

# **MEMORANDUM OF UNDERSTANDING**

**BETWEEN THE COUNTY OF SONOMA**

**AND THE**

**SONOMA COUNTY DEPUTY PUBLIC DEFENDER ATTORNEYS'  
ASSOCIATION**

**PUBLIC DEFENDER UNIT NON-SUPERVISORY**

**AUGUST 2, 1988**

**MODIFIED JULY 13, 1993**



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**ARTICLE 1 - PREAMBLE**

This Memorandum of Understanding between the duly appointed representatives of Sonoma County, hereinafter referred to as "County", and the Sonoma County Deputy Public Defender Attorneys' Association, hereinafter called "Association," summarizes the agreements reached concerning wages, hours, terms and conditions of employment. The parties jointly agree to recommend to the County Board of Supervisors the adoption of the Memorandum. The Memorandum of Understanding shall apply only to those classifications within the bargaining unit listed under Article 2 Recognition.

**ARTICLE 2 - RECOGNITION**

Pursuant to the provisions of the Employee Relations Policy of the County of Sonoma and applicable state law, the Association is certified by the County as the representative of all regular full-time and regular part-time employees in the Public Defender's Office in the following unit and classifications:

**PUBLIC DEFENDER UNIT NON-SUPERVISORY**

Deputy Public Defender I  
Deputy Public Defender II  
Deputy Public Defender III  
Deputy Public Defender IV

**ARTICLE 3 - EFFECTIVE DATES AND RENEGOTIATION**

**3.1 Effective Dates**

The following items shall constitute the wages, hours, terms and conditions for employees represented by the Association. The parties agree that all

changes contained herein shall become effective on the date that the Board of Supervisors implements by Resolution this Memorandum, unless otherwise specified herein. The Salary Resolution referred to in this Memorandum is Salary Resolution No. 91-1171 of Sonoma County as it exists today or as it may be amended during the term of this Memorandum.

**3.2 Termination**

This Memorandum shall be in effect until 12:00 midnight on the last day of the last full pay period in June, 1993 and shall renew automatically from year to year thereafter unless either party notifies the other party in writing prior to April 1, 1993 or any April 1 thereafter of its desire to modify or terminate this Memorandum.

**3.3 Discontinuance of Benefits Previously Reserved to Unrepresented Administrative Management Upon Termination of This Agreement**

The parties acknowledge that the County has agreed to provide, for the term of this MOU only and any mutually agreed annual extensions thereof, certain benefits that are authorized in Salary Resolution No. 91-1171 for the County's unrepresented administrative management. These include but are not limited to: (1) salary increases equating to those given the corresponding class of Deputy County Counsel; (2) deferred compensation; (3) life insurance; (4) health and dental benefits; (5) an annual physical examination; (6) sabbatical leave; (7) management benefit allowance; (8) administrative leave. The parties agree that the County shall not be obligated by the terms of this MOU or any provision of law, including, but not limited to the Meyers-Milias-Brown Act, Government Code Section 3500, et seq., to continue to provide those benefits after the expiration date of this MOU. This shall be so even if the parties have not reached agreement on a successor MOU at the time this MOU expires. Thus, for example, if after the MOU expires and no successor MOU has been agreed upon, the Deputy Public Defenders shall continue to be paid the same biweekly salary (exclusive of deferred compensation and other benefits) they were receiving during the last full pay period prior to the MOU's expiration, but will not

automatically, or by operation of this MOU or other law, be entitled to any salary increase or other compensation adjustment granted to the Deputy County Counsels (to whom this MOU pegs them) after expiration of this MOU. Also, for example, the County shall have no obligation to continue to provide deferred compensation benefits provided herein following the expiration of this MOU, either in a successor MOU or during any period before a successor MOU is reached, except as mutually agreed upon in writing by the parties.

#### **ARTICLE 4 - MANAGEMENT RIGHTS**

- 4.1** The Association recognizes that the County has and will continue to retain in all respects, whether exercised or not, the unilateral and exclusive right to operate, administer and manage its public services and its work force performing those services.
- 4.2** The exclusive rights of the County shall include, but not be limited to, the right to determine the organization of County government and the purpose and mission of its constituent agencies; to set standards of service to be offered to the public and through its management officials, to exercise control and discretion over its organization and operations; to establish and enforce administrative regulations and work in addition to and not inconsistent with the specific provisions of this Memorandum; to direct its employees; to take disciplinary action; to relieve its employees from duty because their positions are abolished, or whenever necessary because of lack of work or lack of funds; to determine whether goods or services shall be made, purchased or contracted for; to determine the methods, means and personnel by which the County's services are to be provided, purchased or contracted, including the right to schedule and assign work and overtime; and to otherwise act in the interest of efficient service to the County and public.

**ARTICLE 5 - SALARIES**

**5.1 Salary Ranges**

The parties agree to jointly recommend to the Board of Supervisors the implementation of the following salary ranges for employees in the bargaining unit:

a) **Salary Ranges effective July 12, 1988:**

<u>Classification</u>	<u>Salary Range</u>	<u>Approximate Monthly Rate</u>
Deputy Public Defender I	1405	\$2,444-\$2,969
Deputy Public Defender II	1721	\$2,993-\$3,639
Deputy Public Defender III	2084	\$3,625-\$4,406
Deputy Public Defender IV	2296	\$3,993-\$4,856

**5.2 Salary Adjustments**

Any adjustment to the salary ranges listed above shall be the same as those provided to the corresponding Deputy County Counsel class and shall have the same effective date. For example, the Deputy Public Defender I salary range, if adjusted, shall be the same as the Deputy County Counsel I salary range.

**5.3 Administration of the Salary Schedule**

The administration of the salary schedule shall be as provided for in the Salary Resolution of the County of Sonoma.

**5.4 Deputy Public Defender III Temporary Assignment Premium Pay**

a) An employee in the class of Deputy Public Defender III may be temporarily assigned by the Public Defender to be responsible for felony trial duties normally performed by an employee in the class of Deputy Public Defender IV. The Public Defender shall evaluate the performance of the Deputy Public Defender III during the temporary assignment. If the Public Defender certifies that the Deputy Public Defender III fully performs to the satisfaction of the Public Defender, then effective at the beginning of the start of the first full pay period

following six total months of satisfactory work in the higher class assignment, a Deputy Public Defender III shall be entitled to receive a premium pay of 5% above the employee's base hourly pay for all subsequent hours of work spent in this higher class assignment.

- b) A Deputy Public Defender III, who has been certified under this Article 5.4 by the Public Defender as satisfactorily performing serious felony trial duties, will be eligible for the 5% premium pay whenever the Public Defender subsequently reassigns the Deputy Public Defender III to another future assignment to again perform serious felony trial duties.
- c) A Deputy Public Defender III may be certified under this Article 5.4 by the Public Defender to receive the 5% premium pay prior to completion of the six-month temporary assignment period if the employee has had equivalent previous felony trial experience and demonstrates to the Public Defender that the employee has satisfactorily performed serious felony trial duties.
- d) At any time during such an assignment to serious felony trial duties, the Public Defender may remove the Deputy Public Defender III from such an assignment. In such a case, the 5% premium pay, if provided, shall cease effective with the last hour worked in such assignment.
- e) Any decision by the Public Defender under this Article 5.4 is within the Public Defender's sole discretion and may not be the subject of a grievance under the County's General Grievance Procedure nor under any other appeal procedure or policy of the County.

## **5.5 Deferred Compensation**

The County shall deposit into the Deferred Compensation account of each employee of this bargaining unit in permanent full-time and part-time positions an amount equal to one percent (1%) of that individual's biweekly base salary provided that the employee is in pay status for at least 50% of the employee's regular work schedule in a pay period. This benefit shall become effective with the pay period beginning July 26, 1988 and shall be modified if and in the same manner that the deferred compensation benefit

is modified for unrepresented administrative management employees. Nothing herein renders the County liable to any employee for continuance of the current deferred compensation plan in the event of a discontinuance of Internal Revenue Service or Franchise Tax Board approval of any County deferred compensation plan or portion thereof or the employee becoming ineligible to participate in the deferred compensation plan.

**5.6 Mileage Reimbursement**

Mileage reimbursement shall be as provided in the Salary Resolution.

**ARTICLE 6 - HOURS OF WORK**

**6.1** This Article is intended only as a basis for outlining standards for hours of work. Hours specified under types of employment indicate a commitment by the County to hours each employee is to be regularly scheduled, as long as there is sufficient work.

**6.2 Types of Employment**

**FULL-TIME:** An allocated position which is regularly schedule to work 80 hours in a biweekly pay period of 14 consecutive calendar days.

**PART-TIME:** An allocated position which is regularly schedule to work less than 80 hours in a biweekly pay period of 14 consecutive calendar days.

**6.3 Work Schedules**

The County reserves the right to establish and modify work schedules.

**6.4 Work Hours**

Deputy Public Defenders shall work any and all hours necessary in the performance of their assigned duties without regard to fixed working schedules.

**6.5 Overtime in a Board-Designated Emergency**

Employees in this unit shall be eligible for straight time overtime when working beyond 40 hours in a week due to a Board of Supervisors' declared emergency. Such straight-time overtime may be paid in cash upon authorization of the Board of Supervisors. Under no circumstances shall an employee covered by this Memorandum be paid or be compensated in any

manner for overtime except under such conditions as may be set forth by the Board of Supervisors.

**6.6 Compensatory Time**

Compensatory time may be accrued for the limited circumstances specified in this Memorandum to a maximum of 80 hours. When 80 hours of compensatory time have been accumulated, the department will compensate the employee in cash in lieu of additional compensatory time off. No employee shall take compensatory time off without prior approval of the appointing authority. The appointing authority shall attempt to schedule such time off at the time agreeable to the employee. Each employee who is separated from County service shall be entitled to payment for accrued overtime at the employee's base hourly rate at the time of the employee's separation.

**ARTICLE 7 - BAR DUES**

Bar Dues shall be paid in the same manner as is provided for attorneys in the County Counsel's office in the Salary Resolution.

**ARTICLE 8 - STAFF DEVELOPMENT**

Staff Development and continuing education benefits shall be as provided to unrepresented administrative management employees in the Salary Resolution. Effective July 12, 1988, employees in this bargaining unit shall be eligible for the Benefit Allowance provided to unrepresented administrative management employees. This allowance shall be subject to the same conditions and limitations as provided in the Salary Resolution and the Management Benefit Allowance guidelines.

## **ARTICLE 9 - BENEFITS**

**Employees in this bargaining unit shall be entitled to the same health, dental, vision care and long-term disability insurance terms, conditions and benefits provided to unrepresented administrative management employees in the Salary Resolution. Effective August 17, 1988, employees in this unit will be entitled to the same life insurance benefit provided to unrepresented administrative management employees in the Salary Resolution. Employees in this unit shall be entitled to an annual medical examination under the same terms and conditions as provided to unrepresented administrative management employees in the Salary Resolution. Employees in this unit shall be entitled to any additional benefits provided to unrepresented administrative employees during the term of this agreement.**

## **ARTICLE 10 - TIME OFF BENEFITS**

**Employees in this unit shall be entitled to the same holiday, sick leave, compassionate leave, court leave, jury duty, and voting leaves under the same terms and conditions provided to unrepresented administrative management employees in the Salary Resolution. In lieu of overtime employees in this unit shall be entitled to the same vacation and administrative leave under the same terms and conditions as provided to unrepresented administrative management employees in the Salary Resolution. No paid absence under any provision of this agreement shall be considered as a break in service for any employee who is in paid status during such absence.**

**All benefits which, under provisions of this agreement, accrue to employees who are in pay status shall continue to accrue during such absence. Employees in this unit shall be eligible for a sabbatical leave under the same terms and conditions provided to unrepresented administrative management employees in the Salary Resolution.**

## **ARTICLE 11 - GRIEVANCE PROCEDURE**

**An employee covered under the terms of this Memorandum may use the General County of Sonoma Grievance Procedure as established on May 10, 1983 or as such Procedure may be modified in the future, for resolving any grievance the employee may have in accordance with the provisions of the Grievance Procedure, except that**

the definition of a grievance shall mean only an alleged violation of the expressed terms and conditions of this Memorandum.

## **ARTICLE 12 - MISCELLANEOUS PROVISIONS**

### **12.1 Employment in More Than One Position**

Except for working elections as provided by resolution of the Board of Supervisors, no person employed in a regular position may be employed by the County of Sonoma in any other regular, temporary or seasonal position, nor shall any person be employed by the County in two or more part-time positions which will, in combination, provide for more than forty (40) hours of regularly scheduled work in any calendar week.

### **12.2 Distribution of Memorandum of Understanding**

The County will provide a copy of this Memorandum and a copy of the Salary Resolution to all employees affected by this Memorandum within 60 days of the execution of the agreement.

### **12.3 No Discrimination**

Provisions of this Memorandum of Understanding shall be equally applied to all employees in the unit without unlawful discrimination as to age, sex, race, color, natural origin, ancestry, religion, physical handicap, medical condition (cancer related), marital status or sexual orientation. The parties agree that the prohibition against sexual discrimination include sexual harassment. The County and the Union shall equally share the responsibility of the application of this provision. An employee alleging unlawful discrimination may utilize the County's Equal Employment Opportunity Discrimination Complaint Procedure to first seek adjustment of a complaint, but may not use the Grievance Procedure of this Memorandum of Understanding.

## **ARTICLE 13 - INVALID SECTIONS**

In the event that any article or section of this Memorandum shall be held to be invalid by operation of law, or by any tribunal of competent jurisdiction, or if compliance with or any enforcement of article or section should be restrained by such tribunal, the

remainder of this Memorandum shall not be affected thereby.

#### **ARTICLE 14 - FULL PERFORMANCE**

**14.1 No Strike Obligation**

The Association and all employees covered by this Memorandum agree that it and they shall abide by and uphold all laws. In addition, the Association agrees that all employees represented by the Association shall not, during the terms of this Memorandum, withhold work in any manner or form whatsoever or fail to fully and faithfully perform all duty assignments given them individually or collectively by the County. The foregoing covenant by the Association is a material inducement to the County's execution and ratification of this Memorandum, and is a condition precedent to the continued performance by the County of its obligations under this Memorandum. The County may discipline any employee covered by this Memorandum who violates this provision.

**14.2 No Lockout**

County also acknowledges its continuing responsibilities to its employees and agrees that during the term of this Memorandum it will not "lock out" employees covered by this Memorandum.

#### **ARTICLE 15 - FULL UNDERSTANDING, MODIFICATIONS AND WAIVER**

**15.1** This Memorandum is intended both as the final expression of the agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Memorandum. No amendment, alteration, understanding, variation, waiver or modification of any of the terms or provisions of this Memorandum shall in any manner be binding on the parties unless made and executed in writing between the parties hereto and approved and implemented by the County's Board of Supervisors.

**15.2 Full and Unqualified Waiver**

**Except as specifically provided herein, it is agreed and understood that Association voluntarily and unqualifiedly waives its right to and releases the County, during the terms of this agreement, from any obligation to meet and confer on any subject or matter contained herein or with respect to any subject or matter not specifically referred to, or covered in this agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this agreement. In exchange for the terms and conditions herein expressed in this agreement, the Association acknowledges that the County has fulfilled its obligations under Government Code Section 3505 for the full term of this agreement.**

**15.3 The failure of either party to this agreement to seek enforcement of any of the terms or conditions contained herein shall not constitute a precedent in the future enforcement of any or all of the terms and provisions of this Memorandum.**

**15.4 Nothing in this Memorandum shall be construed to limit or remove the existing or future jurisdiction or authority of the Civil Service Commission as provided in Ordinance No. 305-A as amended, or as provided in the rules adopted thereunder.**

**15.5 The County and the Association agree that any policy, procedure, rule, regulation, benefit, or form of compensation including salary that is changed or modified by the terms and conditions of this Memorandum is hereby repealed in its entirety, and that this Memorandum is in full force and effect on the date of the Board of Supervisors implements it.**

**ARTICLE 16 - EXECUTION**

The below authorized representatives agree to recommend the implementation of this Memorandum to the Board of Supervisors:

**COUNTY OF SONOMA**

**SONOMA COUNTY DEPUTY PUBLIC DEFENDER ATTORNEY' ASSOCIATION**

\_\_\_\_\_  
**Sally Brian**  
Chief Spokesperson

\_\_\_\_\_  
**Steve Weiss**  
Association Representative

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**Elliot Daum**  
Association Representative

\_\_\_\_\_  
**Jon Hinton**  
Association Representative

**DATE:** \_\_\_\_\_

**SIGNED AT SANTA ROSA, CALIFORNIA THIS \_\_\_\_\_ DAY OF JULY, 1988.**

## DOMESTIC PARTNER DEFINED

The term "domestic partner" as used in the MOU is based on the definition below:

A "domestic partnership" shall exist between two persons, one of whom is an employee of the County, covered by this Memorandum of Understanding, regardless of their gender and each of them shall be the "domestic partner" of the other if they both complete, sign, and cause to be filed with the County an "Affidavit of Domestic Partnership" attesting to the following:

- a. the two parties reside together and share the common necessities of life;
- b. the two parties are not married to anyone, eighteen years or older, not related by blood closer than would bar marriage in the State of California, and mentally competent to consent to contract and are not acting under fraud or duress;
- c. the two parties declare that they are each other's sole domestic partner and they are responsible for their common welfare;
- d. the two parties agree to notify the County in writing if there is a change of circumstances attested to the affidavit; and
- e. the two parties affirm, under penalty of perjury, that the assertions in the affidavit are true to the best of their knowledge.

**Termination.** A member of a domestic partnership may provide notice of the end of said relationship by filing a statement with the County. In the statement, the person filing must affirm, under penalty of perjury, that 1) the partnership is terminated and 2) a copy of the termination statement has been mailed to the other partner.

**New Statements of Domestic Partnership.** No person who has filed an affidavit of domestic partnership may file another such affidavit until six months after a statement of termination of the previous partnership has been filed with the County. This requirement does not apply if the earlier domestic partnership ended because of the death of either partner.

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