

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET
Director and
State Court Administrator



SCOTT SOSEBEE
Deputy Director
Information Technology

VERISE V. CAMPBELL
Deputy Director
Foreclosure Mediation

MEETING NOTICE AND AGENDA

Indigent Defense Commission (IDC)

VIDEOCONFERENCE

Date and Time of Meeting: Friday January 10, 2014, 1:30 p.m.

Place of Meeting (*additional locations in Elko and/or Ely may be added*):

Carson Supreme Court Library Room 107 201 S. Carson Street Carson City, Nevada	Clark Regional Justice Center AOC Conference Room B 200 Lewis Avenue Las Vegas, Nevada	Washoe Second Judicial District Court Room 220A 75 Court Street Reno, Nevada
Teleconference Access: Dial-In #: 1-877-336-1829 Access Code: 2469586		

AGENDA

- I. Call to Order
 - a. Call of Roll and Determination of a Quorum
- II. Public Comment
Because of time considerations, the period for public comment by each speaker may be limited, and speakers are urged to avoid repetition of comments made by previous speakers.
- III. Review and Approval of Summary of July 12, 2013, Meeting*
- IV. Indigent Defense Data Update
- V. Rural Subcommittee Update
- VI. IDC Mission Statement Subcommittee Update*
- VII. Review of Plans for Appointment of Council and Revision of Model Plan Subcommittee Update
- VIII. Appointed Counsel for Post-Conviction Relief*

Supreme Court Building ♦ 201 South Carson Street, Suite 250 ♦ Carson City, Nevada 89701 ♦ (775) 684-1700 • Fax (775) 684-1723

Regional Justice Center ♦ 200 Lewis Avenue, 17th floor ♦ Las Vegas, Nevada 89101

IX. Upcoming ADKT Petitions – Conference recording requirements, and requiring the State to file oppositions to defense motions.

X. Next Meeting Date and Location*

XI. Public Comment

Because of time considerations, the period for public comment by each speaker may be limited, and speakers are urged to avoid repetition of comments made by previous speakers.

XII. Adjournment

- Action items are noted by an asterisk (*) and typically include review, approval, denial, and/or postponement of specific items. Certain items may be referred to a subcommittee for additional review and action.
- Agenda items may be taken out of order at the discretion of the Chair in order to accommodate persons appearing before the Committee and/or to aid in the time efficiency of the meeting.
- If members of the public participate in the meeting, they must identify themselves when requested. Public comment is welcomed by the Commission but may be limited at the discretion of the Chair.
- The Committee is pleased to provide reasonable accommodations for members of the public who are disabled and require special arrangements or assistance at the meeting. If assistance is required, please notify Committee staff by phone or by email no later than two working days prior to the meeting, as follows: John McCormick, 775-687-9813 · email: jmccormick@nvcourts.nv.gov
- This meeting is exempt from the Nevada Open Meeting Law (NRS 241.030(4)(a)).
- At the discretion of the Chair, topics related to the administration of justice, judicial personnel, and judicial matters that are of a confidential nature may be closed to the public.

Notice of this meeting was posted in the following locations: Nevada Supreme Court Website: www.nevadajudiciary.us; Carson City: Supreme Court Building, Administrative Office of the Courts, 201 South Carson Street; Las Vegas: Regional Justice Center, 200 Lewis Avenue, 17th Floor.

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MEETING SUMMARY

Prepared by John McCormick

INDIGENT DEFENSE COMMISSION (IDC)

Friday, July 12, 2013

Videoconference*

Regional Justice Center, 17th Floor, Room B, Las Vegas
Supreme Court Building, Library Room 107, Carson City
2nd Judicial District Courthouse, Judges' Conference Room, Reno
1:00 p.m.

Attendees

Justice Michael A. Cherry, Chairman
Judge Kevin Higgins
Judge James Todd Russell
Judge Connie Steinheimer
Judge Tom Stockard
Jeremy Bosler
Drew Christensen
David Carroll
Sandra Chereb
Diane Crow
Joni Eastley
Paul Elcano
Matt Fisk
Franny Forsman
Richard Gammick
John Helzer

Karin Kreizenbeck
Chris Lalli
Robert Langford
John Lambrose
Jennifer Lunt
David Schieck
Matt Stermitz
Jonell Thomas
Jeff Wells

AOC Staff

Robin Sweet
Miguel Hernandez
Stephanie Heying
Hans Jessup
John McCormick

I. Call to Order

a) Call of Roll and Determination of a Quorum

Chairman Cherry called the meeting to order and asked everyone to introduce themselves.

II. Public Comment

There was no public comment.

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III. Approval of Minutes of March 22, 2013, Meeting

The summary of the March 22, 2013, meeting was approved as published.

IV. Indigent Defense Data Update

Hans Jessup provided an IDC Caseload Report as of March 2013, detailing appointments of public counsel in a number of counties.

Diane Crow questioned the accuracy of some of the data Mr. Jessup provided.

V. Rural Subcommittee Update

Judge Russell and Ms. Crow reported that the Subcommittee has been fully constituted and that a list of issues for study has been compiled. Judge Russell said that the Subcommittee will meet soon to begin the collection of additional data regarding public defense in the rural counties.

Chairman Cherry asked that Subcommittee maintain contact with AOC staff to make sure accurate data is collected.

VI. IDC Mission Statement

John McCormick provided an update on the Subcommittee's efforts in drafting the mission statement, and directed attendees attention to the draft statement included in the meeting materials that had been provided by Franny Forsman.

Chris Lalli commented on the work he and Ms. Forsman completed towards developing the mission statement, and he requested that the Commission consider the expansion of the Subcommittee to include a judge and a county representative. Mr. Lalli asked that Jeff Wells and Judge Polaha be appointed to help further refine the mission statement, and Chairman Cherry instructed Mr. McCormick to undertake the necessary actions to do as such.

Ms. Forsman commented that the mission statement is intended to be a living document that will be modified to meet the State's evolving needs.

Mr. Wells commented that he is glad to join the subcommittee, but he has some reservations about the draft statement provided in the meeting materials. Ms. Forsman responded that there is no agreement on the draft and she hopes to further refine the language in concert with the newly expanded Subcommittee.

VII. Review of Plans for Appointment of Counsel and Revision of Model Plan

Ms. Forsman explained the work of the Subcommittee including development of procedures for termination of contract counsel and various other changes to the model plan for the appointment of counsel. She said that, after amending the model plan, the next step will be to send the plan out to the courts subject to the plan requirement for use in updating their individual plans. Ms. Forsman indicated that plan revisions should include requirements for data collection, estimated caseloads that contract counsel will receive, changes to procedures for appointment of counsel, and procedures for termination of contracts.

Chairman Cherry asked Ms. Forsman for suggestions for moving forward in this area. She commented that she thinks that the model plan should be revised and provided to the courts so they could use the revised model plan to amend their own plans prior to resubmitting those plans to the IDC. She further commented that the model plan should remain a living document and that it should be updated every two years. Additionally, that local plans should be updated and resubmitted to the IDC every three years and the IDC should respond to each resubmission.

Mr. Lalli asked for clarification on the origin of the model plan and the local plans for the appointment for counsel and Ms. Forsman provided that clarification. He further inquired as to any options for redress if local plans contain objectionable provisions, and said that he has reservations regarding implementation of any unfunded mandates.

John Lambrose commented that the rural counties are currently not subject to the local plan requirement, and provided some background on this decision. He further stated that he likes the current revisions Ms. Forsman has proposed and the potential for improvement in the municipal courts.

Attendees further discussed issues related to plans for appointment of counsel.

Ms. Forsman commented on the additional materials pertaining to procedures for appointment of counsel for post-conviction relief, and the difficulties associated with post-conviction relief cases for appointed counsel.

Ms. Crow commented that the State Public Defender's Office is in charge of paying these bills and that the bills are only paid in accordance with the State Administrative Manual; and that requiring the State PD to consult with the trial judge before cutting unallowable costs is asking too much of the State PD. Ms. Forsman suggested creating a list of rules and guidelines for post-conviction relief billing.

Jonell Thomas commented on her experience with post-conviction work and said that providing information on the billing rules upfront would be beneficial to lawyers. Drew Christensen commented on issues related to billing for post-conviction work and said that it is sometimes difficult to get judges to approve interim bills.

Ms. Crow said that, according to statute, the State PD is supposed to handle all post-convictions appeals, but is not currently doing so, and would require more staff to do as such. Attendees discussed issues with this service delivery model, the need for continuity in representation in post-conviction matters, and potential language revisions to ensure continuity.

Chairman Cherry commented on the reality of post-conviction matters at the Nevada Supreme Court. He requested that Ms. Forsman, Mr. Christensen, Matt Fisk, and Mr. McCormick work together to address the issues raised at today's meeting and bring the revision back to the IDC.

Fred Lee reminded the IDC that a number of these issues need to be more thoroughly reviewed for rural counties by the Rural Subcommittee. Mr. McCormick said that he neglected to include county decision makers on the Rural Subcommittee and requested the IDC recommend the appointment of county representatives. Chairman Cherry asked Mr. McCormick to work with the Clerk's Office to appoint Joni Eastley, Jeff Fontaine, and Matt Stermitz to the Rural Subcommittee. Mr. Lambrose commented on the need for quality data for the Rural Subcommittee to do its job.

Jeff Wells commented that he is still concerned with the potential creation of unfunded mandates by the revision of the model plan. Ms. Forsman said that the model plan does not impose any unfunded mandates.

VIII. Team and Tracking in Eight Judicial District Court

Phil Kohn explained the problem created by the development of the domestic violence specialty court that has resulted in one team of lawyers from his Office being required to appear in 20 different district court departments. Attendees discussed the matter, and Mr. Lalli and Chairman Cherry offered to help Mr. Kohn resolve the issue with the Las Vegas Justice Court and the Eight Judicial District Court.

IX. Next Meeting Date and Location

Justice Cherry commented that next meeting is scheduled for October 11, 2013.

X. Public Comment

There was no public comment.

XI. Adjournment

Chief Justice Cherry adjourned the meeting.

Indigent Defense Data By Court for Fiscal Year 2014¹

			Fiscal Year 2014		
			Criminal Case Group		
			Felony	Misdemeanor	Juvenile
3rd Judicial District	Lyon County District Court (Oct 2013)	Begin Pending	12	2	2
		New Appointments	14	3	3
		Re-Activated	2	0	0
		Adjudicated/Disposed/Close	14	7	3
		Placed on Inactive Status	3	0	0
		End Pending	12	1	1
		Set for Review	3	0	0
5th Judicial District	Esmeralda County District Court (Nov 2013)	Begin Pending	2	1	0
		New Appointments	4	1	0
		Re-Activated	0	0	0
		Adjudicated/Disposed/Close	1	0	0
		Placed on Inactive Status	0	0	0
		End Pending	5	2	0
		Set for Review	0	0	0
	Mineral County District Court (Dec 2013)	Begin Pending	9	1	0
		New Appointments	10	5	0
		Re-Activated	0	0	0
		Adjudicated/Disposed/Close	6	1	0
		Placed on Inactive Status	0	0	0
		End Pending	20	6	0
		Set for Review	0	0	0
	Nye County District Court (Sep 2013)	Begin Pending	193	24	23
		New Appointments	77	14	9
		Re-Activated	23	4	20
		Adjudicated/Disposed/Close	78	16	5
		Placed on Inactive Status	24	4	34
		End Pending	203	24	26
		Set for Review	17	5	0
6th Judicial District	Humboldt County District Court (Oct 2013)	Begin Pending	36	22	9
		New Appointments	16	7	8
		Re-Activated	0	0	0
		Adjudicated/Disposed/Close	13	14	1
		Placed on Inactive Status	7	0	0
		End Pending	31	15	16
		Set for Review	2	0	0
	Lander County District Court* (Nov 2013)	Begin Pending	6	1	6
		New Appointments	0	0	3
		Re-Activated	0	0	0
		Adjudicated/Disposed/Close	4	0	2
		Placed on Inactive Status	0	0	0
		End Pending	2	1	7
		Set for Review	0	0	0
	Pershing County District Court (Nov 2013)	Begin Pending	15	2	3
		New Appointments	20	0	8
		Re-Activated	0	0	0
		Adjudicated/Disposed/Close	10	1	5
		Placed on Inactive Status	0	0	0
		End Pending	25	1	6
		Set for Review	0	0	0

Indigent Defense Data By Court for Fiscal Year 2014¹

			Fiscal Year 2014		
			Criminal Case Group		
			Felony	Misdemeanor	Juvenile
7th Judicial District	Eureka County District Court (Nov 2013)	Begin Pending	1	1	0
		New Appointments	2	0	0
		Re-Activated	0	0	0
		Adjudicated/Disposed/Close	0	1	0
		Placed on Inactive Status	0	0	0
		End Pending	3	0	0
		Set for Review	0	0	0
	Lincoln County District Court (Aug 2013)	Begin Pending	3	2	2
		New Appointments	1	0	0
		Re-Activated	1	0	0
		Adjudicated/Disposed/Close	2	1	2
		Placed on Inactive Status	1	0	0
		End Pending	2	1	0
		Set for Review	0	0	0
	White Pine County District Court (Nov 2013)	Begin Pending	11	0	3
		New Appointments	2	2	5
		Re-Activated	2	0	0
		Adjudicated/Disposed/Close	10	1	7
		Placed on Inactive Status	0	0	1
		End Pending	6	1	0
		Set for Review	0	0	2
10th Judicial District	Churchill County District Court (Nov 2013)	Begin Pending	25	4	5
		New Appointments	55	9	9
		Re-Activated	5	0	0
		Adjudicated/Disposed/Close	25	8	4
		Placed on Inactive Status	8	0	0
		End Pending	50	5	9
		Set for Review	2	0	0
Total**	Total	Begin Pending	313	60	53
		New Appointments	201	41	45
		Re-Activated	33	4	20
		Adjudicated/Disposed/Close	163	50	29
		Placed on Inactive Status	43	4	35
		End Pending***	359	57	65
		Set for Review	24	5	2

¹ Report is a summary of monthly reports, end pending numbers may not sum correctly due to clerical updates in a month not reported to the AOC.

* Lander County District Court only reported Nov. 2013.

** Totals do not include the statistics from 1st, 2nd, 4th, and 8th Judicial Districts.

*** End Pending is a total of the last month reported for each court.

Source: Research and Statistics Unit, IDC Data

Draft IDC Mission Statement

The Indigent Defense Commission exists to help ensure that all eligible indigent persons who are charged with crime in Nevada receive, at minimum, effective assistance of counsel from lawyers who are appointed in a manner independent from the judiciary; and that those services are delivered in efficient and cost-effective manner.

The Indigent Defense Commission strives to ensure this representation by conducting hearings and providing recommendations, information, and data to the Nevada Supreme Court regarding the delivery of indigent defenses services in the State.

To carry out its mission, the Indigent Defense Commission sets forth the following goals:

1. The creation of an independent indigent defense commission to make recommendations to the Legislature, other policy makers, and the Supreme Court regarding the funding of indigent defense, the quality of representation, standards for performance and caseload, and other matters critical to ensuring quality representation.
2. To review and update the existing model plan for the delivery of appointed counsel in Nevada and to review the plans previously submitted plans from the various courts in light of this update, and provide feedback to the courts.
3. To, upon the advice of the Rural Subcommittee, develop recommendations for the Supreme Court to improve the delivery and quality of indigent defense services in Nevada's rural counties.