts of CONFLICTS II subcontractors, associates, and employees relative to the services provided during the term and scope of their employment.

D. CONFLICTS II understands and agrees it has no right to medical, dental, retirement or other such benefits provided to COUNTY employees, and the COUNTY shall not be responsible or pay for any injury of CONFLICTS II or staff arising out of services performed under this contract.

#### **IX. LIABILITY AND INSURANCE:**

Coverage Required: Conflicts II shall obtain, and maintain at all times during the term of this Agreement, insurance coverage in the amounts and coverage specified in the attached "Exhibit B."

A. To the fullest extent permitted by law, Conflicts II shall indemnify, hold harmless and defend the County and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by Conflicts II or Conflicts II officers, employees, agents, representatives, or subcontractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Notwithstanding the foregoing, Conflicts II obligation to indemnify the County and its agents, officers and employees for any judgment, decree

or arbitration award shall extend only to the percentage of negligence or responsibility of Conflicts II in contributing to such claim, damage, loss and expense.

B. Conflicts II obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Conflicts II to procure and maintain a policy of insurance.

C. To the fullest extent permitted by law, the County shall indemnify, hold harmless and defend Conflicts II and its officers, employees, agents, representatives or subcontractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of or resulting from the negligence or wrongful acts of County and its officers or employees.

#### **X. GENERAL:**

A. CONFLICTS II shall not be prohibited from engaging in the private practice of law, including the defense of those charged with crimes in any and all proceedings, provided that no retained case shall be accepted which may cause a conflict of interest to arise wherein CONFLICTS II would be unable to represent an indigent person whom the Public Defender and CONFLICTS I cannot represent in court.


B. If CONFLICTS II does represent a person in a retained case which then results in his or her inability to accept an appointment by way of this contract, COUNTY shall be entitled to an off-set as stated in Section VII.

C. CONFLICTS II shall in no event accept anything of value from the indigent in consideration for services rendered under this contract.

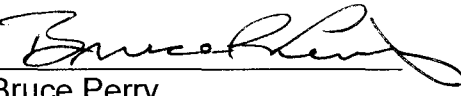
D. Upon the request of the contractor, COUNTY agrees to meet three (3) times each year for general discussion purposes.

EXECUTED THIS FIRST DAY OF JULY, 2017.

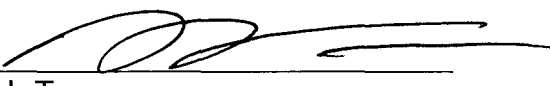
**COUNTY OF STANISLAUS**

By:   
\_\_\_\_\_  
Stan Risen  
Chief Executive Officer  
COUNTY

**PERRY & ASSOCIATES**

By:   
\_\_\_\_\_  
Bruce Perry  
CONFLICTS II

APPROVED AS TO FORM:  
STANISLAUS COUNTY COUNSEL

By:   
\_\_\_\_\_  
Rob Taro  
Deputy County Counsel

# 2017 California Rules of Court

## Rule 4.117. Qualifications for appointed trial counsel in capital cases

### (d) Qualifications of lead counsel

To be eligible to serve as lead counsel, an attorney must:

- (1) Be an active member of the State Bar of California;
- (2) Be an active trial practitioner with at least 10 years' litigation experience in the field of criminal law;
- (3) Have prior experience as lead counsel in either:
  - (A) At least 10 serious or violent felony jury trials, including at least 2 murder cases, tried to argument, verdict, or final judgment; or
  - (B) At least 5 serious or violent felony jury trials, including at least 3 murder cases, tried to argument, verdict, or final judgment;
- (4) Be familiar with the practices and procedures of the California criminal courts;
- (5) Be familiar with and experienced in the use of expert witnesses and evidence, including psychiatric and forensic evidence;
- (6) Have completed within two years before appointment at least 15 hours of capital case defense training approved for Minimum Continuing Legal Education credit by the State Bar of California; and
- (7) Have demonstrated the necessary proficiency, diligence, and quality of representation appropriate to capital cases.

*(Subd (d) amended effective January 1, 2007.)*

### (f) Alternative qualifications

The court may appoint an attorney even if he or she does not meet all of the qualifications stated in (d) or (e) if the attorney demonstrates the ability to provide competent representation to the defendant. If the court appoints counsel under this subdivision, it must state on the record the basis for finding counsel qualified. In making this determination, the court must consider whether the attorney meets the following qualifications:

- (1) The attorney is an active member of the State Bar of California or admitted to practice *pro hac vice* under rule 9.40;
- (2) The attorney has demonstrated the necessary proficiency, diligence, and quality of representation appropriate to capital cases;
- (3) The attorney has had extensive criminal or civil trial experience;
- (4) Although not meeting the qualifications stated in (d) or (e), the attorney has had experience in death penalty trials other than as lead or associate counsel;
- (5) The attorney is familiar with the practices and procedures of the California criminal courts;
- (6) The attorney is familiar with and experienced in the use of expert witnesses and evidence, including psychiatric and forensic evidence;
- (7) The attorney has had specialized training in the defense of persons accused of capital crimes, such as experience in a death penalty resource center;
- (8) The attorney has ongoing consultation support from experienced death penalty counsel;
- (9) The attorney has completed within the past two years before appointment at least 15 hours of capital case defense training approved for Minimum Continuing Legal Education credit by the State Bar of California; and
- (10) The attorney has been certified by the State Bar of California's Board of Legal Specialization as a criminal law specialist.

*(Subd (f) amended effective January 1, 2007.)*



## EXHIBIT B

### Insurance Requirements for Professional Services

Conflicts I or Conflicts II shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Conflicts I or Conflicts II, its agents, representatives, or employees.

#### MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** If the Conflicts I or Conflicts II or the Conflicts I or Conflicts II's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under the Agreement Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Conflicts I or Conflicts II has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.  
(Not required if Conflicts I or Conflicts II provides written verification it has no employees)
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the Conflicts I or Conflicts II's profession, with limits not less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the Conflicts I or Conflicts II maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or higher limits maintained by the Conflicts I or Conflicts II. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

#### ***Application of Excess Liability Coverage***

Conflicts I or Conflicts IIs may use a combination of primary, and excess insurance policies which provide coverage as broad as ("follow form" over) the underlying primary policies, to satisfy the Required Insurance provisions.

### ***Other Insurance Provisions***

The insurance policies are to contain, or be endorsed to contain, the following provisions:

#### ***Additional Insured Status***

The County, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy and the Auto Liability policy with respect to liability arising out of work or operations performed by or on behalf of the Conflicts I or Conflicts II including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Conflicts I or Conflicts II's insurance (at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).

#### ***Primary Coverage***

For any claims related to this contract, the **Conflicts I or Conflicts II's insurance coverage shall be primary** insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, agents or volunteers shall be excess of the Conflicts I or Conflicts II's insurance and shall not contribute with it.

**Reporting:** Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employee's, agents or volunteers.

#### ***Notice of Cancellation***

Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the County.**

#### ***Waiver of Subrogation***

Conflicts I or Conflicts II hereby grants to County a waiver of any right to subrogation (except for Professional Liability) which any insurer of said Conflicts I or Conflicts II may acquire against the County by virtue of the payment of any loss under such insurance. Conflicts I or Conflicts II agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

#### ***Self-Insured Retentions***

Self-insured retentions must be declared to and approved by the County. The County may require the Conflicts I or Conflicts II to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.

#### ***Acceptability of Insurers***

Insurance is to be placed with California admitted insurers (licensed to do business in California) with a current A.M. Best's rating of no less than A-VII, however, if no California admitted insurance company provides the required insurance, it is acceptable to provide the required

insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Approved Surplus Line Insurers (LASLI) maintained by the California Department of Insurance.

***Claims Made Policies***

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Conflicts I or Conflicts II must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

***Verification of Coverage***

Conflicts I or Conflicts II shall furnish the County with a copy of the policy declaration and endorsement page(s), original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All **certificates and endorsements are to be received and approved by the County before work commences**. However, failure to obtain the required documents prior to the work beginning shall not waive the Conflicts I or Conflicts II's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

***Subcontractors***

Conflicts I or Conflicts II shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Conflicts I or Conflicts II shall ensure that County is an additional insured on insurance required from subcontractors.

***Special Risks or Circumstances***

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

***Insurance Limits***

The limits of insurance described herein shall not limit the liability of the Conflicts I or Conflicts II and Conflicts I or Conflicts II's officers, employees, agents, representatives or subcontractors. Conflicts I or Conflicts II's obligation to defend, indemnify and hold the County, its officers, officials, employees, agents and volunteers harmless under the provisions of this paragraph is not limited to or restricted by any requirement in the Agreement for Conflicts I or Conflicts II to procure and maintain a policy of insurance.

[SIGNATURES SET FORTH ON THE FOLLOWING PAGE]

APPROVED AS TO INSURANCE CONTENT:

Stanislaus County

Chief Executive Office – Risk Management Division

By: 

Name: Kevin Watson

Title: Liability & Insurance Manager

Date: 06/06/2017

Vendor: Perry and Associates

**INDIGENT LEGAL SERVICES MONTHLY REPORT**

Exhibit C

**FIRM:** \_\_\_\_\_  
**CURRENT MONTH:** \_\_\_\_\_  
**FISCAL YEAR:** \_\_\_\_\_

	<i>CASES PER MONTH</i>	<i>CASES PER FISCAL YEAR</i>	<i>AVERAGE TIME SPENT ON CONCLUDED CASES (on cases reported this month)</i>
Murder Cases Assigned	_____	_____	_____
Murder Cases Concluded	_____	_____	_____
Open Murder Cases: #	_____	_____	_____
Other Felony Cases Assigned	_____	_____	_____
Other Felony Cases Concluded	_____	_____	_____
All Open Felony Cases: #	_____	_____	_____
Misdemeanor Cases Assigned	_____	_____	_____
Misdemeanor Cases Concluded	_____	_____	_____
Open Misdemeanor Cases: #	_____	_____	_____
Juvenile Cases Assigned	_____	_____	_____
Juvenile Cases Concluded	_____	_____	_____
Open Juvenile Cases: #	_____	_____	_____
Other Cases Assigned	_____	_____	_____
Other Cases Concluded	_____	_____	_____
Other Open Cases: #	_____	_____	_____
<b>Total Cases Assigned</b>	_____	_____	_____
<b>Total Cases Concluded</b>	_____	_____	_____

<b>COURT APPEARANCES</b>	<i>Per Month</i>	<i>Per Fiscal Year</i>
Murder Cases:	_____	_____
Other Felony Cases:	_____	_____
Misdemeanor Cases:	_____	_____
Juvenile Cases:	_____	_____
All Other Cases:	_____	_____
<b>Total Court Appearances</b>	_____	_____

<b>OTHER ACTIVITY</b>		
Number of Jury Trials	_____	_____
Number of Days in Jury Trial	_____	_____
Cases Closed Due to:		
Conflicts of Interest:	_____	_____
Co-Defendants in Same Case:	_____	_____
Self-Representation:	_____	_____
Marsden Hearings:	_____	_____
Other:	_____	_____

