



Revision to ASR and/or Exhibits/Attachments

Date: February 2, 2007
To: Darlene J. Bloom, Clerk of the Board of Supervisors
CC: County Executive Office
From: Colleen Preciado, Chief Probation Officer
RE: Agenda Item(s) # 42 for the 2/6/07 Board Meeting
ASR Control #(s): 07-000071
Subject: COPLINK Participation - Probation and District Attorney

Colleen Preciado
 RECEIVED
 07 FEB - 2 PM 12: 22
 COUNTY OF ORANGE BOARD OF SUPERVISORS

Explanation:

As originally filed, the ASR related to only one agreement, the System Use Policy Agreement as approved to form by County Counsel. Since then, the Chair of the Integrated Law and Justice Agency for Orange County notified the Probation Department that a different agreement applied to County agencies requesting participation in COPLINK. Negotiations occurred through 1/30/07 that resulted in: (a) retaining the System Use Policy Agreement attached to the ASR as originally filed; (b) addition of a second agreement, the Supplemental Agreement, approved by County Counsel and also to be presented to the Board for approval at the 2/6/07 meeting; and (c) extensive modifications to the ASR.

Revised Recommended Action(s)

Please refer to attached "To COB Track Changes to ASR on CAMS 2-2-07".

Make modifications to the:

Subject Background Information Summary

Please refer to attached "To COB Track Changes to ASR on CAMS 2-2-07".

Revised Exhibits/Attachments (attached)

Please refer to attached "BStocker Approved Supplemental Agreement".

Additional Information and/or Correspondence (attached)

Two attachments for COB input and upload to the ASR.

Thank you for your assistance.

DISTRIBUTION TO:
 DARLENE'S BOOK _____
 SUSAN NOVAK _____
 AGENDIZER _____
 BOARD CLERKS _____
 SUPERVISOR _____
 PUBLIC TUB _____
 BOARD OFFICES _____
 CEO _____
 COCO _____
 GRAND JURY _____
 DATE _____ BY _____



AGENDA STAFF REPORT

ASR Control 07-000071

MEETING DATE: 02/06/07
 LEGAL ENTITY TAKING ACTION: Board of Supervisors
 BOARD OF SUPERVISORS DISTRICT(S): All Districts
 SUBMITTING AGENCY/DEPARTMENT: Probation (Approved)
 DEPARTMENT CONTACT PERSON(S): Greg Ronald, (714) 937-4703
 Lisa Bohan-Johnston, (714) 347-8443

SUBJECT: COPLINK Participation - Probation and District Attorney

CEO CONCUR Concur	COUNTY COUNSEL REVIEW Approved Agreement to Form	CLERK OF THE BOARD Discussion 3 Votes Board Majority
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Budgeted: Yes	Current Year Cost: \$0 for 2/6/07 - 6/30/07	Annual Cost: FY 07-08 estimate: Probation \$25,000; District Attorney \$25,000	Deleted: 1
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Staffing Impact: No	# of Positions:	Sole Source: N/A
Current Fiscal Year Revenue: 0		
Funding Source: GF/PROPOSITION 172		

Prior Board Action: Board Agenda 10/31/06, Item No. S46E; Board Agenda 5/23/06, Item No. 57

RECOMMENDED ACTION(S)

1. Authorize the Chief Probation Officer and the District Attorney to execute, on behalf of their agencies and the County of Orange, the COPLINK System Use Policy Agreement to permit the Probation Department and the District Attorney to participate in COPLINK.
2. Authorize the Chief Probation Officer and the District Attorney to execute, on behalf of their agencies and the County of Orange, the Supplemental Agreement with the Integrated Law and Justice Agency of Orange County (ILJAO, a consortium of public agencies whose governing board oversees COPLINK operations), relating to the County's payment and indemnification obligations for COPLINK services as a non-voting member of the ILJAO. Deleted: two County agencies'
3. Upon ILJAO notification of the approved budget for COPLINK services for FY 07-08, and for each Fiscal Year thereafter, and the proportionate share of costs for the Orange County Probation Department and the District Attorney's Office for said Fiscal Years, direct the Chief Probation Officer and the District Attorney annually, starting in June 2007, to present said costs to the Board for approval, if the Chief Probation Officer and the District Attorney determine that their agencies should continue to use the COPLINK system and that the costs proposed by ILJAO are reasonable for the services to be provided. Deleted: obtain Deleted: of those costs for the period July 1, 2007 through June 30, 2008

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Deleted: Authorize the Chief Probation Officer and the District Attorney to direct payment by Auditor-Controller of their agencies' shares of costs for COPLINK services as approved by the Board for the period July 1, 2007 through June 30, 2008, and annually thereafter if the Chief Probation Officer and the District Attorney determine that their agencies' proportionate shares of costs for COPLINK services, as allocated by the ILJAOC within its approved budget for successive fiscal years, are appropriate and acceptable.¶

Deleted: By approving the COPLINK System Use Policy Agreement the County may start participating in an electronic information sharing system among criminal justice agencies. By also approving the Supplemental Agreement with the Integrated Law and Justice Agency of Orange County (ILJAOC), the participating County agencies' indemnification and payment obligations for COPLINK services, as non-voting ILJAOC members, are addressed.¶

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SUMMARY:

Approval of the COPLINK System Use Policy Agreement will permit the Probation Department and the District Attorney to start participating in the COPLINK electronic information sharing system among criminal justice agencies, and will address the mutual indemnification obligations between the participating public entities and Knowledge Computing Corporation, the operator and maintenance vendor of the COPLINK system. Approval of the Supplemental Agreement with the Integrated Law and Justice Agency of Orange County (ILJAOC), which oversees the operation of the COPLINK system, will address the mutual indemnification obligations of ILJAOC and the County, and the County's payment obligations to ILJAOC for COPLINK services.

BACKGROUND INFORMATION:

EVENTS LEADING TO PROPOSED COPLINK PARTICIPATION UNDER THE SYSTEM USE POLICY AGREEMENT:

On October 31, 2006, your Honorable Board received and filed a report on the status of the Probation Department's efforts toward participation in COPLINK. The Chief Probation Officer's presentation was in response to your Board's directive to report on the status of efforts by County agencies.

The Probation Department and the District Attorney's Office have since completed their review and analysis of operational and security issues relating to their planned participation in COPLINK. Those issues, as resolved, are described below:

1. Enforceability of COPLINK System Use Policy Agreement

Participation in COPLINK requires execution of a System Use Policy Agreement (User Agreement). The User Agreement outlines the conditions under which participating agencies will share and release information through COPLINK.

The Orange County Superior Court, Knowledge Computing Corporation (the vendor selected to provide software application and hardware support), and the police chiefs of 21 cities signed the User Agreement in late 2005. City councils of the 21 cities took actions that gave the User Agreement legal force and effect: (a) ratification of their police chiefs' prior execution of the User Agreement; and (b) authorization of their mayors or city managers to execute the User Agreement.

A Joint Powers Agency (JPA) was officially formed on June 26, 2006, to oversee operation of the COPLINK system, and the Integrated Law and Justice Agency of Orange County (ILJAOC) was established. County agencies consisting of the Sheriff, the District Attorney, the Chief Probation Officer, the Public Defender, and a County Executive Office representative attend ILJAOC meetings in a non-voting capacity.

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2. Service Level Agreement for Maintenance of Infrastructure, Software Application and Hardware Support

The ILJAOC reached agreement with the City of Santa Ana, the host facility for COPLINK, to establish responsibilities for maintenance of the information-sharing infrastructure that facilitates operation of the COPLINK system. The Santa Ana City Council approved this Service Level Agreement for adoption and execution. Knowledge Computing Corporation is also a party to the

Service Level Agreement and has executed the document. A copy of the Service Level Agreement is provided with this ASR for the Board's information.

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3. Security of County Network

The County's Deputy CEO/Chief Information Officer has reviewed the proposed COPLINK user network and has confirmed that data connections will meet and maintain County security requirements. There is no direct connection between COPLINK and any County department applications because the information will be uploaded to compact discs and hand delivered to the City of Santa Ana's data center.

4. COPLINK System Security

The Deputy CEO/Chief Information Officer will be able to review the security policies, standards and results of COPLINK security audits. This information will be available through County agency participation in the ILJAOC and COPLINK. Should the information not be made available upon request to the ILJAOC, the County may exercise its right to withdraw from participation and have all County agency data removed from COPLINK pursuant to the terms of the User Agreement.

The Deputy CEO/Chief Information Officer will request security information as he deems appropriate and will notify the County participating agencies if he receives inadequate information or if the information he receives raises security concerns regarding County data.

5. Need-to-know Audit Trail

Penal Code section 13300 prohibits dissemination of, and unauthorized access to, local summary criminal history information, which is included in the COPLINK system. Access and dissemination are permitted to California peace officers, district attorneys, prosecuting city attorneys, probation officers and parole officers, if they have a need-to-know the information in the course of their official duties. Access to the information is permitted to out-of-state agencies upon a showing of a compelling need for the information in the course of official duties. To address these requirements, log on dialogue and certification boxes have been added to an opening screen presented to users when they access the COPLINK system. These boxes require the users to certify that they have the appropriate level of need-to-know the information, and to specify the reasons why they need the information.

As a COPLINK participant, the Probation Department will share with COPLINK only adult probationer photographs and basic identifying information from local records. The District Attorney will access the COPLINK system on a need-to know basis in the course of conducting official duties. Both the Probation Department and the District Attorney will access other participating agencies' data through the COPLINK system.

6. Mutual Indemnification

The User Agreement governs the terms and conditions for COPLINK participation. The agreement includes an indemnification clause requiring each party to hold the other participating agencies harmless from claims and losses arising from the improper use or release of information obtained through COPLINK.

CEO/Risk Management has reviewed the mutual indemnification provision contained in the User Agreement and has found the risk to be acceptable.

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SUPPLEMENTAL AGREEMENT FOR PARTICIPATING COUNTY AGENCIES AS NON-VOTING ILJAOC MEMBERS

The User Agreement was signed by the non-County User Agencies in late 2005, prior to the formation of the ILJAO in June 2006. The ILJAO was created, by a joint powers agreement, as a separate legal entity, with its own debts, liabilities and obligations. As described above, the ILJAO voting members include the original 21 cities that earlier had executed the User Agreement and the Orange County Superior Court. County agencies are non-voting members of the ILJAO, and the County is not a party to the joint powers agreement.

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COPLINK is one of several initiatives that are under ILJAO management. Since the ILJAO is a legal entity that stands separate and apart from the COPLINK User Agreement signatories, a Supplemental Agreement is needed to address the County's payment and indemnification obligations to ILJAO related to COPLINK, and ILJAO's costing and indemnification obligations to the County related to COPLINK. Once your Board approves the Supplemental Agreement for signature by the Chief Probation Officer and the District Attorney, the agreement will be formally presented to the ILJAO governing board. It is fully expected that the ILJAO governing board will vote unanimously to provide COPLINK services to the two participating County Agencies as non-voting ILJAO members.

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The County's payment and indemnification obligations relating to COPLINK services are described below:

1. Sharing of Costs for COPLINK Services

The ILJAO has confirmed that there will be no charge for the participating County agencies' use of the COPLINK system through June 30, 2007. A budget for FY 07-08 is under development, and the current estimate of costs allocable to the Probation Department and the District Attorney's Office is \$25,000 each. Upon adoption of the budget for COPLINK services for FY 07-08, and for each fiscal year thereafter, and notification by ILJAO of the two County agencies' actual shares of costs for COPLINK services, the Chief Probation Officer and the District Attorney will present said costs to your Board for approval, if the Chief Probation Officer and the District Attorney determine that their agencies should continue to use the COPLINK system and that the costs proposed by ILJAO are reasonable for the services to be provided.

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The Supplemental Agreement provides for ILJAO's written notification to the two County agencies by May 1 of each year, of their shares of costs for succeeding fiscal years. The Chief Probation Officer and the District Attorney will determine if those costs are appropriate and acceptable, and will otherwise have the right to terminate their participation in COPLINK without penalty. Additionally, the Supplemental Agreement allows the two County agencies to terminate their participation in COPLINK, without penalty, if County budget appropriations are inadequate or limited.

2. Mutual Indemnification

The Supplemental Agreement requires the ILJAO and the County, to mutually indemnify each other for claims and losses that arise in the performance of services related to the COPLINK system or the use or operation of the COPLINK system. In the event of such claims and losses, the parties' proportionate shares of liability will be determined on a comparative fault basis.

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CEO/Risk Management has reviewed the mutual indemnification provision contained in the Supplemental Agreement, and has found the risk to be likewise acceptable.

WITHDRAWAL FROM PARTICIPATION:

The User Agreement, allows the County to withdraw its participation at any time, by providing written notice to the ILJAO. The County may opt to withdraw its data from the COPLINK repository by giving written notice to the maintenance vendor. The Supplemental Agreement will automatically terminate

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before the start of any fiscal year for which the County and ILJAO have not reached agreement as to costs for COPLINK services or upon there being inadequate appropriations designated for COPLINK services in the County budget.

COPLINK BENEFITS AND RECOMMENDED PARTICIPATION:

Criminal justice agencies maintain disparate data sources. COPLINK is an electronic information-sharing system that receives, sorts, consolidates, indexes and stores data from those disparate data sources. COPLINK will allow criminal justice agencies to find associations and spatial relationships between suspects and associates, and their crimes. The speed by which COPLINK can sort crime patterns and affiliations, and link them for immediate analysis, will enhance officer safety and make the supervision of probationers more effective.

COPLINK became operational in July 2005. Presently, 12 police departments are on line, two are in final testing, and the remainders are in various stages of implementation with the maintenance vendor. More than 30 COPLINK nodes are operational nationwide. Regional agreements are also in place, notably ILJAO COPLINK and San Diego County Automated Regional Justice Information System, and Tucson / Phoenix police departments.

In light of the numerous benefits to officer and public safety available through COPLINK, the Probation Department and the District Attorney's Office believe that participation in this breakthrough electronic sharing information system is essential. Therefore, the two agencies recommend your Board's approval of the User Agreement and the Supplemental Agreement with ILJAO.

CEQA Compliance

The subject activity is not a project as defined by CEQA pursuant to Section 15378(b)(5) of the CEQA guidelines.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

REVIEWING AGENCIES:

District Attorney, CEO/Office of Information Technology, CEO/Risk Management, Resources and Development Management Department (RDMD)

ATTACHMENT(S):

A - COPLINK System Use Policy Agreement

B - Service Level Agreement between the ILJAO, the City of Santa Ana, and Knowledge Computing Corporation

C - Supplemental Agreement Regarding COPLINK Services and Indemnification Obligations between the Integrated Law and Justice Agency for Orange County

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SUPPLEMENTAL AGREEMENT
REGARDING COPLINK SERVICES AND INDEMNIFICATION OBLIGATIONS
BETWEEN
THE COUNTY OF ORANGE AND
THE INTEGRATED LAW AND JUSTICE AGENCY FOR ORANGE COUNTY

This SUPPLEMENTAL AGREEMENT is made and entered into this 6th day of February, 2007, by and between the Integrated Law and Justice Agency for Orange County, a California Joint Powers Agency ("ILJAO") and the County of Orange, a political subdivision of the State of California, acting on behalf of its District Attorney and Probation Department ("COUNTY"), and is made with reference to the following:

WHEREAS, the Orange County District Attorney and the Orange County Probation Department have requested services from the ILJAO to become User Agencies of the COPLINK System, subject to the ILJAO Board approval of this Supplemental Agreement;

WHEREAS, on February 6, 2007, the Orange County Board of Supervisors, acting on behalf of the Orange County District Attorney and the Orange County Probation Department, authorized the Chief Probation Officer and the District Attorney to execute, on behalf of the COUNTY, the Agreement entitled, "*RMS/CMS Information Sharing/ COPLINK System Use Policy/10/4/2005*" [hereinafter the "System Use Policy Agreement"]. The System Use Policy Agreement, which predates the formation of the ILJAO, sets forth among other things, the terms and conditions of the District Attorney's and Probation Department's participation in the COPLINK System, a method of sharing information that permits "User Agencies" to obtain electronic access to law enforcement and justice information maintained by all "User Agencies;"

WHEREAS, by said approval and execution of the System Use Policy Agreement, the Orange County District Attorney and the Orange County Probation Department each will become a COPLINK System "User Agency," as the term "User Agency" is used in the System Use Policy Agreement;

WHEREAS, the System Use Policy Agreement contains Indemnification and Hold Harmless provisions (Sections II.d and IV.c.), providing for mutual indemnification among all of the User Agencies, and for some types of claims, between User Agencies and Knowledge Computing Corporation;

WHEREAS, it is the intention of the parties to this Supplemental Agreement that this Supplemental Agreement will have no impact on the enforceability of any provision of the System Use Agreement, including, but not limited to, the above-referenced Indemnification and Hold Harmless provisions, and that all provisions of the System Use Policy Agreement will remain in full force or effect after execution of this Supplemental Agreement;

WHEREAS, the parties acknowledge that the costs of COPLINK operations shall be shared among User Agencies, including the COUNTY;

WHEREAS, by this Supplemental Agreement, the parties desire to create a mutual indemnification obligation between ILJAOC and the COUNTY with respect to the performance of services related to the COPLINK System or the use and operation of the COPLINK System, as well as an obligation by the COUNTY to pay for its share of the costs of COPLINK operations;

WHEREAS, the parties also acknowledge that other initiatives may be implemented by the ILJAOC for facilitating the integration and sharing of criminal justice information, and appropriate services will accordingly be made available to User Agencies; and

WHEREAS, COUNTY's participation in such additional initiatives of ILJAO is subject to approval by the Orange County Board of Supervisors and any elected officials of the County of Orange who may be potential participants in such initiatives.

NOW, THEREFORE, it is mutually agreed by and between the COUNTY and ILJAO as follows:

1) Indemnification:

COUNTY and ILJAO each agree to defend and indemnify the other in an amount equal to its proportionate share of liability on a comparative fault basis. This indemnity obligation shall exist with respect to any claim, loss, liability, damage, lawsuit, cost or expense imposed upon or incurred by the indemnified party, which arises out of or is in any way related to the indemnifying party's performance of services related to the COPLINK System or the use or operation of the COPLINK System. The foregoing obligations of COUNTY and ILJAO extend to any injury, death, loss or damage which is sustained by any third party or any agent or contractor of COUNTY or ILJAO arising out of or in any way related to the indemnifying party's performance of services related to the COPLINK System or the use or operation of the COPLINK System. Notwithstanding the foregoing, this provision shall have no effect on the COUNTY's or ILJAO's obligations and rights with respect to a) other COPLINK User Agencies, b) Knowledge Computing Corporation or c) any other COPLINK maintenance vendor.

2) Payment for Costs of COPLINK Operations:

- a) COUNTY shall pay its share of the costs of COPLINK operations. For the period of February 6, 2007, to June 30, 2007, there shall be no charge.

- b) In fiscal years after Fiscal Year 2006-07, the COUNTY's share of COPLINK cost for COPLINK services received by the COUNTY under the System Use Policy Agreement will be determined by the governing board of the ILJAOC for each July 1-June 30 fiscal year. ILJAOC will notify COUNTY in writing, by May 1st of the prior fiscal year, of COUNTY's share of said costs for the succeeding fiscal year.
- c) If said costs are in excess of the amount the COUNTY is willing to pay, and COUNTY elects not to negotiate the costs, or any such negotiations between COUNTY and ILJAOC are unsuccessful, this Supplemental Agreement will terminate on July 1 of the fiscal year for which the costs that are unacceptable to COUNTY would be imposed, and COUNTY will have all rights of a withdrawing agency under Section I. e. of the System Use Policy Agreement.
- d) COUNTY's payment obligation for receipt of COPLINK services shall be contingent upon inclusion of sufficient funding designated for COPLINK services in the budget approved by the Orange County Board of Supervisors for each fiscal year covered by this Supplemental Agreement and the System Use Policy Agreement. If such appropriations are not forthcoming, or are otherwise limited, COUNTY may terminate or modify this Supplemental Agreement without penalty and COUNTY will have all rights of a withdrawing agency under Section I. e. of the System Use Policy Agreement.

3) Conflicts or Inconsistencies:

This Supplemental Agreement shall have no effect on any provision of the System Use Policy Agreement, and the System Use Policy Agreement shall remain in full force and effect. In the event of a conflict between this Supplemental Agreement and the System Use Policy Agreement, the System

Use Policy Agreement will prevail between those agencies which are signatories to that Agreement.

4) Future ILJAOC Initiatives:

If, during the term of the COUNTY's COPLINK participation under the System Use Policy Agreement, the ILJAOC implements other initiatives to facilitate the integration and sharing of criminal justice information in which County of Orange criminal justice officials determine the County of Orange may have an interest, the parties shall:

- a) Make reasonable attempts to negotiate agreements to effectuate appropriate services under those initiatives, if COUNTY criminal justice and budgetary officials, in their discretion, determine that participation in said initiatives under the terms offered by ILJAOC will be beneficial to COUNTY's operations and cost effective; and
- b) If appropriate, seek approval by their governing boards of those agreements.

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IN WITNESS WHEREOF, the parties have executed this SUPPLEMENTAL AGREEMENT in the County of Orange, State of California.

BY: _____
Chairman, ILJAOC
A California Joint Powers Agency

DATED: _____

ATTEST: _____
Secretary
ILJAOC

APPROVED AS TO FORM:

BY: _____
Legal Counsel
ILJAOC

DATED: _____

COUNTY OF ORANGE

BY: _____
TONY RACKAUCKAS
District Attorney

DATED: _____

BY: _____
COLLEENE PRECIADO
Chief Probation Officer

DATED: _____

APPROVED AS TO FORM:
Office of the Orange County Counsel

BY: *Barbara L Stocker*
Barbara Larkin Stocker
Supervising Deputy County Counsel

DATED: 2/1/07