

DAKOTA COUNTY BOARD OF COMMISSIONERS

Authorization To Use American Rescue Plan State And Local Fiscal Recovery Funds To Add 3.0 FTE To County Attorney's Office Criminal Division In Response To impacts Of COVID-19 Pandemic And Amend County Attorney's Office And Non-Departmental 2021 Budgets

Meeting Date: 10/5/2021
Item Type: Consent-Action
Division: County Attorney
Department: Attorney
Contact: Keena, Kathy
Contact Phone: (651) 438-4438
Prepared by: Donely, Thomas

Fiscal/FTE Impact:
 None Other
 Current budget Amendment requested
 New FTE(s) requested
Board Goal: Excellence in public service
Public Engagement Level: N/A

PURPOSE/ACTION REQUESTED

Authorize use of American Rescue Plan (ARP) State and Local Fiscal Recovery Funds (FRF) to add 3.0 FTE to the County Attorney's Office (COA) Criminal Division and amend the 2021 COA and Non-Departmental budgets.

SUMMARY

There is a significant backlog of criminal cases in Dakota County District Court. The backlog was caused by the inability to conduct jury trials and other hearing types for a significant period dating back to March 16, 2020. On that date, Chief Justice Gildea of the Minnesota Supreme Court issued a statewide order affecting district court operations. Throughout 2020 and up to the current date, Chief Justice Gildea issued several other orders affecting district court operations to ensure the safety of court participants that understandably have had a severe negative impact on the number of criminal cases that could be processed.

As of February 2020 (pre-pandemic), the COA had 2,118 active criminal cases. As of September 21, 2021, the COA had 3,326 active criminal cases, an increase of 1,208 cases. In a meeting with justice partners on July 28, 2021, the Dakota County Court Administrator advised that the Minnesota Judicial Council has set a long-term goal to reduce the major criminal pending caseload by 20 percent every four months. If this goal is met, it will take until June 30, 2023 to eliminate the major criminal backlog.

To assist in addressing the backlog, the County Attorney implemented policy changes during the pandemic to expedite cases through the court system, but ultimately additional staff is needed to respond to the backlog created by the pandemic. The Treasury Department has stated regarding the use of ARP-FRF:

“Court backlogs resulting from inability of courts to safely operate during the COVID-19 pandemic decreased the government’s ability to administer services. Therefore, steps to reduce these backlogs, such as implementing COVID-19 safety measures to facilitate court operations, hiring additional court staff or attorneys to increase speed of case resolution, and other expenses to expedite case resolution are eligible uses.”

Timely resolution of criminal cases is an important and necessary public service. Hiring two special staff assistant attorneys and a legal administrative assistant will allow the CAO to respond to the criminal case backlog caused by COVID-19. The positions will be term limited to two years.

RECOMMENDATION

Authorize the County Attorney to hire 2.0 FTE special staff assistant attorneys and 1.0 FTE legal administrative assistant, all positions would be limited to 2-year terms funded by ARP-FRF under the expenditure category of provision of government services.

EXPLANATION OF FISCAL/FTE IMPACTS

There is a \$0 net County levy cost anticipated as a result of this action using ARP-FRF. The total estimated annual cost for all three positions including pay and benefits is for the two-year period is approximately \$611,782.00, plus approximately \$6,795.00 for workstation equipment. The 2021 COA budget is requested to be amended to add the \$57,777 to cover expenses from November through December 2021. The total annualized costs (\$305,891) will be included in the County Manger’s recommended 2022 and 2023 budget.

RESOLUTION

WHEREAS, there is a significant backlog of criminal cases in Dakota County District Court; and

WHEREAS, the backlog was caused by the inability to conduct jury trials and other hearing types for a significant period of time dating back to March 16, 2020; and

WHEREAS, on that date, Chief Justice Gildea of the Minnesota Supreme Court issued a statewide order affecting district court operations; and

WHEREAS, throughout 2020 and up to the current date, Chief Justice Gildea issued several other orders affecting district court operations to ensure the safety of court participants that understandably have had a severe negative impact on the number of criminal cases that could be processed; and

WHEREAS, as of February 2020 (pre-pandemic), the County Attorney's Office (COA) had 2,118 active criminal cases; and

WHEREAS, as of September 21, 2021, the COA had 3,326 active criminal cases, an increase of 1,208 cases; and

WHEREAS, in a meeting with justice partners on July 28, 2021, the Dakota County Court Administrator advised that the Minnesota Judicial Council has set a long-term goal to reduce the major criminal pending caseload by 20 percent every four months; and

WHEREAS, if this goal is met, it will take until June 30, 2023 to eliminate the major criminal backlog; and

WHEREAS, to assist in addressing the backlog, the County Attorney implemented policy changes during the pandemic to expedite cases through the court system, but ultimately additional staff is needed to respond to the backlog created by the pandemic; and

WHEREAS, the Treasury Department has stated regarding the use of American Rescue Plan (ARP) Act Coronavirus Local Fiscal Recovery Funds (FRF):

“Court backlogs resulting from inability of courts to safely operate during the COVID-19 pandemic decreased the government’s ability to administer services therefore, steps to reduce these backlogs, such as implementing COVID-19 safety measures to facilitate court operations, hiring additional court staff or attorneys to increase speed of case resolution, and other expenses to expedite case resolution are eligible uses”

(Treasury Coronavirus State and Local Fiscal Recovery Funds Frequently Asked Questions, dated July 19, 2021, FAQ 2.19); and

WHEREAS, timely resolution of criminal cases is an important and necessary public service; and

WHEREAS, to address the backlog, the County Attorney recommends hiring two special staff assistant attorneys and one legal administrative assistant with each position limited to 2-year terms; and

WHEREAS, the total estimated annual cost for all three positions including pay and benefits is for the two-year period is approximately \$611,782.00, plus approximately \$6,795.00 for workstation equipment; and

WHEREAS, the 2021 COA budget is requested to be amended to add \$57,777 to cover expenses from November through December 2021; and

WHEREAS, the total annualized costs (\$305,891) will be included in the County Manger’s recommended 2022 and 2023 budget; and

WHEREAS, all expenses are ARP-FRF eligible under the expenditure category of provision of government services pursuant to Interim Rule, 31 CFR Part 35, Subp. A, Section 35.6 (d) Providing Government Services – to the extent of a reduction in the recipient's general revenue; and

WHEREAS, at the September 21, 2021 workshop, the County Board reviewed the County Attorney's request and concluded that utilizing ARP-FRF to respond criminal case backlog created by the COVID-19 pandemic is an appropriate use of the funds and in the best interest of the public.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorize the Dakota County Attorney to add 2.0 full-time equivalent (FTE) special staff assistant attorneys and a 1.0 FTE legal administrative assistant to the 2021 County Attorney Budget; and

BE IT FURTHER RESOLVED, That the three new FTEs be two-year term-limited positions; and

BE IT FURTHER RESOLVED, That the 2021 County Attorney's Office Budget is hereby amended as follows; and

Expense	
Staff	\$50,982
Equipment	<u>\$ 6,795</u>
Total Expense	\$57,777

Revenue	
ARP-FRF	<u>\$57,777</u>
Total Revenue	\$57,777

; and

BE IT FURTHER RESOLVED, That the 2021 Non-Departmental Budget is hereby amended as follows:

Expense	
Program Expense	<u>(\$57,777)</u>
Total Expense	(\$57,777)

Revenue	
ARP-FRF	<u>(\$57,777)</u>
Total Revenue	(\$57,777)

County Manager's Comments:

- Recommend Action
- Do Not Recommend Action
- Reviewed---No Recommendation
- Reviewed---Information Only
- Submitted at Commissioner Request

Reviewed by (if required):

- County Attorney's Office
- Financial Services
- Risk Management
- Employee Relations
- Information Technology
- Facilities Management



County Manager

**BOARD OF COUNTY COMMISSIONERS
DAKOTA COUNTY, MINNESOTA**

October 5, 2021

Resolution No. 21-475

Motion by Commissioner Mike Slavik

Second by Commissioner Laurie Halverson

Authorization To Use American Rescue Plan State And Local Fiscal Recovery Funds To Add 3.0 FTE To County Attorney's Office Criminal Division In Response To Impacts Of COVID-19 Pandemic And Amend County Attorney's Office And Non-Departmental 2021 Budgets

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WHEREAS, throughout 2020 and up to the current date, Chief Justice Gildea issued several other orders affecting district court operations to ensure the safety of court participants that understandably have had a severe negative impact on the number of criminal cases that could be processed; and

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WHEREAS, as of September 21, 2021, the COA had 3,326 active criminal cases, an increase of 1,208 cases; and

WHEREAS, in a meeting with justice partners on July 28, 2021, the Dakota County Court Administrator advised that the Minnesota Judicial Council has set a long-term goal to reduce the major criminal pending caseload by 20 percent every four months; and

WHEREAS, if this goal is met, it will take until June 30, 2023 to eliminate the major criminal backlog; and

WHEREAS, to assist in addressing the backlog, the County Attorney implemented policy changes during the pandemic to expedite cases through the court system, but ultimately additional staff is needed to respond to the backlog created by the pandemic; and

WHEREAS, the Treasury Department has stated regarding the use of American Rescue Plan (ARP) Act Coronavirus Local Fiscal Recovery Funds (FRF):

STATE OF MINNESOTA
County of Dakota

	YES		NO
Slavik	<u> X </u>	Slavik	_____
Gaylord	<u> X </u>	Gaylord	_____
Halverson	<u> X </u>	Halverson	_____
Atkins	<u> X </u>	Atkins	_____
Workman	<u> X </u>	Workman	_____
Holberg	<u> X </u>	Holberg	_____
Hamann-Roland	<u> X </u>	Hamann-Roland	_____

I, Jeni Reynolds, Clerk to the Board of the County of Dakota, State of Minnesota, do hereby certify that I have compared the foregoing copy of a resolution with the original minutes of the proceedings of the Board of County Commissioners, Dakota County, Minnesota, at their session held on the 5th day of October 2021, now on file in the County Administration Department, and have found the same to be a true and correct copy thereof.

Witness my hand and official seal of Dakota County this 5th day of October 2021.

Jeni Reynolds

Clerk to the Board

“Court backlogs resulting from inability of courts to safely operate during the COVID-19 pandemic decreased the government’s ability to administer services therefore, steps to reduce these backlogs, such as implementing COVID-19 safety measures to facilitate court operations, hiring additional court staff or attorneys to increase speed of case resolution, and other expenses to expedite case resolution are eligible uses”

(Treasury Coronavirus State and Local Fiscal Recovery Funds Frequently Asked Questions, dated July 19, 2021, FAQ 2.19)

; and

WHEREAS, timely resolution of criminal cases is an important and necessary public service; and

WHEREAS, to address the backlog, the County Attorney recommends hiring two special staff assistant attorneys and one legal administrative assistant with each position limited to 2-year terms; and

WHEREAS, the total estimated annual cost for all three positions including pay and benefits is for the two-year period is approximately \$611,782.00, plus approximately \$6,795.00 for workstation equipment; and

WHEREAS, the 2021 COA budget is requested to be amended to add \$57,777 to cover expenses from November through December 2021; and

WHEREAS, the total annualized costs (\$305,891) will be included in the County Manger’s recommended 2022 and 2023 budget; and

WHEREAS, all expenses are ARP-FRF eligible under the expenditure category of provision of government services pursuant to Interim Rule, 31 CFR Part 35, Subp. A, Section 35.6 (d) Providing Government Services – to the extent of a reduction in the recipient’s general revenue; and

WHEREAS, at the September 21, 2021 workshop, the County Board reviewed the County Attorney’s request and concluded that utilizing ARP-FRF to respond criminal case backlog created by the COVID-19 pandemic is an appropriate use of the funds and in the best interest of the public.

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BE IT FURTHER RESOLVED, That the three new FTEs be two-year term-limited positions; and

BE IT FURTHER RESOLVED, That the 2021 County Attorney’s Office Budget is hereby amended as follows:

STATE OF MINNESOTA
County of Dakota

	YES		NO
Slavik	<u> X </u>	Slavik	_____
Gaylord	<u> X </u>	Gaylord	_____
Halverson	<u> X </u>	Halverson	_____
Atkins	<u> X </u>	Atkins	_____
Workman	<u> X </u>	Workman	_____
Holberg	<u> X </u>	Holberg	_____
Hamann-Roland	<u> X </u>	Hamann-Roland	_____

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Equipment	<u>\$ 6,795</u>
Total Expense	\$57,777

Revenue	
ARP-FRF	<u>\$57,777</u>
Total Revenue	\$57,777

; and

BE IT FURTHER RESOLVED, That the 2021 Non-Departmental Budget is hereby amended as follows:

Expense	
Program Expense	<u>(\$57,777)</u>
Total Expense	(\$57,777)

Revenue	
ARP-FRF	<u>(\$57,777)</u>
Total Revenue	(\$57,777)

STATE OF MINNESOTA
County of Dakota

	YES		NO
Slavik	<u>X</u>	Slavik	_____
Gaylord	<u>X</u>	Gaylord	_____
Halverson	<u>X</u>	Halverson	_____
Atkins	<u>X</u>	Atkins	_____
Workman	<u>X</u>	Workman	_____
Holberg	<u>X</u>	Holberg	_____
Hamann-Roland	<u>X</u>	Hamann-Roland	_____

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