

Supplemental Package Requests

Department 2600000 - INDIGENT DEFENSE
Package B - ATTORNEY COMPENSATION PLAN **Priority** 2
Program PUBLIC DEFENDER **One Time Cost** **Continuing Cost**

Type of Request

New Program Expanded Program Growth Related New Mandate
 Revenue Enhancement Capital Other (explain in description)

	FY2004/05 Recommended	FY2005/06 Annualized	FY2006/07 Annualized	FY2007/08 Annualized	FY2008/09 Annualized
Personal Services	0	0	0	0	0
Supplies & Services	0	0	0	0	0
Capital	0	0	0	0	0
Total Expenditures	0	0	0	0	0
Total Revenues	0	0	0	0	0
Fund Balance Support	0	0	0	0	0
General Fund Support	0	0	0	0	0

Description

In FY2003-2004 the Board of Supervisors took action to increase the salaries for County employed attorneys with less than 16 years of experience in order to assist County legal departments in recruiting and retaining attorneys. In order to retain the more experienced attorneys, and to appropriately compensate those attorneys who are handling capital homicides or performing significant supervisory duties, we are requesting supplemental funding in the total amount of \$98,000 plus benefits of \$13,279 (13.55%) to be allocated as described in the Personal Services explanation.

Personal Services

While we are seeking approval of the entire supplemental request, only item three is a request for additional funding.

1) Authorization to increase the present salaries of the attorneys who have 16 or more years of experience by \$2,300 per year of relevant experience to achieve a minimum salary of \$81,500 for attorneys with 20 or more years of experience. The total funding necessary for these adjustments is \$39,000, which can be achieved from salary savings realized by recent attorney resignations;

2) Authorization to provide a pay differential of \$2,000 for attorneys who are supervising divisions of the Public or Legal Defender's Offices, with the resulting salaries not to exceed \$95,000. The total funding necessary for these adjustments is \$14,000 which can be achieved from salary savings realized by recent attorney resignations;

3) Additional funding of \$98,000 to provide a pay differential of \$10,000 per year for attorneys providing representation in capital cases as lead counsel and \$5,000 per year for those attorneys serving as second chair/co-counsel, with the resulting salaries not to exceed \$95,000. Presently the County pays \$75.00 per hour and \$50.00 per hour to contract attorneys handling capital cases. Attorney fees alone in many capital cases have exceeded \$100,000. Providing this pay differential will more appropriately compensate the in-house attorneys who handle these cases, which are uniformly considered the most difficult and time-consuming cases to defend. This pay differential will also help maintain a sufficient number of in-house attorneys who are qualified and willing to handle these cases. (See Supplemental Package D for further justification for this request).

Supplies & Services

None

Capital Request

None

Revenues

None

Impact if not Funded

Presently, contract attorneys who handle non-death penalty cases are paid \$50.00 per hour for their services. Attorneys handling death penalty cases are paid \$75.00 per hour as first chair, and \$60.00 as co-counsel, in recognition of the increased effort, responsibility and expertise required to handle these cases. In contrast, Assistant Public and Legal Defenders who are assigned death penalty cases are not provided any pay differential for handling these cases. It is unrealistic to expect these attorneys to continue to take these cases without increased compensation.

From 1996 to 2000, the most recent year for which figures are available, the average cost for a death penalty case handled by contract counsel was \$57,686. Some examples of the costs of death penalty representation during that time period were \$269,286 (Imel), \$208,344 (Givens) and \$194,909 (Armstrong). In this fiscal year, lead contract counsel in the retrial of a death penalty case agreed to accept \$125,000 for attorneys fees alone to handle the case. This is not inclusive of the fees for co-counsel, or expenses which may be incurred for expert witnesses and other professional services. Continued assignment of these cases when possible to the Public and Legal Defenders' Offices for the additional sums of (\$10,000 for lead and \$7,500 for co-counsel) is a more prudent expenditure of scarce resources.

Source of Mandate

N/A

Goals & Objectives

N/A

<u>Performance Measure</u>	<u>FY2003/04 Estimated</u>	<u>FY2004/05 Planned</u>	<u>FY2005/06 Planned</u>
n/a			

Supplemental Package Is Not Recommended.

Supplemental Package Requests

Department **2600000 - INDIGENT DEFENSE**
 Package **C - LEGAL DEFENDER JUVENILE PILOT PROGRAM** Priority **3**
 Program **LEGAL DEFENDER** One Time Cost Continuing Cost

Type of Request

New Program Expanded Program Growth Related New Mandate
 Revenue Enhancement Capital Other (explain in description)

	FY2004/05 Recommended	FY2005/06 Annualized	FY2006/07 Annualized	FY2007/08 Annualized	FY2008/09 Annualized
Personal Services	0	0	0	0	0
Supplies & Services	0	0	0	0	0
Capital	0	0	0	0	0
Total Expenditures	0	0	0	0	0
Total Revenues	0	0	0	0	0
Fund Balance Support	0	0	0	0	0
General Fund Support	0	0	0	0	0

Description

Over the past several years, the number of dependency cases which have been filed in Pima County has increased and the cost of providing representation has escalated. These cases require that individual attorneys be appointed to represent the parents as well as the children, and in some cases, more than one of the children or each parent if their interests are divergent. These cases can be protracted and are court intensive. Legislation in December of this year now provides the right to a jury trial for parties to a dependency action, which will dramatically increase the costs associated with appointed counsel.

We are therefore proposing that a Dependency Division be established as a pilot program in the Legal Defender's Office to represent parents in dependency and severance actions. It is further proposed that the Public Defender's Office Juvenile Division expand the scope of its representation of delinquent children to include representation of those children in concurrent dependency actions.

It is anticipated that provision of these services in-house will reduce the reliance on contract attorneys and reduce the costs associated with representation by contract attorneys. Because these offices have not previously been engaged in dependency and severance actions, it is difficult to project the actual number of cases that can be handled or the cost savings.

In-house services will provide the County with greater accountability and control of the costs associated with representation in these proceedings. In the event it is determined in the future that in-house provision of these services is not cost-effective, the employees of this Division can be absorbed into the Legal Defender's Office.

Although this request is budgeted in center 2605010, when it is approved, a new center (LD Juvenile, 2605040) should be created. The supplemental request package should be moved to the new center before budget adoption.

Personal Services

Providing this service will require eight positions:

- 1 Supervising attorney
- 4 Attorneys
- 1 Social Services Worker
- 2 Legal Office Support Specialists

The request anticipates half-year funding of the positions for FY 2004/2005. Accordingly, the positions have been budgeted at 1,040 hours which would need to be fully annualized for the following years. This adjustment is reflected in the financial forecast.

Supplies & Services

The supplies and services budgeted in this request are the routine costs required to operate a law office. The ongoing costs such as office supplies, professional services, travel, phones and bar dues are estimated to be \$32,577 per year.

One-time start up expenses are estimated to be \$39,427 and include items such as desks, chairs, bookcases, filing cabinets, computers, printers and software. The subtraction of start-up expenses is shown in the financial forecast.

Capital Request

One medium duty copier, such as a Mita Ri-6330 is requested.

Revenues

General Fund support will be required.

Impact if not Funded

These parents would continue to be represented at a higher cost by private attorneys who are under contract with Pima County.

Source of Mandate

Arizona Revised Statutes, Article 8-225.A,B, F, and H.2.

Goals & Objectives

To better serve the specific needs of families involved in these proceedings by 1) providing in-house attorneys who specialize solely in this type of practice and 2) by providing a social worker to identify and meet the unique needs of families in Juvenile Court proceedings. Reduce the County's reliance on private attorneys under contract to do this work.

Performance Measure	FY2003/04 Estimated	FY2004/05 Planned	FY2005/06 Planned
n/a			

Supplemental Package Recommended With Changes.

The supplemental package is recommended with funds available from the Budget Stabilization fund.

Supplemental Package Requests

Department **2600000 - INDIGENT DEFENSE**
 Package **D - CAPITAL CASE DEFENDER'S OFFICE** Priority **4**
 Program **PUBLIC DEFENDER** One Time Cost Continuing Cost

Type of Request

New Program Expanded Program Growth Related New Mandate
 Revenue Enhancement Capital Other (explain in description)

	FY2004/05 Recommended	FY2005/06 Annualized	FY2006/07 Annualized	FY2007/08 Annualized	FY2008/09 Annualized
Personal Services	0	0	0	0	0
Supplies & Services	0	0	0	0	0
Capital	0	0	0	0	0
Total Expenditures	0	0	0	0	0
Total Revenues	0	0	0	0	0
Fund Balance Support	0	0	0	0	0
General Fund Support	0	0	0	0	0

Description

Providing effective and high quality representation in death penalty cases is one of the most important obligations entrusted to the County. It is also one of the most expensive mandated services as the County strives to comply with Federal and State Constitutional dictates. In 2002, the United States Supreme Court provided for increased jury protections for individuals charged in capital cases, which has dramatically increased the cost of providing capital representation. The number of capital cases that can be handled by the Public or Legal Defender's Office has been limited by ethical constraints precluding representation where a conflict of interest will occur, and by the sheer volume of capital cases which have been filed by the Pima County Attorney's Office.

We are therefore proposing as a pilot program the creation of a Pima County Capital Case Defender's Office to handle those cases which cannot be handled by the Public or Legal Defender's Office due to ethical constraints posed by conflicts or caseloads. It is anticipated that the Capital Defender's Office, as proposed, will be able to handle 12 new capital cases per year. To the extent there are an insufficient number of capital cases to assign to this Office, the Office can be assigned other complex matters such as non-capital first degree murder cases or sexually violent predator proceedings.

Because the present contract system for capital and other first degree murder cases can be very lucrative for contract attorneys, it is anticipated that the majority of attorneys who would staff this Office would be transfers from either the Public or Legal Defender's Office, assuming that a pay differentials will be allocated for handling these cases. (See Priority #1) In the event this pilot program is not cost-effective, as a result of attrition these employees could be absorbed by their original offices.

Establishment of this Office will offset the contract attorney costs and allow the County to exercise greater accountability and control over the provision of these services.

Although this is requested through the Public Defender's Office, a separate office is necessary to avoid the conflicts of interest that prevent the existing Offices to represent homicide cases. When approved, the request should be moved to a new division (2608000) before budget adoption.

Personal Services

- The new office will need 13 positions:
- 1 Administrative Attorney
- 5 Attorneys
- 1 Law Clerk
- 1 Legal Assistant
- 1 Mitigation Specialist
- 2 Legal Secretaries
- 1 Office Support Level III
- 1 Criminal Investigator Specialist

This request anticipates half-year funding for the positions during the first year. Accordingly, the positions are initially budgeted at 1,040 hours and will need to be fully annualized in the following years. This change is shown in the financial forecast.

Supplies & Services

The supplies and services budgeted in this request are the routine costs required to operate a law office. The ongoing costs such as office supplies, professional services, travel, phones and bar dues are estimated to be \$71,380 per year.

One-time start up expenses are estimated to be \$51,703 and include items such as desks, chairs, bookcases, filing cabinets, computers, printers and software. The subtraction of start-up expenses is shown in the financial forecast.

Capital Request

One medium duty copier, such as a Mita Ri-6330 is requested.

Revenues

None.

Impact if not Funded

The county will continue to rely primarily on contract attorneys to represent people facing homicide charges.

Source of Mandate

The 6th and 14th Amendments of the U.S. Constitution and Article 2, Section 24 of the Arizona Constitution, which require the appointment of counsel capable of rendering effective representation in criminal cases.

Goals & Objectives

Decrease reliance on contract attorneys.

Performance Measure	FY2003/04 Estimated	FY2004/05 Planned	FY2005/06 Planned
New capital homicide cases per year	n/a	6	12

Supplemental Package Is Not Recommended.

Supplemental Package Requests

Department **2600000 - INDIGENT DEFENSE**
 Package **E - ADDITIONAL STAFFING** Priority **5**
 Program **PUBLIC DEFENDER** One Time Cost Continuing Cost

Type of Request

New Program Expanded Program Growth Related New Mandate
 Revenue Enhancement Capital Other (explain in description)

	FY2004/05 Recommended	FY2005/06 Annualized	FY2006/07 Annualized	FY2007/08 Annualized	FY2008/09 Annualized
Personal Services	0	0	0	0	0
Supplies & Services	0	0	0	0	0
Capital	0	0	0	0	0
Total Expenditures	0	0	0	0	0
Total Revenues	0	0	0	0	0
Fund Balance Support	0	0	0	0	0
General Fund Support	0	0	0	0	0

Description

The Public and Legal Defenders' Offices have not received additional staff resources since 1993/94, a period of over ten years. During the last ten years the number of cases requiring court appointed counsel in the Juvenile Court, Superior Court, and Justice Court have increased. Due to Constitutionally mandated limitations on caseloads, the Public and Legal Defenders' Offices have been unable to absorb these excess cases. In FY2003/04, it is anticipated that approximately 1300 Superior Court cases will be assigned to contract counsel as a result of caseload limitations as opposed to conflicts of interest which would preclude the Public or Legal Defender's Office from providing services.

We are therefore requesting funding to support a total of 10 new attorneys and 10 additional support staff, to be allocated to the Public and Legal Defenders' Offices in order to eliminate the reliance on contract attorneys in Superior Court as the result solely of case overflow or prior representation of a client by contract counsel.

Approval of this supplemental package will reduce the costs associated with providing these services and will increase the County's ability to exercise oversight of this function.

Although the request is contained entirely within the Public Defender's Office, the positions, supplies and services will be partially distributed to the Legal Defender's Office before budget adoption. The exact details have not yet been determined.

Personal Services

This package contains a request for the following 20 positions:
 10 Attorneys
 5 Law Clerks
 1 Legal Assistant
 3 Legal Secretaries
 1 Office Support Level III

This request anticipates half-year funding for FY 2004/2005. Accordingly, the positions are currently budgeted for 1,040 hours. They will need to be fully annualized for subsequent years. This adjustment is reflected in the financial forecast.

Supplies & Services

One-time start up expenses are budgeted at \$73,955 for FYU 2004/2005. They include items such as desks, chairs, phones, bookcases, filing cabinets, copier, computers, printers and software. The reduction of one-time supplies and capital after the first year is reflected in the financial forecast.

Ongoing costs such as office supplies, professional services, travel, phone lines, maintenance and bar dues are estimated to be \$58,348 annually.

Capital Request

The request includes one medium duty copier such as a Mita Ri-6330.

Revenues

None.

Impact if not Funded

The County will continue to rely primarily on contract attorneys to represent indigents facing felony charges.

Source of Mandate

The 6th and 14th Amendments of the U.S. Constitution and Article 2, Section 24 of the Arizona Constitution, which require the appointment of counsel capable of rendering effective representation in criminal cases.

Goals & Objectives

Decreased reliance on contract attorneys.

<u>Performance Measure</u>	<u>FY2003/04 Estimated</u>	<u>FY2004/05 Planned</u>	<u>FY2005/06 Planned</u>
Attorney retention rate	n/a	90%	90%

Supplemental Package Is Not Recommended.