

MEMORANDUM OF UNDERSTANDING

BETWEEN THE COUNTY OF SONOMA

AND THE

SONOMA COUNTY PROSECUTORS' ASSOCIATION

**DISTRICT ATTORNEY & CHILD SUPPORT ATTORNEY UNIT
NON-SUPERVISORY**

January 13, 2009 – July 1, 2009



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NON-SUPERVISORY

ARTICLE 1 - PREAMBLE

This Memorandum of Understanding between the duly appointed representatives of Sonoma County, hereinafter referred to as "County", and the Sonoma County Prosecutors' 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 of the District Attorney's Office and the Department of Child Support Services in the following classifications:

DISTRICT ATTORNEY'S OFFICE & DEPARTMENT OF CHILD SUPPORT SERVICES NON-SUPERVISORY

Deputy District Attorney I	Child Support Attorney I
Deputy District Attorney II	Child Support Attorney II
Deputy District Attorney III	Child Support Attorney III
Deputy District Attorney IV	Child Support Attorney 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 January 13, 2009, unless otherwise specified herein. The Salary Resolution referred to in this Memorandum is Salary Resolution No. 95-0926 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 July 1, 2009 and shall renew automatically from year to year thereafter unless either party notifies the other party in writing, prior to any April 1, of any year 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. 95-0926 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 District Attorneys 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 – UNION RIGHTS

5.1 Release Time

Reasonable release time for representation issues shall be in accordance with MMB (Meyers Milias Brown) and release time shall be approved in advance by the department and shall be limited to representational matters only.

The number of County employees released for such representational matters shall not exceed 1 except by mutual agreement or 3 for purposes of negotiating a successor memorandum of understanding.

The authorized representatives of the Union shall be made known to the Director of Human Resources and updated as changes occur.

5.2 Work Access

Union representatives shall provide at least 24 hour advance notice for any on site visits to the District Attorney's office to the designated representative of the District Attorney and shall follow Departmental security protocols unless mutually agreed to. Such requests shall not interfere with the operations of the Department to process grievances.

ARTICLE 6 - SALARIES

6.1 Salary Ranges

Effective January 13, 2008, a 3% cost of living adjustment.

(A) Salary Ranges effective January 13, 2009:

<u>Classification</u>	<u>Salary Range</u>	<u>Approximate Monthly Rate</u>
Deputy District Attorney I & Child Support Attorney I	3783	\$6,580 - \$7,999

Deputy District Attorney II & Child Support Attorney II	4156	\$7,228-\$8,787
Deputy District Attorney III & Child Support Attorney III	4781	\$8,315-\$10,109
Deputy District Attorney IV & Child Support Attorney IV	5384	\$9,364-\$11,384

6.2 Salary Adjustments

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

6.3 Administration of the Salary Schedule

The administration of the salary schedule shall be as provided for in the Salary Resolution No 95-096 of the County of Sonoma.

6.4 Deputy District Attorney III Temporary Assignment Premium Pay

- (A) An employee in the class of Deputy District Attorney III may be temporarily assigned by the District Attorney to be responsible for felony trial duties normally performed by an employee in the class of Deputy District Attorney IV. The District Attorney shall evaluate the performance of the Deputy District Attorney III during the temporary assignment. If the District Attorney certifies that the Deputy District Attorney III fully performs to the satisfaction of the District Attorney, 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 District Attorney III shall be entitled to receive a premium pay of **7%** above the employee's base hourly pay for all subsequent hours of work spent in this higher class assignment.
- (B) A Deputy District Attorney III, who has been certified under this Article 6.4 by the District Attorney as satisfactorily performing serious felony trial duties, will be eligible for the **7%** premium pay whenever the District Attorney subsequently reassigns the Deputy District Attorney III to another future assignment to again perform serious felony trial duties.
- (C) A Deputy District Attorney III may be certified under this Article 6.4 by the District Attorney to receive the **7%** 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 District Attorney that the employee has satisfactorily performed serious felony trial duties.

- (D) At any time during such an assignment to serious felony trial duties, the District Attorney may remove the Deputy District Attorney III from such an assignment. In such a case, the 7% premium pay, if provided, shall cease effective with the last hour worked in such assignment.
- (E) Any decision by the District Attorney under this Article 6.4 is within the District Attorney'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.

6.5 Deferred Compensation

The County shall deposit a percentage of the biweekly base salary of each employee of this bargaining unit into the 401(a) Deferred Compensation account, provided that the employee is in pay status for at least 50% of the employee's regular work schedule in a pay period. The percentage will be the same as that deposited on behalf of unrepresented administrative management 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.

6.6 Mileage Reimbursement

Mileage reimbursement shall be based on the IRS standard business mileage rate.

6.7 After Hours Standby Duty

Deputy District Attorneys (DDAs) assigned by the District Attorney/ DA designee to After Hours Standby Duty for either Search Warrant or Homicide/Critical Incident duty are required to be available to respond at all times while on standby duty by county issued cellular phone in order to facilitate a prompt response. DDAs assigned to Homicide/Critical Incident duty are expected to respond to the scene within one hour of the call being placed by the DA Investigator or District Attorney designee. Therefore DDAs must remain in an area that has cellular service while assigned to standby duty. DDAs assigned to Search Warrant duty must be available to answer all calls immediately. DDAs assigned to standby duty are required to adhere strictly to the District Attorney Department's Zero Tolerance Policy with respect to alcohol and drug use.

It is the responsibility of the assigned DDA to immediately request the District Attorney/DA designee to reassign standby duty in the event that the DDA is medically required to consume

medication that may impair their ability to perform assigned duties.

DDAs assigned to Search Warrant or Homicide/Critical Incident standby duty will be required to work a 5/8 (8:00 am to 5:00 pm) schedule for the duration of their standby duty assignment. Standby hours will begin at the end of the DDA scheduled work day (5:00 pm) and continue until the beginning of the next scheduled work day (8:00 am).

Attorneys assigned to be on standby for Search Warrant Standby duty will receive a flat rate maximum of \$2.80 per hour. Attorneys assigned to be on standby for Homicide/Critical Incident Standby duty will receive a flat rate maximum of \$3.50 per hour. No Attorney shall receive Search Warrant and Homicide/Critical Incident pay simultaneously. No employee shall be paid for standby duty and other compensable duty (except for holiday pay) simultaneously.

6.8 Hourly Cash Allowance

Effective the first full pay period closest to May 19, 2009, the County shall pay each permanent full and part time employee, in addition to their hourly regular earning rate from the salary schedule, a cash allowance of \$3.45 per pay status hour that the employee is in paid status excluding overtime, up to a maximum of 80 hours in a pay period, (or approximately a maximum of \$600.00 per month).

Such hourly cash allowance is compensation for services rendered in that pay period and shall be taken into account for purposes of computing employees' final compensation for pension purposes, as well as all usual taxation as their regular earning rate from the salary schedule. It shall not be included on the salary schedule and shall not be impacted by future increases in the salary schedule. It is not intended as a supplement toward medical, dental, or any other insurance or benefit.

ARTICLE 7 - HOURS OF WORK

7.1 Standards

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.

7.2 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.

7.3 Work Schedules

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

7.4 Work Hours

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

7.5 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.

7.6 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 8 - 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 9 - STAFF DEVELOPMENT

Staff Development and continuing education benefits shall be as provided to unrepresented administrative management employees in the Salary Resolution. 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 10 – BENEFITS

Employees in this bargaining unit shall be entitled to the same health, dental, vision care, life insurance, retirement, annual medical examination and long-term disability insurance terms, conditions and benefits provided to unrepresented administrative management employees in the Salary Resolution No. 95-0926. Employees in this unit shall be entitled to any additional benefits provided to unrepresented administrative employees during the term of this agreement.

ARTICLE 11 - 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 No. 95-0926. 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. 95-0926. 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 No. 95-0926.

ARTICLE 12 - 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 13 - MISCELLANEOUS PROVISIONS

13.1 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.

13.2 Distribution of Memorandum of Understanding

The County will post a copy of this Memorandum and a copy of the Salary Resolution on-line at the County's inter-net and intra-net sites within 60 days of the adoption of the agreement by the Board of Supervisors.

13.3 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 14 - 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 15 - FULL PERFORMANCE

15.1 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.

15.2 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 16 - FULL UNDERSTANDING, MODIFICATIONS AND WAIVER

16.1 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.

16.2 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, Association acknowledges that County has fulfilled its obligations under Government Code Section 3505 for the full term of this agreement.

16.3 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.

16.4 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.

16.5 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 17 – ENACTMENT

The Board of Supervisors will amend its written policies and take other appropriate action by resolution or otherwise in order to give full force and effect to this Memorandum. The below named representatives of the County and the Union agree to recommend the Board’s implementation of this Memorandum of Understanding:

COUNTY OF SONOMA

SONOMA COUNTY PROSECUTORS’ ASSOCIATION

/s/ Dania Torres Wong

/s/ Craig Brooks

Dania Torres Wong

Craig Brooks

/s/ Carol Allen

/s/ Donald Lawson

Carol Allen

Donald Lawson

(Signed document on file with Employee Relations)

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 others 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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