

**PROCEEDINGS OF THE COCHISE COUNTY BOARD OF SUPERVISORS
WORK SESSION HELD ON
WEDNESDAY, APRIL 30, 2025**

A work session of the Cochise County Board of Supervisors was held on Wednesday, April 30, 2025, at 10:30 a.m. in the Board of Supervisors' Hearing Room, 1415 Melody Lane, Building G, Bisbee, Arizona.

Present: Frank Antenori, Chairman; Tom Crosby, Vice-Chairman; Kathleen L. Gomez, Supervisor

Staff Present: Sharon Gilman, Interim County Administrator
Joe Casey, Interim Deputy County Administrator
Denise Riden, Civil Deputy County Attorney
Lara Loewenheim, Clerk of the Board

Attendees: Charles Kendall, Public Defender
Andrew Marcy, Legal Advocate
Stacy Fenhaus, Budget Manager

Chairman Antenori called the meeting to order at 10:44 a.m.

ITEMS FOR DISCUSSION

Board of Supervisors

1. Budget Work Session - Discussion of the County Budget for Fiscal Year 2025-2026, specifically: IDC/Public Defender/Legal Advocate

Charles Kendall, Public Defender, presented this item using a PowerPoint presentation. Mr. Kendall explained that Cochise County's Indigent Defense Coordinator (IDC) oversees the Public Defender's Office, the Office of the Legal Advocate, and handles conflict counsel when needed. He noted that conflict counsel is often required in complex dependency cases involving multiple family members. He stated with the retirement of dependency attorney Bill Brown in June, three part-time attorneys will shift under the Public Defender's Office and increase their hours to help cover caseloads.

Andrew Marcy, Legal Advocate, mentioned the office is short-staffed, with two out of five criminal attorney positions currently vacant. He noted that his attorneys are relatively new and still gaining experience with serious cases, and his office includes a legal secretary supervisor, five legal secretaries, and a defense investigator.

Vice-Chairman Crosby emphasized the constitutional importance of the right to legal counsel under the Sixth Amendment. He contrasted this with departments like Health, noting that indigent defense is a mandated right, not just a service. He referenced prior budget discussions about the cost of hiring seasoned attorneys, noting that around \$125,000 is typically needed to attract one.

In response to the Board, Mr. Kendall explained that Cynthia Brubaker is his primary murder defense attorney. Mr. Kendall also mentioned that the County Attorney's Office

processes most of its cases around 70 to 80% through the Early Resolution Court (ERC) system.

In response to the Board, Mr. Marcy explained that the Legal Advocate's Office primarily relies on general police reports and, when available, body camera footage from officers. He emphasized that no extensive investigation or interviewing is currently being done.

In response to the Board, Mr. Marcy stated that serious criminal cases in Cochise County typically take about two years to reach trial. He noted this is relatively fast compared to Maricopa County, where non-death penalty homicide cases can take three to four years. He stated delays are partly due to a shortage of defense attorneys, but mainly caused by limited court availability, with only three criminal trial judges handling all cases.

Ms. Gilman explained that the Indigent Defense Coordinator (IDC) is managed by County Administration and includes three support staff. She stated staff assigns contract attorneys to cases the Public Defender or Legal Advocate cannot take and also manages billing and the overall budget for both offices. She stated rates are negotiated by the County, with misdemeanors paid at a flat rate of \$200 per case, regardless of whether the case goes to trial or is resolved otherwise.

Ms. Gilman pointed out that funding shortages continue to create vacancies in indigent defense, largely due to uncompetitive salaries. She stated that although felony cases related to border issues have decreased, felony charges in other parts of the county remain high.

Mr. Kendall explained that the Public Defender's Office has handled 294 felony cases this fiscal year, with seven of them on the trial route. He provided examples of cases where expert consultants were used to avoid trials, such as a DUI case where \$1,850 was spent on expert testimony and testing to convince the client to accept a plea deal. He stated another case, involving arson, required a \$22,000 investment in experts, but it resulted in a directed verdict of not guilty before reaching a jury. He stated that overall, \$46,558 has been spent on expert fees this year, surpassing the \$23,000 budget. Mr. Kendall emphasized the need to increase the expert budget to prevent using funds from other areas, like court interpreters, to cover these variable costs, ensuring that more cases remain under fixed costs.

Mr. Kendall discussed the need for a professional services fund, and is requesting \$15,000 to cover various case review needs. He highlighted the necessity of reviewing data from law enforcement's Cellebrite software, which extracts and creates copies of a defendant's cell phone data, sometimes totaling thousands of pages. Mr. Kendall explained that the data is essential for determining whether the evidence supports the state's case or the client's defense. He suggested hiring a lower-cost analyst at \$20 an hour to screen the data before resorting to more expensive experts, allowing for a more cost-effective review process.

Mr. Kendall requested a \$5,000 increase in his training budget, citing the need for ongoing professional development, particularly for newer attorneys. He explained that the county recently upgraded to a complex software system called Defender by Karpel (DBK) for defense attorneys, which has a steep learning curve. Mr. Kendall emphasized the need for annual training to master the program. He also mentioned that the Public Defender office requires specialized training for attorneys handling sensitive cases, like child sex offenses, which are not covered by the standard APDA conference, and that further in-depth trial training is necessary for newer attorneys to gain practical experience.

Mr. Casey clarified that while the IT staff is familiar with the system's operations, they are not equipped to handle the legal aspects. He explained that the training required for the legal side of the system differs significantly from the IT side, making it unsuitable for IT staff to train on the system and then return to apply that knowledge in a legal context. Ms. Gilman provided a summary of statistics, highlighting trends in indigent defense. She pointed out that the data does not include individuals who paid for their own attorney. She stated that when there are vacancies, the use of contract attorneys increases, but when there are enough attorneys, the offices can manage the cases directly.

Chairman Antenori adjourned the meeting at 11:30 a.m.

APPROVED:

Frank Antenori, Chairman

ATTEST:

Lara Loewenheim, Clerk of the Board