

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Administrative Office		(2) MEETING DATE 6/19/2012		(3) CONTACT/PHONE Geoff O'Quest, 781-5011	
(4) SUBJECT Request to approve Amendment 1 to the existing contracts with the County's three Public Defender services providers, Maguire and Ashbaugh, J. Barry Schiavo, and Jere N. Sullivan, Jr., to represent indigent persons subject to a Post-Release Community Supervision (PRCS) revocation hearing, as required under AB 109.					
(5) RECOMMENDED ACTION It is recommended that the Board of Supervisors approve and direct the Chair to sign Amendment 1 to the existing contracts with the County's three Public Defender services providers, Maguire and Ashbaugh, J. Barry Schiavo, and Jere N. Sullivan, Jr., represent indigent persons subject to a Post-Release Community Supervision (PRCS) revocation hearing, as required under AB 109.					
(6) FUNDING SOURCE(S) 2011 Public Safety Realignment		(7) CURRENT YEAR FINANCIAL IMPACT \$39,440.00		(8) ANNUAL FINANCIAL IMPACT \$45,277.00	
(9) BUDGETED? Yes					
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Board Business (Time Est. _____)					
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input checked="" type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			(12) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		
(13) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A			(14) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
(15) LOCATION MAP N/A		(16) BUSINESS IMPACT STATEMENT? No		(17) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: <u>June 22, 2010</u>	
(18) ADMINISTRATIVE OFFICE REVIEW This item was prepared by the County Administrative Office.					
(19) SUPERVISOR DISTRICT(S) - All Districts					

County of San Luis Obispo



TO: Board of Supervisors

FROM: Administrative Office / Geoff O'Quest

DATE: 6/19/2012

SUBJECT: Request to approve Amendment 1 to the existing contracts with the County's three Public Defender services providers, Maguire and Ashbaugh, J. Barry Schiavo, and Jere N. Sullivan, Jr., to represent indigent persons subject to a Post-Release Community Supervision (PRCS) revocation hearing, as required under AB 109.

RECOMMENDATION

It is recommended that the Board of Supervisors approve and direct the Chair to sign Amendment 1 to the existing contracts with the County's three Public Defender services providers, Maguire and Ashbaugh, J. Barry Schiavo, and Jere N. Sullivan, Jr., represent indigent persons subject to a Post-Release Community Supervision (PRCS) revocation hearing, as required under AB 109.

DISCUSSION

Summary:

Under AB 109, indigent persons subject to a Post-Release Community Supervision (PRCS) revocation hearing are entitled to representation by the County Public Defender. In San Luis Obispo County Public Defender services are provided under contracts with three legal firms. It is recommended that all three contracts be amended to add this duty their scope of services.

Background:

On April 4, 2011, as part of its realignment of public safety responsibilities, the California State Assembly passed the Post Release Community Supervision Act of 2011 (AB 109). Beginning October 1, 2011, this bill transferred to county probation departments the responsibility for supervising certain offenders previously supervised by the State parole system. This new responsibility is called *Post-Release Community Supervision (PRCS)*. PRCS offenders are non-violent, non-serious, non-sex-offender felons who have completed their term in state prison and are released on parole.

Prior to the passage of AB 109, these types of lower level felony offenders would have been released back to their county of origin on State parole and would have been overseen by the State's Division of Adult Parole. If they had violated the terms of their parole, Adult Parole would have requested that the offender's parole be revoked and the offender would have been entitled to a parole violation hearing with the California Board of Parole Hearings.

Under AB 109, these types of lower level felony offenders are now released back to their county of origin on Post-Release Community Supervision (PRCS), to be supervised, in most cases, by the county probation department. (Note that the Public Safety Realignment Act of 2011 provided funding to counties to perform this activity.) If a PRCS offender violates the terms of his or her release, Probation may request that the offender's release be revoked. The offender is then entitled to a PRCS revocation hearing provided by the local Superior Court.

PRCS offenders that cannot afford legal representation in their revocation hearing are entitled to representation by the County Public Defender. In San Luis Obispo County, Public Defender services are by three legal firms. The first, Maguire and Ashbaugh, serves as the Primary Public Defender. In cases where the Courts determine that the Primary Public Defender has a conflict of interest and is unable to represent an indigent defendant, the Conflict Public Defender, J. Barry

Schiavo, provides representation. If the Courts determine that the Conflict Public Defender also has a conflict, the Conflict-Conflict Public Defender will provide representation.

The current scope of services for all three firms was approved by the Board of Supervisors in June of 2010. AB 109 and the resulting shift in responsibility for parolees from the State to counties, including revocation hearings, was not anticipated at that time. It is therefore recommended that all three contracts be amended to add this service to the existing scope.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel has reviewed the proposed amendments as to form and legal effect.

FINANCIAL CONSIDERATIONS

In FY 2011-12 the State has allocated \$39,440 in funding to San Luis Obispo County for Public Defender expenses generated from PRCS hearings. The State has not yet passed a budget for FY 2012-13. However, based on the most recent allocation information, \$45,277 has been included in the County's FY 2012-13 Proposed Budget for these expenses.

In all three amendments the County agrees to provide compensation of \$300 per completed revocation case. Based on this level of compensation and the number of PRCS hearings completed in the year to date, budgeted revenues for FY 2011-12 are expected to be sufficient to offset the associated expenses. It is difficult however to estimate the number of cases for FY 12-13 because of the newness of the PRCS program. The number of PRCS hearings will therefore be tracked closely in FY 2012-13. If at year end there should be any unspent State revenue allocated for Public Defender costs the remaining funds will be transferred to a trust account so that they will be available to offset the similar expenses in future.

RESULTS

The recommended action will amend the current scope of services for all three legal firms providing Public Defender services on behalf of the County to reflect the shift in responsibility for parolees and revocation hearing established under AB 109.

ATTACHMENTS

1. Amendment #1 to PD contract with Maquire and Ashbaugh
2. Amendment #1 to PD contract with J. Barry Schiavo
3. Amendment #1 to PD contract with Jere Sullivan