

**ADDENDUM**  
**Minnehaha County Conflict Attorney RFP Questions and Responses.**  
March 7, 2018

1. Case Assignments:

- a. Will the contract have any limits on which cases are assigned to the attorneys? For example, will murder cases and other major felonies be distributed in a separate manner?
- b. How will the misdemeanors and felonies be assigned and who is responsible for assigning them? Will cases be assigned equally so all six attorneys will receive an equal amount of misdemeanor and felony (Class 1-3 vs Class 4-5) appointments?
- c. Does each criminal file number represent one assignment if a defendant has multiple criminal files?
- d. If you currently represent a client and he/she picks up more charges, will you automatically get all of the new files therefore increasing your numbers and will those new cases count equally towards your quota? On the same note, if the Public Defender/Advocate has to withdraw from a file that has multiple file numbers and it gets assigned to you, will all of the specific file numbers count towards your quota or are you only getting credit for one?
- e. Will there be a limit on how many cases each attorney in the contract will receive?
- f. What is the experience criteria for attorneys assigned to serious felony cases?
- g. The proposed contract averages \$653 per A&N and Juvenile Case. At the current court appointed rate of \$94 per hour, that equals 7 hours per A&N. A&N files can very regularly last for many years so will you be expected to continue to represent the A&N client long after your 2 year contract has expired and you are no longer getting paid? (This question can also be asked of serious criminal offenses.)

Response: The Judiciary will be assigning cases to attorneys under contract with the County, and efforts will be made to equitably apportion the cases. Judicial discretion will also determine how cases are handled upon termination of a contract.

2. If a case goes to warrant and the defendant is arrested, how is that case reassigned?

Response: If the attorney remains under contract at the time that this case would become active again, the same attorney will be reassigned to the case.

3. What is the definition of "firm" regarding employees being related to Minnehaha County employees?

Response: The County is defining 'Firm' as the attorneys only.

4. Will the Public Defender's Office be withdrawing from a specific number of files each week as part of the contract?

Response: These contracts are for conflicts only, and does not include withdrawals from cases for any other reason.

5. Does the Abuse & Neglect/Juvenile Contract include appellate work?

Response: Yes, appellate work is included as long as the attorney is still on contract with the County.

6. Does the criminal category include cases involving a death or a death penalty case?

Response: Yes. However, as to first-degree murder cases where death as a penalty is sought by the State, the contract attorney may petition the Court for additional legal fees.

7. Regarding the Criminal Defense Contract, does the \$42,000.00 cover any murder or rape cases? A murder case could involve more time than \$42,000.00 would cover. If the contract covers murder cases, couldn't one murder case and any other criminal cases involve time far in excess of what \$42,000.00 covers?

Response: The \$42,000 contract fee is inclusive of the criminal cases, as defined by the Contract Terms, Number 2: Duties, in the RFP.

8. Is there a rate for investigators and does that include paralegals?

Response: Paralegals are the responsibility of the attorney. Investigator expenses, when court ordered, will be outside of the contract fee.

9. What happens to clients when an attorney who has entered into a contract leaves his/her practice or has his/her contract terminated?

Response: The transition of cases is defined under Contract Terms, Number 14.

10. Would a law firm be able to have an attorney submit and receive a contract, and then have the ability to assign another attorney to the contract after a period of time?

Response: Assignment of Contract, number 13 of Terms of Contract, allows for the assignment given final approval and written permission of the County.

11. Shouldn't these proposals be discussed at a meeting among the judges, Public Defenders and Public Advocates, and other criminal defense attorneys, and county officials?

Response: These groups were all represented on the 2017 task force that reviewed conflict attorney options. The Request for Proposals was presented to the Commission at a public meeting on February 13, 2018.

12. How will A&N and Juvenile Attorneys be able to cover in-custody court at JDC on Monday and Thursday mornings and also be available for A&N's on the same mornings?

Response: Scheduling conflicts will be resolved as they are usually resolved with private attorneys and the Courts.

13. Could two or three attorneys join together to submit a modified proposal to handle all of the cases in a particular area?

Response: This concept was considered, but is not being pursued at this time.

14. Are the attorneys, who apply for these contracts, able to submit a counterproposal for the amount of compensation, or are the attorneys bound to the amounts set forth in the document describing the proposals?

Response: Counterproposals will not be considered at this time.

15. In a murder case in Sioux Falls, there are almost always two defense attorneys representing the Defendant. Would one of the other attorneys involved in the Criminal Defense Contract be required to assist the attorney, who was appointed to handle the murder case? The same question is asked of rape cases.

Response: The number of defense attorneys assigned would be at the discretion of the Judiciary.

16. What were the 2017 numbers regarding how many cases were assigned to private attorneys?

Response: 1,104 cases were assigned to private attorneys in 2017.

17. You are using case numbers from 2016. How much did the numbers increase in 2017?

Response: The overall caseload increase was 7%.

18. In 2016 and 2017 of all criminal cases, what percentage were felonies?

Response:

FY2016: total criminal case filings: 38,955

- 3,099 were felonies, 8%;
- 35,856 were misdemeanors (Class I and II), 92%

FY2017: total criminal filings: 42,404

- 3,657 were felonies, 8.6%;
- 38,747 were misdemeanors (Class I and II), 91.4%

19. The proposed contract averages \$677 per criminal case. If the case proceeds to a jury trial and if there is any post-conviction action required, is it correct that you will not receive any additional compensation?

Response: Yes

20. Is there a chance there will be an increase in the amount paid via the contract if the actual number of cases assigned is severely higher than projected or will a Cap be put in place for the number of cases you can be assigned in a month or a year?

Response: The initial period of the contract is for two years. Caps or quotas are not a component of the contract. The contract provides an opportunity for attorneys to financially plan on secure revenue for the contract period.

21. With that said, an attorney may be out of town, or in court, when the Respondent is in a hospital or detox and may be released without quick action. With less than half as many attorneys, how can this procedure continue to be effective?
22. All of the contract amounts appear to be extremely low for the amount of work each attorney will be required to do. How were the amounts of compensation for the various contracts determined?

Response: Four years of data and finances were reviewed as part of this project, with number of attorneys and expenses identified. The contracts allow for steady revenue for the contracted attorney, while allowing for continuity of conflict defense.