

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



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On motion of Supervisor Stone, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the approval of Amended Language for the Agreement with the Criminal Defense Lawyers to provide Legal Indigent Defense Criminal Services submitted by the Purchasing and Fleet Services Department is continued to Tuesday, April 6, 2010 at 9:00 a.m.

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on _____ March 23, 2010 _____ of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors

Dated: March 23, 2010

Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

(seal)

By: *Lance Thomas* Deputy

AGENDA NO.

xc: Purchasing & Fleet Svcs., COB

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CRIMINAL DEFENSE AGREEMENT
for
LEGAL INDIGENT DEFENSE SERVICES
between
COUNTY OF RIVERSIDE
and
CRIMINAL DEFENSE LAWYERS (CDL)



1 **CONTRACT TO PROVIDE LEGAL SERVICES**

2 THIS CONTRACT is made this ____ day of April, 2010, between the County of Riverside
3 (hereinafter "COUNTY") and Criminal Defense Lawyers, (hereinafter "ATTORNEYS"), for Indigent
4 Defense services to be provided in the Superior Court of the County of Riverside, Mid and Western
5 County Region, not including Blythe, Indio or Palm Springs, as set forth herein.

6 RECITALS

7 WHEREAS, the right of all persons against whom Criminal Court proceedings are brought to be
8 represented by Counsel is guaranteed by the Constitution of the United States and the Constitution of the
9 State of California; and

10 WHEREAS, the cost and expense of each counsel in the representation of indigent adults in the
11 specified proceedings are a proper and lawful charge upon the COUNTY; and

12 WHEREAS, it is in the public interest in circumstances where the Riverside County Public
13 Defender declares a conflict of interest, or is otherwise unavailable, that the COUNTY contract with
14 private counsel to render the usual and customary legal services required by law to be provided to
15 individuals; and

16 NOW, THEREFORE, the parties hereto agree as follows:

17 1. DESCRIPTION OF SERVICES. COUNTY contracts with ATTORNEYS to
18 provide legal representation for indigent parties in the Superior Court of the County of Riverside, Mid
19 and Western Regions, when appointed by the Court as required by law, after a determination that a
20 conflict of interest exists which causes the Public Defender to be unable to represent the defendant, or
21 the Public Defender is relieved by the Court for extraordinary reasons, except for those cases
22 enumerated in Section 6.

23 1.1 Indigent party(ies) means a defendant or defendants charged with a crime and
24 cannot afford to hire private counsel.

25 2. TERM OF PERFORMANCE. This Contract shall take effect April 1, 2010, and
26 continue in effect to and including December 31, 2010, unless terminated sooner as provided herein.

27 3. SCOPE OF SERVICES. ATTORNEYS shall assume full responsibility for
28 furnishing counsel necessary to provide daily representation in the various divisions and departments of

1 the Courts within the Mid and Western County Region, wherever the cases may eventually be set for
2 trial within the County of Riverside, and pursuant to the terms of this contract and in compliance with
3 Appendix A, attached hereto and incorporated herein. For the purpose of providing such professional
4 legal services, ATTORNEYS, at ATTORNEYS' own discretion, may perform the services, or cause
5 them to be performed by other attorneys, who shall not be parties to this Contract, but are independent
6 contractors and not agents or employees of ATTORNEY or COUNTY.

7 3.1 ATTORNEYS agree to accept all cases assigned to ATTORNEYS during the
8 contract term, including:

9 (a) All felony matters opened in the Superior Courts and represented through final
10 judgment;

11 (b) Two (2) special circumstance cases in which the People are seeking the death
12 penalty;

13 (c) All special circumstance cases not involving the death penalty;

14 (d) All Violation of Probation matters. However in all violation of probation matters,
15 ATTORNEYS will not accept appointment unless the Public Defender has declared a continuing
16 conflict of interest or after the Court relieves the Public Defender for lack of preparation, incompetence,
17 unavailability or reasons not related to a declaration of conflict pursuant to Penal Code Section 987.2.
18 All violations of probation must be accompanied by a copy of the court minutes showing that a public
19 defender representative appeared on the record and declared a continued state of conflict of interest at
20 the time of their reappointment or alternatively, the billing must be accompanied by documentary
21 affirmation of the continued conflict in the case supplied by the Public Defender at the time of their
22 reappointment;

23 (e) All misdemeanor matters;

24 (f) All miscellaneous matters; for example including but not limited to: diversion
25 progress hearing; substance abuse enrollment hearings; reinstatement hearings; diversion fall-out
26 sentencings; proof of enrollment hearings; plea withdrawals; remittitur hearings; re-sentencings; witness
27 advisements; and other unique and unusual matters.

1 (g) All cases wherein the Office of the Public Defender has declared their
2 unavailability based on "overload."

3 3.2 Special Circumstance cases are defined as all homicides in which the prosecution
4 seeks the penalty of death or life imprisonment without the possibility of parole. Because
5 ATTORNEYS accept all Special Circumstance cases, no Special Circumstance case in which the People
6 are seeking the death penalty will be counted under 3.1(b) above until the District Attorney declares he
7 is seeking the death penalty. When conflict Special Circumstance cases are assigned under this
8 Contract, ATTORNEYS and COUNTY agree that ATTORNEYS shall assign two (2) attorneys on each
9 of the two (2) death penalty cases if the need should arise.

10 3.3 For the purpose of this contract, "overload" is defined to mean a situation wherein
11 the Office of the Public Defender declines to accept appointment by the Court due to a work overload
12 resulting from insufficient staff and/or the volume of cases assigned.

13 3.4 For the purposes of this Agreement, a "case" is defined as follows: the
14 representation of one person on one accusatory pleading. Multiple charges against a defendant in one
15 accusatory pleading shall not prevent designation of a matter as a single case. If a single defendant is
16 accused in more than one accusatory pleading, each separate pleading shall constitute a separate case. If
17 multiple defendants are charged in a single accusatory pleading, it shall be considered that there are as
18 many cases as there are defendants.

19 3.5 ATTORNEYS agree that representation of those charged with complex felonies,
20 including Special Circumstance Homicides, is generally most effective when vertical representation is
21 provided. Therefore, ATTORNEYS will, pursuant to this Contract, begin representation in these cases
22 as soon as the Public Defender declares a conflict or is otherwise relieved, and defend or assign the case
23 to a subcontract attorney at the earliest possible stage to insure vertical representation where appropriate.

24 3.6 ATTORNEY shall assist in the recovery of fees and funds pursuant to Penal Code
25 Sections 987.5, 987.8(b), (c) and 987.81.

26 3.7 ATTORNEYS shall accept appointment when the Public Defender has declared a
27 conflict, or after the Court relieves the Public Defender for lack of preparation, incompetence,
28 unavailability or reasons not related to a declaration of conflict pursuant to Penal Code §987.2.

1 3.8 In subcontracting with other attorneys, ATTORNEYS shall consider the factors
2 enumerated in Penal Code § 987 et. seq., the Rules of Professional Conduct governing lawyers in
3 Business & Professions Code § 6000 et. seq., State Bar of California Guidelines on Indigent Defense
4 Services Delivery Systems, the performance and case management guidelines for Criminal Defense
5 Representation for the National Legal Aid & Defenders Association, and the State Bar Rules of
6 California, as appropriate, including Rule 3-310. ATTORNEYS shall assure that all subcontractors
7 satisfy the minimum requirements for practicing law in the State of California as determined by the
8 California State Bar Association, and are competent and provide constitutionally effective assistance.
9 ATTORNEYS further warrant that they will provide attorney(s) qualified to handle Death Penalty cases
10 when required. ATTORNEYS shall submit a list of all subcontracting attorneys to the Executive Office
11 at the beginning of each Fiscal Year and as necessary, when any changes in subcontracting attorneys
12 occurs. Evidence of the qualification(s) of such subcontracting attorneys shall be provided with the list.

13 3.8.1 Each subcontracting attorney representing a defendant accused of a serious or
14 violent felony pursuant to California Penal Code section 1192.7 must have served at least twenty-four
15 (24) to thirty-six (36) months as a prosecutor, a public defender, assigned counsel or private defense
16 attorney and has been lead trial counsel in at least five (5) to twenty (20) jury trials to verdict and
17 sentencing. Five (5) of said jury trials must be felony matters.

18 3.8.2 Each subcontracting attorney representing a defendant in felony matters not
19 delineated in section 4.7 (B), above, or involved in a probation revocation hearing involving a felony
20 matter must have served at twelve (12) to thirty-six (36) months as a prosecutor, public defender,
21 assigned counsel or private defense attorney and has been lead trial counsel in at least five (5) to twenty
22 (20) jury trials.

23 3.8.3 Each capital case assigned by ATTORNEY will be staffed by two attorneys. The
24 lead attorney shall be an active trial practitioner with ten (10) years' litigation experience in the field of
25 criminal law, have prior experience as lead counsel in either (A) at least ten(10) serious or violent felony
26 jury trials, including at least two (2) murder cases, tried to argument, verdict, or final judgment; or (B) at
27 least five (5) serious or violent felony jury trials, including at least three (3) murder cases, tried to
28 argument, verdict, or final judgment, have completed within two (2) years prior to appointment at least

1 fifteen (15) hours of capital case defense training approved for Minimum Continuing Legal Education
2 credit by the State Bar of California; and other qualifications as delineated in Rule 4.117(d) of the 2005
3 California Rules of Court.

4 3.8.4 Each capital case assigned by ATTORNEY will be staffed by two full time
5 attorneys. The associate attorney (second chair) shall be an active trial practitioner with a least three (3)
6 years' litigation experience in the field of criminal law; have prior experience as (A) lead counsel in at
7 ten (10) felony jury trials tried to verdict, including three (3) serious or violent felony jury trials tried to
8 argument, verdict, or final judgment; or (B) lead or associate counsel in at least five (5) serious or
9 violent felony jury trials, including at least one (1) murder case, tried to argument, verdict or final
10 judgment; have completed within two (2) years prior to appointment at least fifteen (15) hours of capital
11 case defense training approved for Minimum Continuing Legal Education credit by the State Bar of
12 California and other qualifications as delineated in Rule 4.117(e) of the 2005 California Rules of Court.

13 3.9 ATTORNEYS shall perform or cause to be performed all professional legal
14 services reasonably and legally required herein from the time of appointment, to and including, a final
15 adjudication or disposition of such case. Disposition in criminal cases shall mean: 1) the dismissal of
16 charges; 2) the entering of an order of deferred prosecution; 3) an order or result requiring a new trial;
17 4) imposition of sentence; 5) an order imposing probation; or 6) deferral of any of the above coupled
18 with any other hearing on the cause number, including but not limited to felony or misdemeanor
19 probation review that occurs within thirty (30) days of sentence, deferral of sentence or entry of an order
20 of deferred prosecution. No hearing that occurs after thirty (30) days of any of the above will be
21 considered part of case disposition for the purpose of this contract, except that a restitution hearing
22 ordered at the time of the original disposition, whether it is held within 30 days or subsequently, shall be
23 included in case disposition. Disposition includes the filing of a notice of appeal, if applicable.

24 3.10 It is the intent of COUNTY that all Felony Trials are to be litigated or otherwise
25 resolved in a timely manner. In order to assure that Penal Code Section 1050 requests for continuances
26 do not hinder a timely resolution of assigned cases, all contracted felony trial attorneys must submit a
27 monthly report listing all cases not resolved within four (4) months of arraignment, following the filing
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1 of an Information (an Information being the charging document filed by the District Attorney following
2 a preliminary hearing).

3 3.11 In order to effectuate an early resolution of felony cases, the Riverside Superior
4 Court has designated Vertical Calendar Departments (VCDs) in the Mid and Western County Region.
5 These Departments have been established to reduce the backlog of criminal cases and ensure that
6 criminal cases will not be dismissed under the speedy trial requirements of Penal Code Section 1382.

7 (a) ATTORNEYS shall dedicate experienced criminal law attorneys to be assigned to
8 Departments designated as the Vertical Calendar Department (VCD) in the Mid and Western County
9 Region. These sub-contracting attorneys shall be available to the designated Departments during normal
10 Court business hours. ATTORNEYS understand that the availability of the sub-contracting attorneys to
11 the assigned Department(s) is of paramount importance;

12 (b) ATTORNEYS shall assume full responsibility for assigning only sub-contracting
13 attorneys who have the necessary experience, qualifications and capabilities to handle cases assigned to
14 these specialty departments;

15 (c) ATTORNEYS understand that the restructuring of these specialized departments
16 is a concept being utilized by the Riverside Superior Court for case flow management, and may be
17 changed or discontinued by the Court at any time. ATTORNEYS further understand that the COUNTY
18 cannot guarantee that the need for the sub-contracting attorneys will continue. The COUNTY retains
19 the right to determine that there is no longer a need to provide full time attorneys to the specialized
20 departments based on their underutilization or the Court's redesignation of these departments. If for any
21 reason the Court discontinues one or more of the Felony VCD's, ATTORNEYS and COUNTY shall
22 negotiate appropriate adjustments to the contract services and associated compensation;

23 (d) ATTORNEYS understand that pursuant to this contract with COUNTY, they are
24 obligated to handle all cases filed in the Riverside Superior Court Mid and Western County Region upon
25 notification of a conflict of interest by the Office of the Public Defender and that the additional attorneys
26 assigned to the specialized departments is solely due to the request of the Superior Court and the
27 Administrative Office of the Courts that the specialized departments be staffed with dedicated, well
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1 qualified attorneys from the District Attorney's Office, the Public Defender's Office and by Contract
2 Panel Attorneys;

3 (e) ATTORNEYS shall report the following information to the COUNTY as
4 requested: the cases assigned to all VCD'S, providing the department number, case number, date
5 assigned, charge, name of assigned attorney, and any other relevant information.

6 4. EXCLUSIONS. ATTORNEYS shall not be obligated under this Contract to
7 provide defense in the following cases:

8 (a) Stand-by or Co-Counsel when a defendant has waived counsel or represents
9 himself in propria persona;

10 (b) All post-trial appellate proceedings including appeals to the Appellate Department
11 of Superior Court or higher Appellate Courts;

12 (c) All federal proceedings;

13 (d) All parole violation hearings;

14 (e) All civil forfeiture proceedings;

15 (f) Any case in which the Court either removes or refuses to appoint the Public
16 Defender on other than conflict grounds or fails to make an actual finding of incompetence under
17 "Marsden".

18 5. ADMINISTRATIVE DUTIES. ATTORNEYS shall assign an Administrative
19 Attorney under this Contract. In cases involving multiple defendants, the Administrative Attorney shall
20 designate counsel for each defendant. In no case shall the designating Attorney appoint him or herself
21 as Trial Attorney in such multiple defendant cases.

22 6. PERFORMANCE MANAGEMENT. ATTORNEYS shall have the responsibility
23 for significant administrative duties under this contract to avoid conflicts of interest and monitoring
24 subcontracting attorneys. The purpose of monitoring individual attorney caseloads is to ensure that all
25 clients represented under this contract receive effective assistance of counsel under the Constitutions of
26 the United States and the State of California.

27 6.1 ATTORNEYS shall require each subcontracting attorney participate in
28 Mandatory Continuing Legal Education programs focusing on applicable law including but not limited

1 to criminal law and procedure, and trial advocacy law. ATTORNEYS shall encourage subcontracting
2 attorneys to participate in shared training with the Public Defender to the extent possible.
3 ATTORNEYS shall review on a yearly basis the performance of each subcontracting attorney. This
4 review shall include inquiry and/or observation by ATTORNEYS of the performance of the independent
5 subcontractor in a trial or other relevant courtroom setting. ATTORNEY will require the subcontracting
6 attorney to provide proof of attendance at MCLE programs and to report participation in educational
7 programs or other informal training. ATTORNEYS will assure that only attorneys with the requisite
8 skill and experience handle particular category(ies) of cases and are assigned to such cases.
9 ATTORNEYS shall periodically monitor and evaluate the work of investigators and the performance of
10 experts and other providers of ancillary services.

11 6.2 ATTORNEYS shall immediately notify COUNTY in writing when it become
12 aware that a complaint lodged with the California State Bar Association/discipline body has resulted in a
13 reprimand, suspension or disbarment of any attorney who is a member of ATTORNEYS' staff or
14 working as a subcontractor.

15 6.3 In addition to the monthly reports required under Section 11.1 of this contract,
16 ATTORNEYS shall submit the following quarterly written reports to the COUNTY. COUNTY may, at
17 its option, request these reports be submitted on a monthly basis. . The quarterly reports shall include:
18 a summary on the evaluation of the investigators and other providers of ancillary services used under
19 this contract; a summary of subcontract attorney evaluations and observations; average number of
20 MCLE approved training hours; participation in other educational programs related to the practice of
21 criminal law; case aging reports; and any other information that may be indicative of the quality of
22 representation provided by ATTORNEYS, or such other information as requested by COUNTY. The
23 report shall be accompanied by a certification from ATTORNEYS that they have reviewed the
24 performance of each independent subcontractor as described in 6.1 above. At the COUNTY's request,
25 ATTORNEYS shall meet to discuss all cases and contract issues at any time during the contract period.

26 7. COMPENSATION. The contract cost for April 1, 2010 through December 31,
27 2010 shall be a maximum of \$5,199,750 plus expenses as set forth in Section 8 herein. COUNTY shall
28 pay ATTORNEYS up to the sum of \$577,750.00 per month paid in arrears. It remains the responsibility

1 of the ATTORNEYS to oversee the budgeted funds to ensure they are properly disbursed to provide the
2 legal services required under this Contract.

3 7.1 It is understood that, to the extent, ATTORNEYS' constitutional and necessary
4 level of legal representation under the Contract may tend to justify additional payment, such necessary
5 services in all but the most extreme circumstances, will all be considered by the ATTORNEYS to be
6 their pro bono publico contribution to the administration of justice.

7 7.2 If, in addition, in ATTORNEYS' estimation an extreme circumstance arises,
8 ATTORNEY may make a timely request for additional compensation from the County Executive
9 Office. Extreme circumstances shall generally be limited to extremely protracted felony cases; cases
10 involving trial for more than three defendants assigned to the Contract, extraordinary change of venue
11 cases involving extreme expense, and such similar circumstances as may arise. ATTORNEYS' request
12 must be in writing and include a complete justification of action or anticipated extra expenses and
13 complete itemization of requested extraordinary payment.

14 7.3 For every death penalty case beyond the two (2) specified in Section 3.1 herein
15 for which ATTORNEYS agreed to provide service under this Contract, ATTORNEYS agree to to assist
16 the COUNTY and the Court by seeking qualified counsel to accept the case(s). ATTORNEYS shall
17 send a letter to the County Executive Office recommending the appropriate case category, and will
18 qualify the attorneys for each case, providing a brief description of the qualification of counsel or remit
19 *CR-191 Declaration of Counsel For Appointment In Capital Case*, and enumerate the circumstances
20 indicative of the suggested category as set out and approved by the Riverside County Board of
21 Supervisors and adopted by the Riverside Superior Court as Court Policy Memorandum
22 (Administrative) #C10.4 adopted 11/21/07. If ATTORNEYS are unable to recommend counsel, or if
23 circumstances arise where it is necessary for the COUNTY to find representation for Defendant(s),
24 ATTORNEYS shall immediately notify COUNTY and the County Executive Office will assist in
25 finding counsel with the help of County Counsel.

26 7.4 Compensation of these Death Penalty appointed counsel will be paid by the
27 County Executive Office upon review and approval of a written invoice. Compensation will be based
28 on the percentages set out in the Board and/or Court Policy Memorandum #C10.4 or upon approval of

1 the County Executive Officer or his/her designee. ATTORNEYS shall review billings, if requested by
2 the County Executive Office.

3 7.5 With respect to the total contract price, at the end of the contract term, the
4 COUNTY shall review the number of Death Penalty cases handled by ATTORNEYS, and if the number
5 of cases handled are less than specified in Section 3.1(b), the parties will meet and confer with regard to
6 an equitable adjustment to the contract compensation and reimbursement to COUNTY.

7 8. EXPENSES. ATTORNEYS shall pay all costs of specialized and professional
8 services reasonably necessary to assist in the defense and preparation and presentation of their case,
9 including for those cases designated "overload", including: medical and psychiatric examination:
10 investigative services: expert testimony: forensic services: language interpretation: discovery costs:
11 reporter's transcripts: and fees for experts appointed pursuant to statute: from a trust account they hold
12 for the County of Riverside, except for those services reimbursed pursuant to Penal Code § 987.9.
13 ATTORNEYS shall, within 90 days after the start date of this Contract, provide the County Executive
14 Office with a written policy, acceptable to the County Executive Office, governing the use and
15 accounting of the trust account(s) established pursuant to this Section 8. ATTORNEYS shall
16 disseminate these policies and procedures to all attorneys that they engage to provide services under this
17 contract. ATTORNEYS shall require their attorneys to provide all their investigators and other
18 specialized and professional service vendors with the ATTORNEYS' written policies and procedures
19 pertaining to approval, invoicing and payment. The written policy shall address the issues described in
20 Attachment A. For these services during the contract term, the sum of \$40,000, per month, for Western
21 County cases, and \$35,000 per month for Mid County cases, shall be paid to ATTORNEYS monthly, in
22 arrears, and set aside monthly and maintained in a separate interest bearing trust accounts for this
23 purpose, EXCEPT that payments shall be suspended when the balance in ATTORNEYS' trust account
24 for all criminal Penal Code 987.2 cases exceeds \$45,000 for each region. Additionally, upon written
25 agreement of ATTORNEYS and the County Executive Officer, or designee, the monthly expense
26 payments may be modified in amount or timing but in no event shall exceed the maximum amount per
27 month as set forth in this Section 8. Any interest accrued from these funds will be redeposited into the
28 respective trust account and used by the ATTORNEYS to pay the costs incurred herein (Business &

1 Professions Code §6211(b)). These funds remain the property of the County of Riverside and at the end
2 of the contract, or upon request of COUNTY, all or a portion of the unexpended funds shall be returned
3 to COUNTY, and an accounting provided to the County Executive Office within 30 days of termination,
4 for all sums expended, including accrued interest. ATTORNEYS may not expend from the Criminal
5 trust account more than \$5,000 per death penalty case for law clerk or paralegal services without
6 approval from the County Executive Officer.

7 9. TERMINATION. Either Party may cancel this Contract, in whole or in part, on
8 ninety-(90) day's written notice to the other party. In the event this Contract is canceled, ATTORNEYS
9 shall be responsible for the matters currently assigned to ATTORNEYS as set forth in Section 24.3.

10 10. INDEPENDENT COUNSEL. ATTORNEYS are, and shall at all times be
11 deemed independent and shall be wholly responsible for the manner in which they perform the services
12 required by this Contract. ATTORNEYS exclusively assume responsibility for the acts of their
13 employees and subcontractors as they relate to the services to be provided during the course and scope
14 of their employment. ATTORNEYS, their agents, employees and independent contractors and their
15 agents and employees shall not be considered in any manner to be employees of the County of
16 Riverside.

17 11. RECORDS. ATTORNEYS shall keep sufficient records to enable COUNTY to
18 establish the cost of representing each individual in Court proceedings and allow County of Riverside to
19 attempt to recover such costs from whoever may be obligated to reimburse the COUNTY.

20 11.1 ATTORNEYS shall furnish monthly reports, within ten (10) days of the end of
21 each month, on opened and concluded cases to the County Executive Office. Such reports shall be in a
22 format as specified by the County Executive Office, and include name of defendant; type of case; case
23 number; charge; disposition; number of cases opened, closed and reopened, transferred, or where a
24 substitution for previously appointed counsel has occurred; and a notation of which cases ATTORNEYS
25 were appointed on under Section 3.1 a), b), c), and d) herein. ATTORNEYS understand that COUNTY
26 relies on the monthly reports to determine the cost of services and that any correction or adjustment to
27 the report must be done in a timely manner not to exceed sixty (60) days from the required submission
28 date of the monthly report by ATTORNEYS. ATTORNEYS shall also furnish a monthly report of

1 expenditures for the criminal trust account funds, that includes the vendor, type of expense (e.g.,
2 investigation, expert, etc.), client/case identifier (not name and/or case number of defendant), and
3 amount of expense. The report shall additionally include the current balance of the account.
4 ATTORNEYS shall utilize a standard electronic accounting system to input and maintain data and
5 compile records. Should ATTORNEYS feel an indigent defendant referred does not qualify for
6 services, ATTORNEYS shall immediately so advise defendant and the Court and request determination
7 by the Court. In no event shall ATTORNEYS accept anything of value as consideration for services
8 rendered to any indigent defendant that ATTORNEYS have been appointed to represent by the Courts,
9 except as provided in this Contract. ATTORNEY shall not charge any defendant for services rendered
10 pursuant to this Contract.

11 11.2 For all cases where ATTORNEYS are providing legal counsel to any state inmate
12 charged with an offense during the time sentenced to a state correctional facility, ATTORNEYS shall
13 track the hours related to handling that specific case. Attorney hours are a specific requirements of the
14 State of California in order for counties to seek reimbursement for indigent defense services provided on
15 behalf of state indigent inmates' charged with a crime while in custody. The report on these hours shall
16 be submitted with the monthly statistics.

17 11.3 Records maintained by ATTORNEYS' shall be sufficient to reflect all direct and
18 indirect costs of services performed pursuant to this contract and the cost associated with each case,
19 including those related to subcontracts and personal service contracts. These records shall include but
20 not be limited to: documentation of any funds expended by ATTORNEY for personal service contracts
21 or subcontracts; documentation of the service rendered under the contract(s); and reports of the time
22 spent by each subcontractor or personal service contractor.

23 11.4 COUNTY may, at its discretion, audit or inspect ATTORNEYS' files, books
24 and/or financial records relating to the Contract, at any reasonable times. ATTORNEYS shall be audited
25 by an outside auditor a minimum of once every twelve months, at the end of the contract period.
26 ATTORNEYS shall be responsible for one-half of the cost of the audit. ATTORNEYS agree to make
27 available for inspection, without restrictions, all books, statements, ledgers and other financial records
28 for a period of five (5) years from the termination of this Contract. All financial records shall be kept, or

1 made available to County of Riverside, at ATTORNEYS' principal place of business at 3685 Main
2 Street, Suite 250, Riverside, California. ATTORNEYS agree to grant COUNTY full access to materials
3 necessary to verify compliance with all terms of this contract. ATTORNEYS shall provide COUNTY
4 right of access to its facilities to audit information relating to the matters covered by this contract.
5 Information that may be subject to any privilege or rules of confidentiality should be maintained by
6 ATTORNEYS in a way that allows access by COUNTY without breaching such confidentiality or
7 privilege. Notwithstanding any of the above provisions of this paragraph, none of the constitutional,
8 statutory, and common rights and privileges of any client are waived by this contract and COUNTY will
9 respect the attorney/client privilege.

10 12. HOLD HARMLESS. ATTORNEY shall indemnify and hold the COUNTY,
11 Special Districts, their respective directors, officers, Board of Supervisors, agents, elected officials and
12 employees free and harmless from any liability, whatsoever, based or asserted upon any act(s) or
13 omissions(s) of ATTORNEYS, their employees, agents and subcontractors, for property damage,
14 bodily injury, or death or any other element of damage of any kind or nature, relating to or in anyway
15 connected with or arising from the accomplishment of the services to be performed by ATTORNEYS
16 hereunder; and ATTORNEYS shall defend, at its sole expense, including attorney fees, COUNTY,
17 Special Districts, their respective directors, officers, Board of Supervisors, agents, elected officials and
18 employees in any legal action (s) or claims(s) based upon such alleged act(s) or omission(s) whether
19 the subject action(s) or claim(s) are well-founded, properly filed or pleaded, or not commenced in a
20 court of competent jurisdiction.

21 13. INSURANCE: Without limiting or diminishing the ATTORNEYS' obligation to
22 indemnify or hold the COUNTY harmless, ATTORNEYS shall procure and maintain or cause to be
23 maintained, the following insurance coverages during the term of this Agreement.

24 13.1 Workers' Compensation: If ATTORNEYS have employees as defined by the
25 State of California, ATTORNEYS shall maintain statutory Workers' Compensation Insurance (Coverage
26 A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability
27 (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per
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1 accident. Policy shall be endorsed to waive subrogation in favor of the County of Riverside; and, if
2 applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

3 13.2 Commercial General Liability: ATTORNEYS shall maintain Commercial
4 General Liability insurance coverage, including but not limited to, premises liability, unmodified
5 contractual liability, completed operations, personal and advertising injury covering claims, which may
6 arise from or out of ATTORNEYS' performance of its obligations hereunder. Policy shall name the
7 County of Riverside, its special districts, agencies, districts and departments, their respective directors,
8 officers, Board of Supervisors, elected officials, employees, agents or representatives as an Additional
9 Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single
10 limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or
11 be no less than two (2) times the occurrence limit.

12 13.3 Vehicle Liability: If vehicles or mobile equipment are used in the performance of
13 the obligations under this Agreement, ATTORNEYS shall maintain liability insurance for all owned,
14 non-owned or hired vehicles in an amount not less than \$1,000,000 per occurrence combined single
15 limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or
16 be no less than two (2) times the occurrence limit. Policy shall name the County of Riverside, its special
17 districts, agencies, districts and departments, their respective directors, officers, Board of Supervisors,
18 elected officials, employees, agents, or representatives as an Additional Insured.

19 13.4 Professional Liability: ATTORNEYS shall maintain Professional Liability
20 Insurance providing coverage for performance of work included within this Agreement, with a limit of
21 liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If ATTORNEYS'
22 Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such
23 insurance shall continue through the term of this Agreement. Upon termination of this Agreement or the
24 expiration or cancellation of the claims made insurance policy ATTORNEYS shall purchase either 1) an
25 Extended Reporting Endorsement (also known as Tail Coverage); or, 2) Prior Dates Coverage from a
26 new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or, 3)
27 demonstrate through Certificates of Insurance that Consultant has maintained continuous coverage with
28 the same or original insurer. Coverage provided under items; 1), 2) or 3) will continue for a period of

1 five (5) years beyond the termination of this Agreement. The ATTORNEYS shall provide proof of
2 coverage to COUNTY within 30 days of execution of the Contract.

3 13.5 Blanket Commercial Crime Policy: ATTORNEYS shall maintain a Blanket
4 Commercial Crime Policy including, but not limited to, coverage provided under Forms 'A', 'B' and 'F'
5 for all Directors, Officers, employees, agents and representatives who may be involved in any way with
6 the direction, handling, depositing, payment or other function that involves COUNTY funds associated
7 with the performance of this Contract with a limit of liability of not less than an amount per loss equal
8 to, or greater than, the maximum amount of COUNTY money that may be in trust with the
9 ATTORNEYS at any one time. The coverage will remain in force for at least three (3) years subsequent
10 to the termination of this Agreement or until that time when all moneys have been reconciled and the
11 COUNTY has agreed in writing that all financial issues have been completed and the ATTORNEYS no
12 longer has any COUNTY assets held in the Trust as defined herein. If this coverage is written on a
13 Claims-Made basis, the ATTORNEY will provide either 1) an Extended Reporting Endorsement (also
14 known as Tail Coverage); or, 2) Prior Dates Coverage from a new insurer with a retroactive date back to
15 the date of, or prior to, the inception of this Contract; or, 3) demonstrate through Certificates of
16 Insurance that ATTORNEYS have maintained continuous coverage with the same or original insurer.
17 Such extended claims made coverage shall be maintained for a period of three years or until that time
18 when all moneys have been reconciled and the COUNTY has agreed in writing that all financial issues
19 have been completed and the ATTORNEYS no longer has any COUNTY assets held in the Trust as
20 defined herein. In the alternative, ATTORNEYS may obtain a Fidelity Bond acceptable to COUNTY.

21 13.6 General Insurance Provisions - All lines:

22 (a) Any insurance carrier providing insurance coverage hereunder shall be admitted
23 to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such
24 requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager
25 waives a requirement for a particular insurer, such waiver is only valid for that specific insurer and only
26 for one policy term.

27 (b) The ATTORNEYS' insurance carrier(s) must declare its insurance self-insured
28 retentions. If such self-insured retentions exceed \$500,000 per occurrence, such retentions shall have

1 the prior written consent of the County Risk Manager before the commencement of operations under
2 this Agreement. Upon notification of self insured retentions which are deemed unacceptable to the
3 COUNTY, at the election of the County's Risk Manager, ATTORNEYS' carriers shall either; 1) reduce
4 or eliminate such self-insured retentions as respects this Agreement with the COUNTY, or 2) procure a
5 bond which guarantees payment of losses and related investigations, claims administration, defense
6 costs and expenses.

7 (c) The ATTORNEYS shall cause their insurance carrier(s) to furnish the County of
8 Riverside with 1) a properly executed original Certificate(s) of Insurance and certified original copies of
9 Endorsements effecting coverage as required herein; or, 2) if requested to do so orally or in writing by
10 the County Risk Manager, provide original Certified copies of policies including all Endorsements and
11 all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and
12 policies of insurance shall contain the covenant of the insurance carrier(s) shall provide no less than
13 thirty (30) days written notice be given to the County of Riverside prior to any material modification or
14 cancellation of such insurance. In the event of a material modification or cancellation of coverage, this
15 Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective
16 date, another properly executed original Certificate of Insurance and original copies of endorsements or
17 certified original policies, including all endorsements and attachments thereto evidencing coverages and
18 the insurance required herein is in full force and effect. Individual(s) authorized by the insurance carrier
19 to do so on its behalf shall sign the original endorsements for each policy and the Certificate of
20 Insurance. ATTORNEYS shall furnish COUNTY with original Certificate(s) of Insurance and certified
21 original copies of endorsements or policies of insurance including all endorsements and any and all
22 other attachments as required in this. The ATTORNEYS shall provide proof of coverage to COUNTY
23 within 7 days of execution of the Contract.

24 (d) It is understood and agreed by the parties hereto and the ATTORNEYS' insurance
25 company(s), that the Certificate(s) of Insurance and policies shall so covenant and shall be construed as
26 primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retentions or
27 self-insured programs shall not be construed as contributory.

1 (e) If, during the term of this Agreement or any extension thereof, there is a material
2 change in the scope of services or performance of work the Risk Manager of the County of Riverside
3 reserves the right to adjust the types of insurance required under this Agreement and the monetary limits
4 of liability for the insurance coverages required herein, if; in the County Risk Manager's reasonable
5 judgment, the amount or type of insurance carried by the ATTORNEYS has become inadequate.

6 14. MATERIAL BREACH. Notwithstanding the provisions of Section 2., the failure
7 of ATTORNEYS or their agents, subcontractors or employees to comply with the terms of this Contract
8 and any reasonable directions, by or on behalf of the COUNTY, issued pursuant thereto shall constitute
9 a material breach of Contract by ATTORNEYS, and, in addition to any other remedy authorized by law,
10 COUNTY shall have the right to terminate said Contract immediately. Failure to exercise this right of
11 termination shall not constitute a waiver of such right, which may be exercised at any subsequent time.
12 At the option of COUNTY, this Contract may be terminated upon the happening of any of the following:

- 13 (a) Violation of any material provision of this Contract;
- 14 (b) Institution of proceedings by, or against, any ATTORNEYS under the bankruptcy
15 laws of the United States;
- 16 (c) Discovery that this Contract was obtained through fraud by commission or
17 omission;
- 18 (d) Suspension of business operation, or receivership, of ATTORNEYS;
- 19 (e) Any assignment of this Contract without prior COUNTY approval;
- 20 (f) The institution of disciplinary proceedings against any ATTORNEYS by the
21 California State Bar; or
- 22 (g) The commencement of criminal prosecution of any ATTORNEYS in any Court
23 anywhere;
- 24 (h) Failure to observe the Rules of Professional Conduct, including Rule 3-310.
- 25 (i) Failure to comply with the provisions of section 3.8 herein.

26 14.1 It is understood that the above-noted items are not exclusive of any other causes
27 for termination, and failure of COUNTY to exercise its rights to terminate shall not constitute waiver of
28 such right, which may be exercised at any subsequent time.

1 15. CONFLICT OF INTEREST. ATTORNEYS shall exercise reasonable care and
2 diligence to prevent any actions or conditions that could result in a conflict of interest. This obligation
3 applies to ATTORNEYS, ATTORNEYS' employees, agents, relative sub-tier contractors, and third
4 parties associated with or accomplishing work for ATTORNEYS under this contract.

5 (a) ATTORNEYS will establish measures to prevent employees or agents from
6 making, receiving, providing, or offering gifts, entertainment, payment, loans, or other considerations,
7 which could be deemed to appear to influence individuals to act contrary to the best interest of the
8 COUNTY.

9 (b) No officer, employee, or agent of COUNTY, the State of California or the Federal
10 Government, who exercises any function or responsibility in connection with the planning and
11 implementation of the services being funded herein shall have any personal financial interest, direct or
12 indirect, in this contract or in Criminal Defense Lawyers.

13 (c) ATTORNEYS shall not sit as Judge Pro Tem in any of the Courts that
14 ATTORNEYS provide representation for indigent services under this contract.

15 (d) ATTORNEYS shall provide conflict free representation. ATTORNEYS are
16 aware of *Christian v. Jackson* (1996) 41 C.A.4th 986, and *Castro v. Los Angeles Board of Supervisors*
17 (1991) 232 C.A.3d 1432, and the guidelines expressed therein.

18 16. PRIVATE PRACTICE. ATTORNEYS shall not be prohibited from engaging in
19 the private practice of law, including the defense of those charged with crimes or any and all
20 proceedings in the Courts of the County of Riverside. ATTORNEYS shall not accept in his or her
21 private practice any case, which may cause a conflict of interest, which would preclude ATTORNEYS
22 from providing representation to indigents pursuant to this Contract. If ATTORNEYS or attorney
23 subcontractors split their work between work under this contract and other business, the monthly report
24 will indicate the percentage of time that attorney(s) devote to private matters compared to work under
25 this contract, and also include a certification by each attorney subcontractor(s) regarding such time.

26 17. WAIVER. No waiver by any party of any existing default by any other party
27 shall be deemed to waive any subsequent default by such party.

1 18. ASSIGNMENT: This Agreement shall not be assigned by ATTORNEYS, either
2 in whole or in part, without prior written consent of COUNTY. Any assignment or purported
3 assignment of this Agreement by Consultant without the prior written consent of COUNTY will be
4 deemed void and of no force or effect.

5 19. CUMULATIVE RIGHTS. All rights hereunder are cumulative, not alternative,
6 and are in addition to any other rights given by law.

7 20. ENTIRE AGREEMENT. This Contract supersedes any prior agreements
8 between the Parties and is the sole basis for Contract between the Parties. This Contract expresses the
9 understandings of the Parties concerning all matters covered.

10 21. ALTERATION. No addition to, or alteration of, the terms of this Contract,
11 whether by written or oral understanding of the Parties, their officers, agents or employees, shall be
12 valid unless made in the form of written amendment to this Contract and formally approved by the
13 Parties.

14 22. SUBCONTRACTS. The Parties agree that ATTORNEYS shall not sign contracts
15 with subcontractors wherein there is a clause in said contracts prohibiting subcontractors from
16 submitting proposals when COUNTY solicits proposals for Indigent Defense Services.

17 23. NONDISCRIMINATION. Neither ATTORNEYS nor any subcontractor or other
18 party providing services related to this contract, shall discriminate on the basis of race, color, sex,
19 religion, national origin, creed, marital status, age, sexual orientation, or the presence of any sensory,
20 mental or physical handicap, in employment or application for employment, subcontracting or in the
21 administration or delivery of services or any other benefit under this contract.

22 24. CONTINUITY OF REPRESENTATION. The Parties agree that at the
23 conclusion of this Contract term, or earlier if the Contract is canceled by either Party, that there will be a
24 need to provide for the existing caseload through its completion. Continuity of counsel is desired where
25 there is an established attorney-client relationship. Each case will be reviewed independently. To that
26 end, COUNTY agrees for the sake of the clients, to have any successor attorney absorb matters not yet
27 set for trial.

28 24.1 As to those cases already set for trial, the Parties agree upon the following:

1 (a) Any case, except Special Circumstance Homicides, that is originally set for trial
2 with a trial date more than 90 days after the expiration of this Contract, or any case including Special
3 Circumstance Homicides or vertical prosecution cases in which arraignment is pending in the Superior
4 Court will be transferred to the new attorney if there is one, if no conflict of interest exists;

5 (b) Special Circumstance Homicides that have been assigned to ATTORNEYS for
6 less than 180 days shall be transferred to successor attorney. ATTORNEYS will assist new counsel in
7 preparation as requested by that counsel;

8 (c) It is anticipated that ATTORNEYS or subcontract attorneys will remain as
9 counsel on all other Special Circumstance cases set for trial, all vertical prosecution cases set for trial,
10 and all other felonies in which a trial date is, or has previously been, set by that ATTORNEYS.

11 24.2 The first two provisions above provide for transfer of cases to successor attorney
12 and responsibility for providing adequate legal counsel, but the Parties agree that the Court can hear any
13 motion brought by any counsel on behalf of any client affected by this process and that decision may be
14 contrary to this process.

15 24.3 For those cases that cannot be transferred to successor attorney, the Parties agree
16 that the COUNTY's liability for costs shall be limited to the following:

17 (a) COUNTY shall pay ATTORNEYS up to one additional month at current
18 negotiated rates, which will compensate for trial preparation and trial except as set forth below. For
19 those cases originally scheduled for trial during the Contract term or within 60 days of the termination of
20 the Contract, no additional payment is provided beyond the per case cost as reflected in Section 23, not
21 to exceed one month's compensation.

22 (b) For those cases originally set for trial more than 60 days after termination of the
23 Contract, the following payment schedule will apply:

24 Special Circumstance Homicides	\$500/day or \$250/half day per Attorney
25	Trial or motion (excluding 1050 motions)
26 Vertical Prosecution and Non-	\$400/day or \$200/half day
27 Special Circumstance Homicides	Trial or motion (excluding 1050 motions)
28 Other	\$350/day or \$175/half day

Trial or motion (excluding 1050 motions)

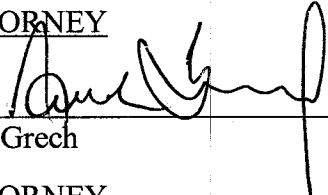
1
2 (c) It is agreed that if a case has been assigned to ATTORNEYS during the term of
3 this Contract, costs of ATTORNEYS preparation have already been paid, and only motion and trial
4 costs will be paid in addition as set forth above. Special Circumstance Homicides are the exception, and
5 each case that has been assigned to the ATTORNEYS for less than 180 days but cannot be transferred to
6 successor counsel due to a conflict, will be negotiated separately with a representative from the County
7 Executive Office and the ATTORNEYS to cover the cost of ATTORNEYS preparation. Any
8 exceptional cases may be negotiated separately as well.
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1 25. NOTICES. All correspondence and notices required or contemplated by this Agreement
2 shall be delivered to the respective parties at the addresses set forth below and are deemed submitted one
3 (1) day after their deposit in the United States Mail, postage prepaid:

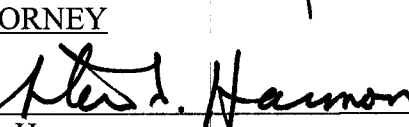
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5 County of Riverside
6 County Executive Office
7 4080 Lemon St. 4th Floor
8 Riverside, CA 92501
9 Attn: County Executive Officer

ATTORNEY
Criminal Defense Lawyers
3685 Main Street, Suite 250
Riverside, CA 92501
Attn: Paul Grech or Steve Harmon

10 DATED: 3/31/2010

9 ATTORNEY
By 
11 Paul Grech

12 DATED: 3-31-10

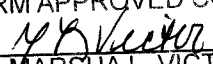
ATTORNEY
By 
14 Steve Harmon

15 DATED: _____

County of Riverside
By _____
17 Chairman, Board of Supervisors

16 ATTEST:
17 Kecia Harper-Ihem, Clerk

19 By _____
20 Deputy

21
22
23
24
25
26 FORM APPROVED COUNTY COUNSEL
27 BY:  3/31/10
MARSHAL L. VICTOR DATE

1 (3) ATTORNEY shall include the following policies and procedures regarding invoices for
2 specialized and professional services, and insure their subcontract attorneys and any subsequent vendors
3 adhere to these policies and procedures:

4 (a) Invoices will include all case identifiers described above; travel time, start and end locations
5 when requesting reimbursement for miles; accurate total miles, total hours, and total dollar
6 amounts; billing by the tenths or quarter of an hour, whichever is less; and total hours authorized,
7 used and remaining on the case.

8 (b) ATTORNEY shall ensure by their signature on the invoice that the work performed was
9 consistent with what was described and authorized in the corresponding "Request for Approval",
10 and those the dates for which hours are billed were after the date of approval for investigative
11 work and before the case was close.

12 (c) ATTORNEY shall review all invoices to ensure that the work performed is consistent with what
13 was described in the Request for Approval and the number of hours approved and was conducted
14 after the date of approval and before the case was closed;

15 (d) Verify that all calculations on the invoices are correct, including use of the correct mileage and
16 hourly rates for investigations;

17 (e) Verify that the dates of each activity are within the billing period for the invoice;

18 (f) Bill in increments of tenth or quarter hours, whichever is lower.

19 (g) Examples of investigative activities that would not be subject to payment by the ATTORNEY
20 include: (i) work performed over the number of hours approved; (ii) worked performed after the
21 date a case was closed; and, (iii) administrative activities that are not considered investigative,
22 such as setting up files, filling out required paperwork for the ATTORNEY, indexing, or placing
23 discovery into binders.

24 (4) The ATTORNEY shall :

25 (a) Assign, record, and track internal file numbers for each case with specialized and professional
26 expenditures by defendant and case.

- 1 (b) Include the internal file numbers as a case identifier in the monthly reports of expenditures of
2 Trust Account Funds, in addition to the vendor, type of service, amount of expense, and current
3 balance of the account.
- 4 (c) Include in the paper documents associated with each payment from Trust Account Funds: (i)
5 individual invoices for each case paid by the check; (ii) a coversheet that includes the cases,
6 amount for each case, and total amount paid or to be paid to the vendor by the subcontract
7 attorney; and (iii) the check number for the final payment to the subcontract attorney or vendor.
- 8 (d) Input into an internal electronic system for each case with specialized and professional
9 expenditures, at a minimum: (i) case identifiers such as the defendant's first and last name, case
10 number, internal file number, ATTORNEY or subcontract attorney, and type of case (e.g.
11 felony, misdemeanor, special circumstance); (ii) information on requests for specialized and
12 professional services such as the dates of the request and approval, type of service (e.g.
13 investigator, expert, etc.), vendor name, number of requests, number of hours or dollar amount
14 approved; and (iii) separate entries on expenditures made on the case that include the date of the
15 invoice, type of service, vendor, hours used, amount of other expenses, total amount billed on the
16 invoice, and the check number for payment.
- 17 (e) Utilize a readily available, inexpensive electronic software that is able to run reports using the
18 above information and provide: (i) the total expenditures, number of requests, hours approved,
19 used, and remaining on a particular case; (ii) average cost per case and/or by case type (e.g.
20 felony, misdemeanor, special circumstances); (iii) total and average cost per service charge type
21 (e.g. investigator, expert, etc.); (iv) total and average expenditure per vendor; and (v) average
22 number of hours requested, approved and used per case type.

23 **"Request For Approval" Procedures**

24 (5) The following information shall be required for all initial and any supplemental subcontract
25 attorney "Requests for Approval" for specialized and professional services and shall be maintained in
26 the file unless such request infringes upon attorney client privileges:

- 27 (a) Itemized planned activities (e.g. review discovery, crime scene investigation, review police
28 reports, etc.);

- 1 (b) Whether or not a written report is required;
- 2 (c) Names or initials of witnesses to be contacted and interviewed, if available;
- 3 (d) Anticipated location of planned interviews;
- 4 (e) Consistent case identifiers on all pages, including: defendant first and last name, case number,
- 5 internal file number, and ATTORNEY;
- 6 (f) The number of the request;
- 7 (g) ATTORNEY hours approved and worked to date on the case (for supplemental requests); and,
- 8 (h) Other pertinent information

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