



Agenda Date: 4/1/2008
Agenda Placement: 7S

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Britt Ferguson for Nancy Watt - County Executive Officer
County Executive Office
REPORT BY: Molly Rattigan, Management Analyst - 253-4112
SUBJECT: Transfer from Contingencies to Conflict Public Defender Budget

RECOMMENDATION

County Executive Officer requests approval of Budget Transfer No. 31 appropriating \$181,500 in the Conflict Public Defender budget and reducing the General Fund Contingencies by an equivalent amount for indigent defense costs. (4/5 vote required)

EXECUTIVE SUMMARY

The Conflict Public Defender budget has paid \$741,848 to date for indigent defense services. Of this amount, \$364,100 has been paid to the County's contracted attorneys, \$158,148 to court-appointed attorneys and \$218,373 for investigation, experts and other specialized legal costs. It is projected that an additional \$181,500 will be needed to cover the increase in investigative and court-appointed attorney services. The total budgeted cost in Fiscal Year 2007-2008 will be \$1,036,964, an increase of \$21,952 compared to Fiscal Year 2006-2007 actual expenses.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
What is the revenue source?	General Fund Contingency
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The Court appoints conflict defenders and the County is obligated to pay them. It might be possible to reduce other expenditures to cover these costs, but that would require further analysis and appropriation authority is needed now to cover the cost of services provided.

Is the general fund affected?	Yes
Future fiscal impact:	This budget transfer applies to Fiscal Year 2007-2008 only. Future appropriations will be budgeted accordingly as part of the annual budget process. With this adjustment, the remaining balance in the General Fund Contingency will be \$4,930,784.
Consequences if not approved:	The Conflict Public Defender budget will be unable to pay claims from investigators, experts and attorneys for their services as appointed by the Napa Superior Court.
Additional Information:	None

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

The Conflict Public Defender budget has paid \$741,848 to date for indigent defense services. Of this amount, \$364,100 has been paid to conflict contractors, \$158,148 to court-appointed attorneys, and \$218,373 for investigations, experts and other specialized legal costs.

It is projected that \$181,500 will be needed in addition to the budgeted \$855,464 to cover the increase in investigative and court-appointed attorney services in Fiscal Year 2008-2009. On July 1, 2007, the County shifted to a contracted conflict public defense system where five part-time adult and one part-time juvenile attorneys are under contract to provide services. While the newly implemented system has been working well and will continue to control costs in the long run, there have been many anomalies that have contributed to the need to move money from the General Fund Contingency. The six conflict attorneys are under contract through December 31, 2008 at which time staff will evaluate whether to recommend that the Board of Supervisors renew these agreements or adopt a different system.

When initially preparing the budget for Fiscal Year 2007-2008, staff had to estimate the completion date of cases assigned to conflict attorneys prior to the contractual change on July 1, 2007. Staff estimated the completion date of a two defendant juvenile homicide case to be August 2007. This particular case has been back and forth between juvenile and adult court and the trial in adult court has not been set until May 2008. This case has cost the County approximately \$20,549 in legal and investigative fees this Fiscal Year. Staff anticipates spending additional funds on this case as the trial date approaches.

In September 2007, a private firm was appointed by the Superior Court to represent a juvenile charged with homicide. The private firm had represented the juvenile at the expense of the family. When the defendant reported to the Superior Court the inability to continue to pay attorney fees, the Judge felt that it would be detrimental to the progress of the case to appoint the Public Defender and opted to order the County to cover the legal expenses of the private attorney. This case is no longer active and cost the County \$47,125.63.

When the Fiscal Year 2007-2008 County Budget was adopted, it was based on the assumption that the Public Defender would handle certain sexually violent predator (SVP) cases. As discussed at the Mid-Year Budget Estimate presentation, the Public Defender's Office has declined appointment on two SVP cases. This has

resulted in the appointment of private attorneys that have cost the County \$30,045 this Fiscal Year. Staff continues to work with the Public Defender's Office and the contracted attorneys to discuss how these cases may be handled in the future and will discuss this issue as part of the Board's upcoming Budget Study Session.

Finally, Napa County has experienced an increase in gang violence. Gang related cases typically include multiple defendants, each with a right to their own attorney. Several incidents within the last few months have resulted in conflicts that have established the need for attorneys in addition to the Public Defender's Office and the six contracted attorneys. Many of the cases are still in the early stages of the adjudication process and the cost to date is still unknown.

In addition to the specific scenarios detailed above, the Napa Superior Court raised the court-appointed attorney rate to \$80-\$100 an hour in Fiscal Year 2007-2008 compared to \$65-\$100 in Fiscal Year 2006-2007.

Staff has prepared the budget transfer with the worst case scenario in mind. Staff anticipates that this transfer from the General Fund contingency will cover the increased costs mentioned above. The total budgeted cost in Fiscal Year 2007-2008 will be \$1,036,964, an increase of \$21,952 compared to Fiscal Year 2006-2007 actual expenses.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Molly Rattigan