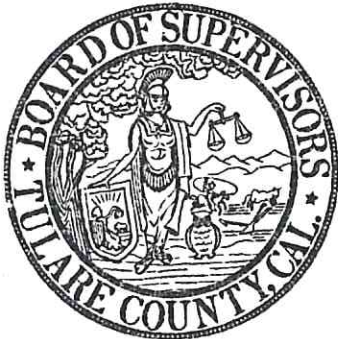


**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF A CONFLICT PUBLIC)
DEFENDER REVIEW) Resolution No. 2018-0634
)

UPON MOTION OF SUPERVISOR SHUKLIAN, SECONDED BY SUPERVISOR ENNIS, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD JULY 24, 2018, BY THE FOLLOWING VOTE:

AYES: SUPERVISORS CROCKER, VANDER POEL, SHUKLIAN, WORTHLEY,
AND ENNIS
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE



ATTEST: MICHAEL C. SPATA
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: Mary Ronello
Deputy Clerk

1. Received the report regarding review of the Conflict Public Defender Services Agreement administered by the Allen Law Firm Inc.; and
2. Provided direction by the Board of Supervisors to the County Administrative Officer regarding a proposed new Conflict Public Defender Services Agreement.



**COUNTY ADMINISTRATIVE OFFICE
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

KUYLER CROCKER
District One

PETE VANDER POEL
District Two

AMY SHUKLIAN
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: July 24, 2018

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
County Counsel Sign-Off	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
CONTACT PERSON: Michael C. Spata PHONE: 559.636.5005				

SUBJECT: Conflict Public Defender Services Review

REQUEST(S):

That the Board of Supervisors:

1. Receive the report regarding review of the Conflict Public Defender Services Agreement administered by the Allen Law Firm; and
2. Provide direction by the Board of Supervisors to the County Administrative Officer regarding a proposed new Conflict Public Defender Services Agreement.

SUMMARY:

On March 29, 2016, the Board of Supervisors approved an Agreement (No. 27554) with the Allen Law Firm to provide Conflict Public Defender Services from April 1, 2016 through December 31, 2018 in the amount of \$8,335,597.42.

After the approval of the original Agreement, the Board of Supervisors approved on November 1, 2016, Amendment No.1 in the amount of \$700,000 for services provided to Special Circumstances Cases or Capital Cases involving the Death Penalty.

Of that amount \$500,000 was provided for the Red Sol Case, an extensive multi-agency gang case, thereby resulting in the arrest of 86 defendants and filing numerous criminal complaints totaling 146 counts, the largest criminal prosecution

SUBJECT: Conflict Public Defender Services Review

DATE: July 24, 2018

in the history of Tulare County.

The remainder of \$200,000 was provided to the Conflict Defender to be used for other cases involving Special Circumstances. This amendment increased the overall amount of the Agreement to \$9,035,597.42.

On April 4, 2017, the Board of Supervisors approved Amendment No. 2 to the original Agreement by adding \$300,000 for attorneys' fees resulting from the Red Sol Case, and to increase Ancillary Costs (e.g., expert and investigative costs) by \$200,000 arising out of the Red Sol case. This amendment increased the overall amount of the original Agreement to \$9,335,597.42.

On October 31, 2017, the Board approved Amendment No. 3 to the Agreement for an increase of an additional \$1,100,000. This increase was applied directly to legal services relating to Special Circumstances Cases. This amendment increased the overall amount of the original Agreement to \$10,435,597.42, an increase of \$1,100,000.00 primarily because of the Red Sol Case.

1. Performance Review

During this contract period, the Allen Law Firm made several key process improvements relating to Performance Management applicable to Legal Services and Fiscal Management. (See Attachment 1, Performance Review Submitted by Allen Law Firm.)

In terms of Legal Services, the Conflict Defender established open lines of communication with the Court; modified attorney assignments; created conflict defender teams; and conducted regular meetings with Court representatives. (See Attachment 1, Performance Review.)

These improvements to Legal Services are noted with approval by Gary L. Paden, Judge, Tulare County Superior Court; Stephanie Cameron, Court Executive Officer; Tim Ward, District Attorney; and Michelle Bonwell, Chief Probation Officer. (See Attachment 2, Supporting Letters for Allen Law Firm.)

In connection with Fiscal Management, the Conflict Defender was able to reduce costs by reassigning the Red Sol cases from outside attorneys to in-house conflict defender attorneys, resulting in a savings of approximately \$850,000. Specifically, at the outset of the Red Sol prosecution, 51 defendants were assigned to outside attorneys by the prior Conflict Defender. The current Conflict Defender has been able to reduce the number of outside attorneys from 51 to 4. The current Conflict Defender may also be able to reduce costs even further for outside counsel fees by an additional \$150,000 by reassigning two potential Death Penalty cases to contract attorneys.

In addition, by requiring prior approval for Ancillary Services, the Conflict Defender has saved almost \$100,000 by applying this new management process. These improvements to Fiscal Management are reflected in Attachment 3 (Fiscal

SUBJECT: Conflict Public Defender Services Review
DATE: July 24, 2018

Management Expenses).

2. Direction by Board of Supervisors

On December 15, 2015, the County Administrative Office released a Request for Proposal (RFP) for Conflict Defender Services. A vendor conference was held on January 15, 2016. Three responses to the RFP were received. The responses were reviewed by a committee comprising representatives from the Public Defender, County Counsel and the County Administrative Office. Input was provided by the Tulare County Superior Court.

After review of a number of factors, the Allen Law Firm was selected on the basis of proposed strategies, business structures, levels of service coverage, and proposed pricing. One protest was filed and the Board awarded the agreement to the Allen Law Firm with the proviso that a performance review be conducted within one year of award. That review was conducted on April 4, 2017; and, after review (including no objections filed by the original protesting attorney), the Board received the favorable report regarding the performance review of the Allen Law Firm.

Based on the above discussion, the question is whether the RFP process should be followed prior to the expiration of the current Agreement on December 31, 2018 and before a new Conflict Defender Services Agreement is awarded. As a practical matter, the fiscal magnitude of the proposed legal services agreement may suggest that the RFP process be followed.

FISCAL IMPACT/FINANCING:

There is No Net County Cost associated with this Agenda Item as no funding requests are made for the Conflict Defender Agreement and no new Agreement is proposed for approval by this Agenda Item.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

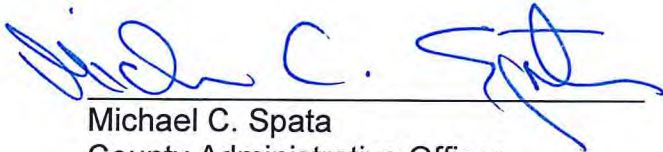
Tulare County's Strategic Plan includes the Goal of Organizational Performance, and as such, the improvement of legal services and fiscal administration associated with this agreement is in keeping with effective organizational performance.

SUBJECT: Conflict Public Defender Services Review
DATE: July 24, 2018

ADMINISTRATIVE SIGN-OFF:



Sophia Almanza, MBA
Deputy CAO, Budget and Finance



Michael C. Spata
County Administrative Officer

cc: County Counsel
County Administrative Office

Attachment(s)

Attachment 1: Performance Review Submitted by Allen Law Firm

Attachment 2: Supporting Letters for Allen Law Firm

Attachment 3: Fiscal Management Expenses

Attachment 1

(Performance Review Submitted by the Allen Law Firm)

ALLEN LAW FIRM
Professional Law Corporation
805 W. Main St.
Visalia California 93291

David W. Allen
Jamie E. Allen

Telephone (559) 627-3855
Facsimile (559) 627-3847

June 8, 2018

Michael Spata
County Administrator Officer
County of Tulare County
2800 Burrell Ave
Visalia CA 93291

Re: Performance Review

Dear Mr. Spata:

During our meeting on June 1, 2018 you requested a letter detailing my accomplishments since I took over the Tulare County Conflict Contract.

PERFORMANCE MANAGEMENT:

When I was appointed Conflict Contractor for Tulare County, I provided competent and experienced attorneys for each criminal court in Tulare County as well as in the Civil Departments, per the courts request, to handle termination of parental rights and Welfare and Institution Code Section 6500 cases. Since I have overseen the Conflict Contract the Porterville Court has added an additional criminal department to handle criminal cases. I reorganized our caseload, so we could cover that courtroom without adding an additional attorney. I appear in court daily to observe the conflict attorneys' performances and make sure they are providing effective representation to their clients. On a weekly basis I review all the contractor's caseload to make sure they have adequate time to effectively represent their clients. My office provides caseload reports and financial reports for the County to review detailing out each month's caseload and financial expenditures.

IMPROVEMENT OF LEGAL SERVICES:

I have established an open line of communication between the District Attorney's Office, Probation Department, and the Courts to be able to resolve any issues as efficiently as possible. I meet periodically with the District Attorney, the Chief Probation Officer, and the Court Executive Officer to discuss court related issues. I have assigned attorneys to each individual courtroom to handle all cases assigned to that department. The judges like this setup because they know what conflict attorney is assigned to their department. I meet with the judges on a consistent basis to resolve any issues they are experiencing with the conflict attorneys. I created a team of very experienced attorneys to handle the very complex cases. These attorney's caseload is smaller which gives them time to handle the complex issues the case.

FISCAL MANAGEMENT:

By the reorganization of the attorneys and assigning them to specific departments we have been able to reduce continuances and cases are being handled more efficiently which has saved the courts and county

money. When I took over the contract there were outstanding invoices, provided to me by the prior contractor, due to Red Sol attorneys representation in the amount of \$485,595.47 and outstanding ancillary services invoices in the amount of \$320,008.59. I was able to get all the invoices paid with the contractual amendments approved by the Board of Supervisors. The need for the amendments was because of the extra ordinary Red Sol Case and Medical Marijuana Case. Since that time, we have been able to insure all invoices are paid in a timely fashion. Regarding the current contract, we can stay within the contractual amounts unless another extra ordinary case is filed that contains more defendants then our conflict attorneys. I require all our conflict attorneys to get preapproval before engaging in any investigation or expert services. I am requiring this to control the expenditures of the attorneys.

RED SOL:

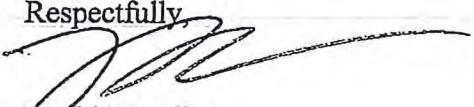
As you are aware the Red Sol Case was a multiple law enforcement investigation in 2015 that resulted in the arrest of 86 individuals and 81 of those individuals were charged; this case is the largest criminal case in the history of Tulare County as the complaint encompasses 437 pages totaling 146 counts against the named defendants. The prior Contractor offered/hired/contracted with 51 different attorneys from surrounding counties to represent some of the defendants. The last time we spoke there were seven Red Sol defendants that are being represented by outside attorneys (attorneys we are paying outside the contract), as of today we are down to four Red Sol defendants who are being represented by outside attorneys. One of the Defendant's is currently set for trial in April 2019, one is going through a transfer hearing in Juvenile court, and two are in the middle of a preliminary hearing. One of the defendants in the preliminary hearing is eligible for the death penalty. If the District Attorney does seek the death penalty I will be reassigning the case to one of our inhouse attorneys. By reassigning this case it will save the county more than \$75,000.00.

PROPOSITION 66:

Proposition 66 was a 2016 proposition changing the process of the Death Penalty. What this proposition has done, was to send back to the trial court the filing of any habeas petitions which has to be done within one year of the death determination. The reasoning for the proposition was to streamline the process. How this is going to affect us, is that we do not have enough attorneys who are qualified to handle habeas petitions in Tulare County. Currently there is only one attorney in Tulare County who is qualified to handle them, and he is on our contract. Realistically an attorney can only handle one maybe two habeas cases at a time. We currently have 19 people on death row from Tulare County and 6 of them do not have habeas attorneys appointed to them yet. The legislature has not determined how these attorneys will be paid and were these attorneys will come from. There has been no determination made as to who will be paying the attorneys, if it will come from the state, courts or the county. The legislature has given the judicial counsel until April 2019 to figure this out as well as to set the guidelines of how the process will work. Since the passage of Proposition 66 there have been no habeas attorneys appointed by the California Supreme Court.

For any questions or concerns, please feel free to contact my office at (559) 627-3855 at your earliest convenience.

Respectfully,


David W. Allen

Attachment 2

(Supporting Letters for Allen Law Firm)



Superior Court
State of California

COUNTY OF TULARE

RECEIVED

JUN 14 2018

TULARE COUNTY
ADMINISTRATIVE OFFICE

GARY L. PADEN
JUDGE

VISALIA DIVISION
221 SOUTH MOONEY BLVD.
VISALIA, CA 93291
(559) 730-5000 (559) 737-4290 FAX

June 14, 2018

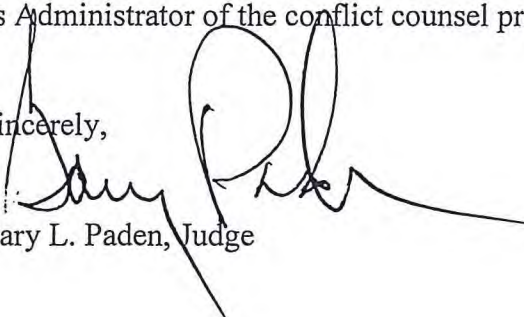
Michael Spata, County Administrative Officer
County of Tulare- Administrative Officer
2800 W. Burrell Ave.
Visalia, CA. 93291

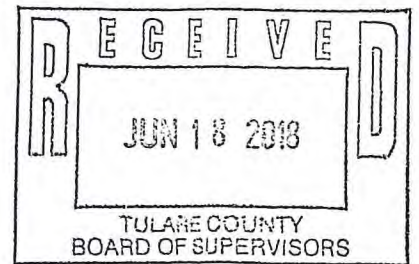
Re: Conflict Counsel Administrator

Dear Mr. Spata:

As the presiding criminal Judge and on behalf of all the criminal Judges, we are supporting the excellent job David Allen is doing with the Conflict Counsel program. The courts are being staffed with experienced attorneys whom are handling their cases as efficiently as possible. If there are any issues Mr. Allen is prompt to resolve them. Mr. Allen has done an excellent job in coordinating and supervising the program and makes himself accessible if needed. From our perspective we feel that there is no need for a change and support Mr. Allen to continue his work as Administrator of the conflict counsel program.

Sincerely,


Gary L. Paden, Judge



Superior Court of the State of California

Stephanie Cameron
Court Executive Officer/
Jury Commissioner

COUNTY OF TULARE
ADMINISTRATION
221 S. Mooney Blvd., Room 303
Visalia, California 93291
Telephone: (559) 730-5000
Facsimile: (559) 737-4290

Nocona Soboleski
Assistant Court Executive Officer

June 14, 2018

County of Tulare – Administrative Office
Michael Spata, County Administrative Officer
2800 Burrel Avenue
Visalia, CA 93291

Re: David Allen, Esq., Tulare County Conflict Counsel

Dear Mr. Spata,

On behalf of Court Administration, please accept this recommendation letter to maintain Attorney David Allen's contract as the Conflict Counsel for County of Tulare jointly with Superior Court.

In support of this recommendation, please note that Mr. Allen has maintained a professional and dependable demeanor, as well as his attorney providers within his program. Mr. Allen continues to submit billings timely, and is responsive to any requests for change and flexibility as deemed necessary for the program. For the previous two (2) years of our contract with Mr. Allen, he has exhibited consistent coverage for the judges/courtrooms and continues to reflect his dedication to the program and Superior Court.

As always, if you should have any questions, please feel free to contact me at 559-730-5000 x1293 or email at scameron@tulare.courts.ca.gov.

Thank you for your time and consideration in this matter.

Sincerely,

Stephanie Cameron
Court Executive Officer

SC:eck



OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TULARE

Tim Ward, *District Attorney*

June 15, 2018

Michael C. Spata
County Administrative Officer/
Clerk, Board of Supervisors
2800 W. Burrel Avenue
Visalia, CA 93291

Re: Conflict Defender Letter of Support

Dear Mr. Spata,

As district attorney, I am pleased to voice my support for Mr. David Allen, Esq. on the occasion of reviewing his performance as administrator of the Tulare County conflict panel. Over the past three years, in my estimation, Mr. Allen has done an outstanding job managing the resources entrusted to him under the conflict defender contract. Communications between the conflict panel and the district attorney's office has improved over the past three years, and we have worked towards the mutual goal of decreasing the number of continuances that occur in cases assigned to the panel.

David assumed leadership of the conflict panel at a time of unprecedented scrutiny following the 2015 "Operation Red Sol" gang sweep. This filing was the largest criminal filing ever seen in Tulare County. I know our office and the conflict panel have tried to address the complex issues raised by this case over the last three years, while ensuring that the constitutional rights of those charged were protected.

I consider David to be a valued justice partner and a wise investment by the board. I look forward to working with David for many years to come.

Very sincerely yours,

A handwritten signature in black ink, appearing to read "Tim Ward", is written over a horizontal line.

Tim Ward
District Attorney

County of Tulare

221 S. MOONEY BLVD., RM. 206
VISALIA, CA 93291-4593
PHONE: (559) 713-2750
FAX: (559) 730-2626



CHIEF PROBATION OFFICER
MICHELLE BONWELL
RECEIVED

JUN 14 2018

TULARE COUNTY
ADMINISTRATIVE OFFICE

PROBATION DEPARTMENT

June 8, 2018

Re: Letter of Support

To Whom It May Concern,

David Allen, Esq. is currently contracted with the county to provide conflict counsel services to our probationers who are pending court. Mr. Allen and his staff provide excellent service and have always been responsive and attentive to our needs. Further, he participates in collaborative meetings with the court and other agencies to ensure the service he is providing meets the expectations of the various entities represented.

Sincerely,

Michelle Bonwell
Chief Probation Officer

Attachment 3
(Fiscal Management Expenses)

ALLEN LAW FIRM
Professional Law Corporation
805 W. Main St.
Visalia California 93291

David W. Allen
Jamie E. Allen

Telephone (559) 627-3855
Facsimile (559) 627-3847

June 29, 2018

Michael Spata
County Administrator Officer
County of Tulare County
2800 Burrell Ave
Visalia CA 93291

Re: Fiscal Management Expenses

Dear Mr. Spata:

During our meeting on June 29, 2018 you requested a letter detailing our fiscal management expenses. I am providing you with a status of our Ancillary Services and the Red Sol Case.

ANCILLARY SERVICES:

Our Ancillary Services are to assist our conflict contract attorneys in representing their clients with investigation, experts, paralegals, printing services, and clothing for their clients. In addition to our attorneys normal caseloads we are handling forty-six (46) homicides and eight (8) death penalty cases, compared to the Public Defender's office that had forty-one (41) homicides and two (2) death penalty cases. Our current ancillary budget is \$400,000.00 per year this amount has been the same since 2006. In the last fiscal year, we spent \$300,587.13; which saved the county \$99,412.87. Although, we are handling an inordinate amount of cases we were able to come under budget due to requiring all our conflict attorneys to get preapproval before engaging in any investigation or expert services. This has controlled the expenditures of the attorneys.

RED SOL:

The Red Sol Case had eighty-six (86) defendants filed in the original complaint; fifty-one (51) defendants were assigned to outside attorneys that were hired by the prior contractor. This resulted in cost over runs due to the prior contractor, attempting to cover all these costs through the Ancillary budget. As a result, when I took over the contract I inherited \$485,595.47 in past due Red Sol invoices with \$320,008.59 in past due Ancillary invoices. I was able to get all the invoices paid with the contractual amendments. Currently there are four (4) outside attorney's left in this case; prior to these remaining cases I had reassigned eleven (11) cases from outside attorneys to our conflict contract attorneys. The reassignment of these cases saved the County approximately \$850,000.00; two (2) of those defendants are facing the death penalty, one (1) defendant being the main defendant. There are currently two (2) defendants in the preliminary hearing process, I will be reassigning these cases to two (2) of our conflict contract attorneys if the District Attorney seeks the death penalty. By reassigning these cases it will save the county an additional \$150,000.00.

The need for the contractual amendments was due to these Special Circumstance, Red Sol Case and Medical Marijuana Case. The fiscal management that has been done since I took over the Conflict Contract has insured the Conflict Contract stays within budget and that the Red Sol Case invoices are paid in a timely fashion while controlling and cutting costs as it is necessary. The Conflict Contract can stay within the contractual amount and the Red Sol Case can stay within the contractual amendments amounts.

For any questions or concerns, please feel free to contact my office at (559)627-3855 at your earliest convenience.

Respectfully,

A handwritten signature in black ink, appearing to read 'D. Allen', with a long horizontal flourish extending to the right.

David W. Allen