



Board Agenda Item 65

DATE: 6/20/17

TO: Board of Supervisors

SUBMITTED BY: Elizabeth Diaz, Public Defender

SUBJECT: Amendment to Fresno County Master Schedule of Fees, Charges, and Recovered Costs - Second Hearing

RECOMMENDED ACTION(S):

Conduct second hearing to amend the Fresno County Master Schedule of Fees, Charges and Recovered Costs Ordinance for services provided to indigent criminal defendants by amending Subsection 2001 of Section 2000-Public Defender; and waive reading of the ordinance in its entirety.

Approval of the recommended action will amend rates in section 2000 of the Master Schedule of Fees, Charges and Recovered Costs (MSF) by amending subsection 2001(a) and (b) relating to recovery of actual costs for legal defense services provided by the Public Defender, and the County's contracted alternate indigent defense provider, to adult and juvenile indigent defense criminal defendants in Fresno County.

ALTERNATIVE ACTION(S):

Your Board may direct staff to use current fees or propose alternative fees which may not recover 100% of costs.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. These rates will be used by the Public Defender to recover appointment registration fees and additional costs associated with the defense of adult and juvenile defendants. In FY 2015-16, the department collected \$59,924 in court-ordered attorney fees. As of May 31, 2017, the department has collected \$47,406 in court-ordered attorney fees. It is anticipated with acceptance of these fees, the Public Defender's collection of FY 2017-18 court-ordered fees will increase approximately 2%. However, the Public Defender revenue from court-ordered fees has decreased since FY 2013-14 when the Auditor-Controller/Treasurer-Tax Collector (ACTTC) changed the distribution of court-ordered fees to the Public Defender to fourth priority in order to ensure compliance with the California Penal Code.

DISCUSSION:

All persons have a constitutional right to legal counsel and whenever an individual is charged with a criminal offense and cannot afford to hire a defense attorney, the court appoints counsel for that individual. In Fresno County, the Public Defender is the primary source of court appointed counsel. California law provides that when courts appoint defendants legal assistance, either through the public defender or private counsel, the court or public defender shall consider the defendants ability to pay the costs of legal assistance, and if there is a finding that the parties have the ability to pay for the legal assistance, those fees are included in any court ordered fees. These laws apply to both adult defendants and the parent or other person liable for the support of a minor defendant.

Recommended updates to the Master Schedule of Fees for Subsection 2001 - Fees Collected for Services

Provided on Indigent Criminal Defendants are detailed in Attachment A. The updated fees recover the salary and benefits cost that will be incurred for Defense Attorney, Legal Assistant, and Investigator positions along with adding the cost for Paralegal positions. The recommended rates reflect 2016-17 costs.

On March 11, 2014, your Board approved a Master Schedule of Fees, Charges and Recovered Costs for the Public Defender. The Defense Attorney and Investigator rates are recommended at an increase of 2% and 5%, respectively, due to adjustments in salary and benefit costs. The Legal Assistant rate is recommended at a decrease of 18% due to the reclassification of Office Assistant to Legal Assistant and the addition of the job classification of Paralegal.

The recommended action also includes updated rates for the distinct stages in the adult felony and misdemeanor, and juvenile criminal cases due to increased estimates of the average time required per each stage in the court process. The comparison of current fees versus proposed fees is listed in Attachment A.

The recommended rates, including their calculation and methodology have been reviewed and approved by the ACTTC and they concur with the recommended action.

If approved, the recommended rates will be effective in 30 days.

REFERENCE MATERIAL:

BAI # 15, June 6, 2017

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A
Ordinance
Attachment A

CAO ANALYST:

Samantha Buck