

ORIGINAL

040-11310

**MEMORANDUM OF UNDERSTANDING BETWEEN THE EL DORADO COUNTY
SUPERIOR COURT AND THE EL DORADO COUNTY SHERIFF'S OFFICE
FOR COURT SECURITY SERVICES FISCAL YEAR 2012/13**

This Memorandum of Understanding (MOU) shall stand as evidence that the Sheriff of El Dorado County (hereinafter 'Sheriff'), and the Superior Court of California, County of El Dorado (hereinafter 'Court'), intend to work together toward the mutual goal of providing maximum court security.

Recitals

WHEREAS, Government Code 69921.5 authorizes the Presiding Judge to contract with the Sheriff, subject to available funding, for the level of law enforcement services that are necessary for the Court.

WHEREAS, the Court desires to obtain security services in the interest of public safety and to provide the Court with essential security services, and

WHEREAS, this MOU shall be governed by the Superior Court Law Enforcement Act of 2002, Government Code 69920, et seq..

NOW, THEREFORE, in consideration of the conditions herein, the parties agree as follows:

Section 1. Purpose and Intent

The purpose of this Agreement is to describe the relationship between the Court and the Sheriff as it pertains to the provision of court security services.

Nothing in this MOU is intended to or shall be deemed to limit, expand or otherwise change the definition of Court Operations or "allowable costs" under the SCLE Act, as amended (Government Code section 69920 et seq.) and rule 10.810 of the California Rules of Court (Rule 10.810), or as otherwise provided by law, or to impose any obligation on the Court to pay the Sheriff for any services, equipment, costs, expenses or liabilities of whatever nature except as are included in Court Operations as "allowable costs" pursuant to the SCLE Act and Rule 10.810.

Section 2. Term

The term of this MOU shall be from July 1, 2012 through June 30, 2013 unless terminated earlier pursuant to the notice of termination procedures in Section 8.

Negotiations for a successor MOU for Fiscal Year 2013/14 shall commence no later than April 1, 2013. The terms of this MOU shall not be a limitation on the parties in the negotiations, drafting and execution of a successor MOU for Fiscal Year 2013/14.

The terms and conditions of this MOU shall remain in effect until a successor MOU is finalized.

Section 3. Scope of Service

Basic Services

Sheriff will provide basic security services ("Basic Services") to the Court in the facilities identified in Exhibit A, the Sheriff will provide security services for Teen Court as scheduled. The Basic Services will consist of providing personnel for and performance of the following security functions: traditional bailiff services for judicial officers; courtroom security; perimeter screening of the public and other court users and staff, patrol of the interior of Court Facilities, security of holding cells in Court Facilities, security and protection of judges, judicial officers, court staff and jurors within Court Facilities; as well as incident response in the Clerk's Offices, Court Administration, Family Court Services; maintenance of security-related equipment paid for by the Court, identification of potential threats to the security of the Court, acceptance of time sensitive paperwork for review by judicial officers; and direct supervision of applicable personnel assigned to the Court Security Unit; and the purchase of equipment and supplies necessary to perform these services.

While the number of staff required in a given situation is within the discretion of the Sheriff, the Court shall have the right to consult with the Sheriff on the number of sworn deputies assigned should staffing appear to be inadequate or excessive.

In the event an employee was scheduled to cover the projected needs of the Court facility and the services of the employee become unnecessary due to cancellations of calendared matters or the unexpected closure of a court, the employee will be released for that day but compensated in accordance with section 69927 of the Government Code.

The Sheriff's Office will make every effort to minimize the use of overtime which may be required as a result of court scheduling changes or when assigned staff are absent on vacation or sick leave. Unless it is an emergency situation, all overtime must be pre-approved by the employee's supervisor.

Sheriff, in conjunction with Court, shall develop an annual El Dorado Superior Court Comprehensive Court Security Plan (CCSP) that includes the mutually agreed upon Law Enforcement Security Plan to be utilized by the Court. In accordance with Government

Code 69925, the CCSP shall include policies and procedures to ensure adequate security for public safety, public access and law enforcement services to the Court.

Additional Services

The Court and Sheriff recognize that extraordinary demands for courtroom security, perimeter security, prisoner supervision, or some combination thereof, may arise during the term of this MOU.

Request for Additional Services may be made to the Sheriff by the Presiding Judge, his or her designee(s), or by the Court's Executive Officer, and shall either be made in writing, or, if made in person or by telephone, be confirmed in writing by the requestor. The Court shall provide the Sheriff with as much advance notice as possible regarding requests for Additional Services. Additional Services may include community outreach programs such as The Drug Store Project, Every 15 Minutes, Bench Bar Activities, etc.

The Sheriff shall advise the Court, and shall confirm in writing, if the Sheriff is unable to provide some or all of any requested Additional Services. If the Sheriff is able to provide some or all of any requested Additional Services, the Sheriff shall promptly advise the Court in writing of the estimated costs of the services and if the costs of the additional services can be funded directly by the County or if funding will be required by the Court. Unless the Court disapproves an estimate provided by the Sheriff in writing, the Sheriff shall provide such Additional Services to the Court and shall be entitled to reimbursement for the actual cost of providing the Additional Services up to the amount set forth in the estimate either through Court Security Funds provided to the County or the Court.

Sheriff and Court acknowledge and agree it is impracticable to specify in the Agreement each and every category of Additional Services which might be desired by Court, and that the parties will reasonably cooperate in identifying and addressing such potential Additional Services.

Emergencies

Notwithstanding any other provision of this Agreement, in the event of an emergency involving security in the Court Facilities or involving threats against any judges, judicial officers, court staff or jurors, the Sheriff shall immediately take any and all actions reasonably necessary or appropriate to respond to the emergency.

Emergency law enforcement services shall be reimbursed in accordance with Government Code section 69927.

Review of Staffing Needs

Prior to the commencement of negotiations for a successor MOU, the Sheriff shall conduct a needs assessment to determine the staffing needs for court security services and public safety protection for the succeeding fiscal year. Based on the results of the needs assessment, the Court and the Sheriff shall meet and discuss the staffing requirement for the succeeding fiscal year in conjunction with the negotiations for a successor MOU.

As necessary throughout the year, the Sheriff and the Court shall meet and confer regarding any proposed budget adjustments during the term of this MOU to assure that total court security costs remain within the funds available.

In the event Court and Sheriff agree that changes in staffing are necessary in order to provide Basic Services, and if funding is available to acquire any additional security services, then this Agreement shall be amended as appropriate.

Section 4. Equipment and Supplies

Sheriff will provide all prescribed personal equipment such as uniforms, handcuffs, firearms, batons and radios, to be used by Sheriff's personnel, and the Sheriff shall be reimbursed for the costs of such equipment through the Court Security Funds provided to the County.

Court will be responsible for the purchase and maintenance costs of any equipment used to provide security in Court Facilities, specifically, but not limited to metal detectors and x-ray devices. Sheriff may acquire such equipment at the request of Court, at Court's cost. All such equipment and devices are the property of the Court.

Section 5. Compensation

Funding

The Court and Sheriff acknowledge that funding for Court security and bailiff services is provided directly to the County by the State of California. The Sheriff and Court recognize the amount of funding available for security services during the term of this MOU is anticipated to be \$2,425,669. If at any time the costs for services are projected to exceed this amount or if the funding levels are reduced by the State, the Sheriff and Court agree to discuss and amend the MOU to reduce costs, which may include but not be limited to reducing staffing levels and Court hours of operation. All Funding shall comply with Government code Section 69927.

Section 6. Indemnification/Insurance

Indemnification

The Sheriff shall defend, indemnify, and hold the Court harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorneys fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, Court employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the Sheriff's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the Court, the Sheriff, subcontractor(s) and employee(s) of any of these, except for the sole, or active negligence of the Court, its officers and employees, or as expressly prescribed by statute. This duty of Sheriff to indemnify and save Court harmless includes the duties to defend set forth in California Civil Code Section 2778.

The Court shall defend, indemnify, and hold the Sheriff harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorneys fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, Sheriff employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the Court's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the Sheriff, the Court, subcontractor(s) and employee(s) of any of these, except for the sole, or active negligence of the Sheriff, its officers and employees, or as expressly prescribed by statute. This duty of Court to indemnify and save Sheriff harmless includes the duties to defend set forth in California Civil Code Section 2778.

Insurance

The Sheriff and the Court shall each maintain their own liability insurance coverage, against any claim of civil liability arising out of the performance of this MOU, and provide appropriate evidence of such coverage to the other party.

Section 7. Independent Contractor

It is understood and agreed that the Sheriff is an independent contractor in relationship to the Court, that no relationship of employer-employee exists between the parties, and that under no circumstances shall the Sheriff or its employees or agents be deemed to be

employees or agents of the Court. As an independent contractor, the Sheriff is not subject to the direction and control of the Court except as to the final result.

Court shall have the right, through the Sheriff, to request removal from Court Facilities of any Sheriff's officer, agent or employee for cause. Sheriff shall then direct the assignments and duties of such officer, agent or employee.

Section 8. Termination

Either party may terminate this MOU with or without cause on forty-five (45) days notice provided to the other party.

Written Notice of Termination of this MOU shall be sent by registered mail. Sheriff shall address such notice to:

Tania Ugrin-Capobianco, Court Executive Officer
2850 Fairlane Court
Placerville, CA 95667

Court shall address such notice to:

John D'Agostini, Sheriff – Coroner
300 Fair Lane
Placerville, CA 95667

The notice shall specify the date on which termination shall become final.

If this MOU is terminated for any reason, the Court shall be liable only for payment in accordance with the terms of this MOU for services rendered and expenses incurred prior to the effective date of termination and the Sheriff shall be released from any further obligation to provide the services affected by such termination

Section 9. Dispute Resolution

Court and Sheriff shall attempt in good faith to resolve any dispute informally. The Sheriff's Office shall meet with the Court to discuss the matter and any actions necessary to resolve the dispute.

If the dispute cannot be resolved to the satisfaction of the Sheriff or Court, the objecting party may pursue any available legal remedies. Pending a final decision of the dispute, both parties shall perform their obligations under this MOU in good faith.

Section 10. General Provisions

Notwithstanding any other provision in this MOU, the parties acknowledge the Sheriff is an independently elected official, who, in that capacity, has and retains the discretion to determine and recommend to the Court for approval the appropriate level of service that is required to ensure the safety of the public, judges, court personnel, and other personnel on a long-term as well as temporary basis in all court facilities. The services performed by the Sheriff, the standards of performance, the discipline of officers, the control of Sheriff's personnel, and other matters incidental to the performance of those so employed shall remain with the Sheriff. The selection, assignment and reassignment of the bailiff's are the responsibility of the Sheriff and those decisions should be based on the experience, training and demonstrated ability of personnel and the needs of the Court and judicial officers. All staff assigned to the Court shall be provided all breaks and lunch in accordance with federal and state law, Sheriff's policy, and the Memorandum of Understanding between the County and the Deputy Sheriff's Association.

Any waiver of any term of this MOU must be in writing and executed by an authorized representative of the waiving party, and shall not be construed as a waiver of any succeeding breach of the same or other term of this MOU.

All notices, requests, demands and other communications hereunder must be in writing and shall be deemed to have been duly given when hand delivered or mailed via United States mail, certified mail, registered mail or Interdepartmental mail to the following individuals:

Court

Tania Ugrin-Capobianco, Court Executive Officer
2850 Fairlane Court
Placerville, CA 95667

Sheriff

John D'Agostini, Sheriff – Coroner
300 Fair Lane
Placerville, CA 95667

Section 11. Modifications of this MOU

No modifications of this MOU will be valid unless agreed to in writing and executed by the Presiding Judge of the El Dorado County Superior Court, the Sheriff of El Dorado County and the El Dorado County Board of Supervisors.

Any purported amendment hereof, whether oral or written, which does not conform to the requirements of this paragraph shall be null and void and of no force or effect.

Section 12. Records/Audits

The Sheriff and Court shall retain copies of all MOUs and supporting documentation for services provided for a period of five years, which shall be made available for audit purposes by Judicial Council (AOC), El Dorado County Auditor, or other appropriate agencies.

Section 12. Integration

This document shall constitute the entire Agreement between the parties concerning the provision of security services for all court facilities in El Dorado County during the period July 1, 2012 – June 30, 2013. Any previous agreements, whether oral or in writing, concerning the provision of or payment for court security services during this term shall be of no force or effect.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be entered on the _____ day of _____, 2012.

El Dorado County Superior Court

El Dorado County Sheriff's Office

By: 
Suzanne N. Kingsbury
Presiding Judge

By: 
John D'Agostini
Sheriff - Coroner

Date 6/26/12

Date 6/18/12

El Dorado County Board of Supervisors

By: _____
Chair
Board of Supervisors

Date: _____

ATTEST:
Clerk of the Board of Supervisors

By: _____ Date: _____
Deputy Clerk

Superior Court Services
(Sheriff Security Officer providing Perimeter Security) * * *

Exhibit A

Supervision Personnel

		Shift	Hours/year
Sergeant	Sworn	Mon - Fri	2080
		Total Supervision:	2080

South Lake Tahoe Courts

Division		Shift	Hours/year
Bailiff - Department 3	Sworn	Mon - Fri.; 0800 - 1700	2080
Bailiff - Department 4	Sworn	Mon - Fri: 0800 - 1700	2080
Bailiff - Department 11	Sworn	Thursday; 0800 - 1600	416
Bailiff - Department 12	Sworn	Tues - Thurs; 0800 - 1700	1872
Perimeter Security	Non-Sworn	Mon - Fri; 0730 - 1530	2080
Perimeter Security	Non-Sworn	Mon - Fri; 0800 - 1600	2080
Relief Bailiff	Sworn	Mon - Fri; 0800 - 1700	2080
		Total South Lake Tahoe	12688

Main Street Courthouse

Bailiff - Department 1	Sworn	Mon - Fri; 0800 - 1600	2080
Bailiff - Department 2	Sworn	Mon - Fri; 0800 - 1600	2080
Bailiff - Department 5	Sworn	Mon - Fri; 0800 - 1600	2080
Bailiff - Department 6	Sworn	Friday; 1300 - 1500	104
Perimeter Security	Non-Sworn	Mon - Fri; 0730 - 1700	2470
Perimeter Security	Non-Sworn	Mon - Fri; 0730 - 1700	2470
		Total Main Street	11284

Fair Lane Courthouse

Bailiff - Department 7	Sworn	Mon - Fri; 0800 - 1600	2080
Perimeter Security	Non-Sworn	Mon - Fri; 0730 - 1530	2080
Bailiff - Rover	Sworn	Mon - Fri; 0800 - 1600	2080
		Total Fair Lane	6240

Juvenile Hall Courthouse

Bailiff - Department 8	Sworn	Mon - Fri; 0800 - 1600	2080
Perimeter Security (Dept. 8)	Non-Sworn	Mon - Fri; 0730 - 1600	2210
		Total Juvenile Hall	4290

Cameron Park Courthouse

Bailiff - Department 9	Sworn	Mon - Fri; 0800 - 1600	2080
Bailiff - Department 10	Sworn	Tues - 0800 - 1600	416
Perimeter Security	Non-Sworn	Mon - Fri; 0730 - 1600	2210
		Total Cameron Park	4706

Relief Staffing

Perimeter Security	Non-Sworn	Mon - Fri, 8 hours per day	4160
		Total Relief Personnel	4160

***And such other costs to be awarded in accordance with Government Code Section 69927.