



Contract Number

SAP Number

N/A

Sheriff/Coroner/Public Administrator

Department Contract Representative	John Ades, Captain
Telephone Number	909-387-0640
Contractor	Superior Court of California, County of San Bernardino
Contractor Representative	Nancy CS Eberhardt, Court Executive Officer
Telephone Number	(909) 708-8767
Contract Term	07/01/2021 to 06/30/2024
Original Contract Amount	-----
Amendment Amount	-----
Total Contract Amount	-----
Cost Center	4430001000

IT IS HEREBY AGREED AS FOLLOWS:

This Memorandum of Understanding (MOU) for Court Security Services is between the Superior Court of California, County of San Bernardino (COURT) and the County of San Bernardino (COUNTY), through the San Bernardino County Sheriff/Coroner/Public Administrator (SHERIFF), hereinafter referred to individually as a "party" or collectively as "parties".

BACKGROUND

1. Pursuant to Government Code section 69921.5, SHERIFF is responsible for providing the necessary level of court security services to the COURT.
2. Assembly Bill 118 (Chapter 40 of the Statutes of 2011) (AB 118) realigned the source of funding for superior court security. Pursuant to AB 118, a local Trial Court Security Account was established in the county treasury, into which the State Controller would allocate money for the sole purpose of funding superior court security provided by county sheriffs.
3. The Superior Court Security Act of 2012 (Government Code sections 69920-69927) implements the statutory changes necessary as a result of the realignment of superior court security funding enacted in AB 118.
4. Government Code section 69926 requires COURT and SHERIFF enter into an annual or multiyear memorandum of understanding specifying the agreed upon level of court security services and any other

agreed-upon governing or operating procedures.

5. As stated in Government Code section 69920, nothing in the Superior Court Security Act of 2012 is intended to, nor should it, result in reduced court security service delivery, increased obligations on sheriffs or counties, or other significant programmatic changes that would not otherwise have occurred absent realignment.

The parties agree as follows:

1. Term and Duration

- 1.1. The effective date of this MOU is July 1, 2021.
- 1.2. As provided in Government Code section 69926(f), this MOU will remain in effect, to the extent consistent with applicable law, until June 30, 2024 or the parties enter into a new memorandum of understanding.

2. Definitions

- 2.1. **Emergency Services** are services provided in response to unforeseen exigent circumstances outside the day to day operations of the court.
- 2.2. **Judicial Protection Services** are services requested by the Presiding Judge or designee as set forth in California Rules of Court 10.172(f) for the purposes of providing additional security to judicial officers and employees of the court.
- 2.3. **Level of Service** is the number of staff provided by SHERIFF to COURT, including associated administrative support, equipment, and incidentals.

3. Scope of Services

- 3.1. Security Services. SHERIFF will provide court security services ("Security Services") as outlined in Government Code section 69922(b)(1)-(6). SHERIFF will: 1) determine the method and details of providing the Security Services; 2) manage, direct, supervise, and determine the means of performing the Security Services, and 3) employ and control persons utilized by SHERIFF in the performance of the Security Services.
- 3.2. Court Security Plan. SHERIFF will work in conjunction with the Presiding Judge or designee as set forth in California Rules of Court 10.172(f) to develop a comprehensive court security plan ("Court Security Plan") that includes a mutually agreed upon law enforcement security plan to be utilized by COURT as set forth in California Rules of Court 10.173.
- 3.3. Court Security Committee. SHERIFF will designate a representative to be a member of a committee ("Court Security Committee") established to develop the Court Security Plan and will work cooperatively on the formulation of policies and procedures related to the Court Security Plan.
- 3.4. Training.
 - 3.4.1. Costs of recruiting and hiring Court Security personnel shall not be chargeable to COURT or to the local Trial Court Security Account established pursuant to Government Code Section 30025(f)(10).
 - 3.4.2. Costs for SHERIFF personnel for basic academy training needed to obtain peace officer status shall not be chargeable to COURT or the local Trial Court Security Account.

3.4.3. Allowable costs to be reimbursed from the local Trial Court Security Account shall include:

- a) Ongoing training required to be eligible for a court security ("Court Security") assignment by the Commission on Peace Officer Standards and Training; **and**
- b) Any specialized training specific to a Court Security assignment as agreed upon by COURT and SHERIFF.

3.5. Overtime and Deputy Absenteeism. The parties agree to manage their resources to minimize the use of overtime. SHERIFF will make every effort to limit the use of overtime in providing the Security Services and COURT will make reasonable efforts to manage its calendar and conclude its proceedings in a timely manner to avoid the need for SHERIFF'S personnel to work overtime.

SHERIFF agrees to track actual overtime costs and limit reimbursement for overtime from the local Trial Court Security Account to the actual and reasonable overtime costs incurred.

3.6. Equipment. The initial cost of personal safety equipment or vehicles used for court law enforcement services shall not be charged to COURT or to the Trial Court Security Account.

3.7. Professional Support Staff. SHERIFF shall be reimbursed from the local Trial Court Security Account for the actual and reasonable salaries, employer-paid benefits, and overtime for Sheriff-provided staff performing support functions for court law enforcement services, as specified in Section 6.

3.8. Standards of Performance. SHERIFF will be the appointing authority for all personnel providing Security Services to COURT. SHERIFF acknowledges that COURT requires standards of performance of SHERIFF personnel assigned to the court that demonstrate professional excellence in the execution of duties, interpersonal relations with judicial officers, court employees and all persons utilizing the services of the court. COURT will inform SHERIFF if any personnel assigned to Security Services are deficient in meeting the standards of performance. SHERIFF will investigate any report of deficient performance and take disciplinary or corrective action as appropriate including reassignment from the court. COURT may request removal or reassignment of any SHERIFF personnel for any reason and SHERIFF will expeditiously remove or reassign such personnel.

Except for temporary bailiff assignments, selection from a pool of candidates submitted by SHERIFF, and retention of a regularly assigned bailiff to a courtroom shall require mutual assent between the judicial officer and SHERIFF. SHERIFF shall not transfer or reassign deputies who are regularly assigned as bailiff to a courtroom without first coordinating with COURT, except when the following conditions exist:

- a) Exigent circumstances, such as FMLA
- b) Disciplinary action or substandard performance by the employee
- c) Promotion or other career advancement opportunity for the employee
- d) Transfer or reassignment request by the employee
- e) When the judicial officer is away from court
- f) When bailiff services are not required in the courtroom, in which event the bailiff may be temporarily assigned other court security related duties
- g) Emergency or disaster situations (as determined by SHERIFF) requiring the deployment of regularly assigned individuals after providing notice to the court if closure of courtrooms or courthouses may be required

3.9. Detention Facilities and Control of Inmates. The parties recognize that SHERIFF has the sole and exclusive authority to operate the County jail and has oversight and control of the prisoners in it. As part of that responsibility, SHERIFF establishes policies and procedures for the management of detention facilities and the application of inmate rules and regulations in accordance with applicable law. It is agreed that SHERIFF'S authority to control inmates and enforce these

policies, procedures, rules and regulations continues during the transportation of inmates to and from the court as well as during their stay in court facilities.

- 3.10. Private Security Companies.** Routine patrol of the grounds around the courthouses and building entry weapons screening are not included in the duties of SHERIFF'S Court Security personnel under this agreement. These duties are performed by private security companies under contract with COURT. The parties agree that SHERIFF is not responsible for the supervision, work performance or employee scheduling of any private security company personnel. Any issue involving private security employees, or their actions will be the sole responsibility of COURT. SHERIFF acknowledges that the provision of perimeter screening and patrol of grounds around courthouses are important components of the overall Court Security Plan and agrees to work with COURT and COURT'S contractors to maximize the safety and security of all persons in court facilities.

4. Emergencies and Additional Services

- 4.1. Emergencies and Court Security Deputies.** SHERIFF may utilize Court Security deputies to provide enhanced security to court employees and those persons who attend court, as necessary, by responding to emergencies and other calls for assistance at locations within and immediately surrounding a court facility. Emergency law enforcement services outside the scope of daily court operations may not be charged to COURT or the Trial Court Security Account.
- 4.2. Deployment of Special Assets for Emergencies and Complex Criminal Investigations.** In the event of an emergency, SHERIFF shall provide, at no charge to COURT or the Trial Court Security Account, services of the Special Weapons and Tactics Team, Crisis Negotiation Team, Arson/Bomb Unit, K-9 units, Scientific Investigations Division, Criminal Intelligence Division, Crime Impact Team, and detectives. SHERIFF shall also provide, at no charge to COURT or the Trial Court Security Account, the services of such units for complex criminal investigations, including judicial threats, when such services are deemed necessary by SHERIFF.
- 4.3. Judicial Protection Services.**
- 1) At the request of the Presiding Judge or designee as set forth in California Rules of Court 10.172(f), SHERIFF shall provide special judicial protection ("Special Judicial Protection") services. These services shall include:
 - a. Coordinating and providing personnel and resources for individual protective details outside of courthouses to any local court judicial officers and other members of the judicial system.
 - b. Security services for any judicial conferences or other significant gatherings of members of the state judiciary and other dignitaries requiring additional security resources over and above the level of services established under Section 6 of this agreement.
 - 2) Costs associated with the Special Judicial Protection services are not covered by the Trial Court Security Account. Sheriff shall charge COURT separately for the actual and reasonable costs of providing Special Judicial Protection services. Those costs include, but are not limited to, salary and benefits of personnel, travel fares, meals, and lodging. The billings for such services shall contain an itemized accounting of all charges for services provided with supporting documentation.
- 4.4. Judicial Safety Program.** SHERIFF shall provide at no cost to COURT or to the Trial Court Security Account a Judicial Safety Program, which includes defensive driving techniques, range training and personal security recommendations for COURT judicial officers. This program also includes assessing potential threats that have a nexus to the official status of any judicial officers and high-

level court personnel and determining appropriate protective recommendations for the affected person when he or she is away from the courthouse.

5. Compensation

- 5.1. Payment for Services.** Subject to the provisions of Government Code Sections 30025-30029.12, SHERIFF shall be reimbursed from the local Trial Court Security Account for the actual and reasonable costs of services rendered to COURT pursuant to this agreement and as allowed by law. COUNTY has established a Trial Court Security Account from the Local Revenue Fund 2011, pursuant to Paragraph (2)(A) of Subdivision (f) of Section 30025 of the Government Code. SHERIFF will continue to provide the Services notwithstanding any delay or disruption in funding from the State. Pursuant to Government Code section 69923 (a) COURT shall not pay SHERIFF for court security services and equipment except as otherwise provided in Government Code section 69920 et seq. Unless otherwise stated in this agreement, all services and equipment provided by the Sheriff up to the 2011 Level of Service (as defined in Section 6.1) shall be funded by the local Trial Court Security Account.
- 5.2. Establishment of Costs.** Personnel costs outlined in this agreement shall be determined by the salary and benefits of such personnel, as set forth in the most current employment MOUs between County employees and COUNTY. COUNTY's Countywide Cost Allocation Plan (COWCAP) is not reimbursed as part of this MOU.
- 5.3. Adjustments.** The costs to be charged for salary and benefits for Court Services personnel shall be adjusted periodically to reflect any changes in the employment MOU between these COUNTY employees and COUNTY. SHERIFF shall notify COURT of adoption by the COUNTY of any such modification in the MOU between these COUNTY employees and COUNTY. Such adjusted costs to the local Trial Court Security Account shall take effect on the same date as SHERIFF incurs such adjusted cost. The COUNTY agrees to provide an estimated full year cost impact for the adjustment(s).

6. Level of Service

- 6.1.** As stated in Government Code section 69920, nothing in the Superior Court Security Act of 2012 is intended to, nor should it, result in reduced court security service delivery or increased obligations on sheriffs or counties. COURT and SHERIFF understand that the Superior Court Security Act of 2012 requires the SHERIFF to provide, at minimum, the Level of Service it rendered to COURT in 2011 ("2011 Level of Service") which included 143 deputies. In 2017, Assembly Bill 103 allocated an additional \$140,000 in funding for the six months remaining in the 2017-18 fiscal year to provide security for two additional judicial positions allocated to the court. Full-year funding began in 2018-19 at \$280,000 per year. Starting with the 2019-20 fiscal year, \$840,000 have been allocated annually for six additional judicial positions allocated to the court. The State resources to fund the provision of court security services have not kept pace with the rising costs of actually providing this service. Therefore, COURT and SHERIFF agree that they will collaborate to limit the impact of state budgetary constraints and collaborate on a spending plan for any new security realignment funding appropriations by the State of California for the provision of services for the benefit of the citizens of San Bernardino County and to strive to increase these resources over time. To that end:
- a)** SHERIFF will use its personnel in a manner that avoids unnecessary staff (including overtime) costs;
 - b)** COURT and SHERIFF will collaborate to seek efficiencies in the use of security personnel, including examining calendaring, scheduling and holding processes;
 - c)** COURT, SHERIFF and COUNTY will work individually, and within their respective statewide organizations, to advocate for sufficient funding to maintain adequate levels and stable funding for court security.

- 6.2. Should the future need for services exceed the Level of Service set forth in 6.1, COURT and SHERIFF will meet and confer in good faith about increasing the Level of Service under this Agreement.
- 6.3. Should additional judgeships be created for the COURT without the funding necessary to support the increased security needed for these positions, the parties shall meet to determine how the security will be provided.

7. Dispute Resolution

- 7.1. Issues that may arise from this MOU will be resolved by the Court Executive Officer and the Sheriff's Court Services Captain. Pursuant to Government Code Section 69926(c), the parties will meet in a good faith effort within five (5) business days of either party requesting the meeting to resolve any issue arising under this MOU to the mutual satisfaction of all concerned. If the issue cannot be resolved at this level, the Presiding Judge and the Sheriff will meet in a good faith effort to resolve the matter. If the matter is not resolved at that level, the parties may utilize the process described in Government Code Section 69926(d). For each meeting, the designated representatives of the parties will have the authority to negotiate a resolution and recommend the resolution to the Board of Supervisors.

8. Miscellaneous Provisions

- 8.1. Audits and Inspection of Records. Each party agrees to make available to the other party accurate books and accounting records relating to its obligations pursuant to this MOU. Each party will permit the other party to audit, examine and make copies of records related to matters covered by this MOU. SHERIFF will make available personnel time records, contractual records and other records related to the Security Services within a reasonable period of time, not to exceed 30 days from the initial date of the request. The costs of the audit will be the responsibility of the requesting party.
- 8.2. SHERIFF shall keep COURT apprised of any additional funding requests made to the State as they relate to COURT Security Services.
- 8.3. Indemnification. Each party will indemnify and hold the other party harmless, to the maximum extent permitted by law, from claims, damages, liabilities, costs and expenses, including attorneys' fees and costs, that arise out of that party's performance of this MOU, except that neither party is responsible for that portion of a claim, damage, liability, cost or expense that occurs by reason of the wrongful acts or negligence or willful misconduct of the other party or of its agents, officials, or employees.
- 8.4. Waiver of Per Capita Risk Allocation. COURT and SHERIFF waive the per capita risk allocation set forth in Government Code section 895.6. Instead, they agree if one of them is held liable upon any judgment for damages caused by a negligent or wrongful act or omission occurring in the performance of this Agreement, the parties' respective pro-rata shares in satisfaction of the judgment will be determined by applying principles of comparative fault.
- 8.5. Insurance. COUNTY and COURT are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrant that through their respective programs of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this agreement.
- 8.6. Amendment or Modification. Except as otherwise provided in this MOU, the MOU may be amended or modified only in writing and with the prior written consent of the parties.
- 8.7. Legislative Changes. If any changes are made to the Act or to regulations or Rules of Court

adopted pursuant thereto, or to any successor legislation or regulations, or if the State imposes any budget requirements or limitations applicable to this Agreement and the services to be provided hereunder, then:

- a) **Mandatory Changes.** To the extent any of the changes are of mandatory application, such change(s) shall apply to the parties and this Agreement, and this Agreement shall be deemed to be amended consistent with such change(s) except to the extent that such change(s) alter(s) a material provision of this Agreement. In that case, such material provision shall be voidable, and the parties will negotiate to amend the Agreement as necessary.
- b) **Non-mandatory Changes.** To the extent that any of the changes are not of mandatory application, such change(s) shall not affect this Agreement or the right or obligations of COURT and SHERIFF under this Agreement unless the parties mutually agree to subject themselves to such change(s) by amending this Agreement.

8.8. Entire Agreement. This Agreement constitutes the complete and exclusive statement of agreement between the parties with respect to the subject matter hereof. As such, all prior written and oral understandings are superseded by this Agreement.

8.9. Notices to the Parties. All notices, requests, demands, and other communications pertaining to this MOU must be in writing and will be deemed to have been duly given when hand delivered, or five (5) days after being deposited in the United States mail, if addressed to the respective parties or their successors as set forth below:

COUNTY:

John McMahon, Sheriff-Coroner
San Bernardino County Sheriff/Coroner/Public
Administrator
655 East Third Street
San Bernardino, CA 92415-0061

COURT:

Nancy CS Eberhardt, Court Executive Officer
Superior Court of California,
County of San Bernardino
247 West Third Street, 11th floor
San Bernardino, CA 92415-0302

8.10. Cooperation. SHERIFF and COURT will cooperate in good faith to implement this MOU, and agree to do such further acts and things, and to execute and deliver such additional agreements and instruments as may be reasonably necessary to give effect to the purposes of this MOU and the parties' agreements hereunder.

8.11. Waiver. A waiver by any party of a breach of any of the covenants to be performed by any other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements restrictions, or conditions of this Agreement.

8.12. Assignment. No party hereto will assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other parties.

8.13. Applicable Law. This MOU and the rights and obligations of the parties hereunder will be governed by, and construed and interpreted in accordance with, the laws of the State of California.

8.14. Severability. If any provision in this MOU is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way.

8.15. If applicable, due to and for the duration of the COVID-19 pandemic, pursuant to the Uniform Electronic Transaction Act (Cal. Civ. Code §§ 1633.1 to 1633.17), and the San Bernardino County Board of Supervisors Resolution No. 2020-030, the parties hereto authorize the use of electronic, facsimile, and/or digital signatures in the execution of this MOU and any of its subsequent

amendments. Such signatures shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed MOU upon request.

IN WITNESS WHEREOF, the Parties have executed this MOU.

COUNTY OF SAN BERNARDINO

►

Curt Hagman, Chairman, Board of Supervisors

Dated: _____
SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

Lynna Monell
Clerk of the Board of Supervisors
of the County of San Bernardino

By _____
Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY
OF SAN BERNARDINO

(Print or type name of corporation, company, contractor, etc.)

By ► _____
(Authorized signature - sign in blue ink)

Name Nancy CS Eberhardt
(Print or type name of person signing contract)

Title Court Executive Officer
(Print or Type)

Dated: _____

Address 247 West Third Street, 11th floor
San Bernardino, CA 92415-0302

FOR COUNTY USE ONLY

Approved as to Legal Form

►
Richard D. Luczak, Deputy County Counsel

Date _____

Reviewed for Contract Compliance

►

Date _____

Reviewed/Approved by Department

►
John Ades, Captain

Date _____