

COMMISSION ON JUDICIAL SELECTION APPLICATION

FIRST JUDICIAL DISTRICT
DEPARTMENT 2

By

Marcie Elizabeth Ryba



Personal Information

1.	Full Name	Marcie Elizabeth Ryba
2.	Have you ever used or been known by any other legal name (including a maiden name)? If so, state name and reason for the name change and years used.	Yes, Marcie Elizabeth Flygare Name change reason: Marriage Years use: 1979-2011
3.	How long have you been a continuous resident of Nevada?	Since September 2003 (over 20 years)
4.	City and county of residence	Carson City, NV
5.	Age	44

Employment History

6. Please start with your current employment or most recent employment, self-employment, and periods of unemployment for the last 20 years preceding the filing of this Application.

Current or Last Employer	State of Nevada – Department of Indigent Defense Services
Phone	775-687-8490
Physical Address & Website	896 W. Nye, Suite 202, Carson City, NV 89703 Dids.nv.gov
Date(s) of Employment	11/2019
Supervisor's Name and Title	Governor Joe Lombardo
Your Title	Executive Director
Describe Your Key Duties	Currently serving as the first Executive Director of the Department. Oversee all functions of the Department and serve as the Secretary for the Board on Indigent Defense ("BIDS"). Assist BIDS in developing necessary regulations to improve indigent defense services. Collaborate with leadership in the rural counties to build plans for the provision of indigent defense services. Collaborate with leadership in state agencies including with the Governor's Finance Office to establish the proposed budget and facilitate work programs and collaborate with other state agencies to provide resources for our indigent defense providers. Prepare annual and quarterly reports and take actions necessary to ensure adequate and appropriate indigent defense services are being provided, including developing legislation. Testify before the Legislature to educate on the status of indigent defense services in Nevada.
Reason for Leaving	Current employment

Previous Employer	Nevada State Public Defender
Phone	775-684-1080

Address & Website	511 E. Robinson, Suite 1, Carson City, NV https://dids.nv.gov/PD/nspd/
Date(s) of Employment	August 2004-November 2019
Supervisor's Name and Title	Steve Maguire, Nevada State Public Defender (2004-2008) Diane Crow, Nevada State Public Defender (2008-2013) Karin Kreizenbeck, Nevada State Public Defender (2013-2019)
Your Title(s)	Chief Deputy Public Defender / Chief Trial Deputy Public Defender / Deputy Public Defender
Describe Your Key Duties	<p><i>Chief Deputy Public Defender</i> <i>June 2013-November 2019</i></p> <p>Promoted from Chief Trial Deputy to Chief Deputy. Continued all prior duties in handling a full caseload in Carson City and Storey County. Supervised six attorneys; assisted in the management of the office; attended meetings to develop a budget; attended legislative hearings.</p> <p><i>Chief Trial Deputy Public Defender</i> <i>June 2011 – June 2013</i></p> <p>Promoted from Deputy to Chief Trial Deputy. Supervised three trial attorneys; provided effective representation to indigent individuals at arraignment, hearings, and trials; provided leadership and direction to assist the trial attorneys with caseloads; participated in continuing legal education seminars, including training in capital cases.</p> <p><i>Deputy Public Defender</i> <i>Aug. 2004 – June 2011</i></p> <p>Defended adults and juveniles in 432B (dependency cases); cases with criminal charges ranging from misdemeanors to felonies; juvenile delinquency; misdemeanor appeals; and Specialty Court cases in Carson City, Pershing, White Pine, and Storey Counties. Traveled as necessary for the office. Interviewed clients, prepared and filed motions, sat as first chair for jury and bench trials, and participated daily in the negotiation of or completion of cases.</p>
Reason for Leaving	Appointed by the Governor to serve as an Executive Director for DIDS

Previous Employer	Seventh Judicial District Court
Phone	775-293-6550
Address & Website	Current address: 1786 Great Basin Blvd, Ely, NV 89301 (prior address: 801 Clark Street, Ely, NV 89301)

	www.whitepinecounty.net
Date(s) of Employment	September 2003-August 2004
Supervisor's Name and Title	Judge Dan Papez and Judge Steve Dobrescu, District Court Judge
Your Title	Judicial Law Clerk
Describe Your Key Duties	Researched and prepared responses to legal motions for the judges and traveled with the judges to hearings and trials in the surrounding counties of Eureka and Lincoln. Also had the opportunity to discuss the trials and hearings with the judges and talked to the judges about how the attorneys could have been more effective.
Reason for Leaving	Clerkship ended and obtained employment with the NSPD

Educational Background

7. List names and addresses of high schools, colleges and graduate schools (other than law school) attended; dates of attendance; certificates or degrees awarded; reason for leaving.

Dates of Attendance: 1993-1997

Skyview High School
 1775 High Sierra Blvd,
 Billings, MT 59105 (High School Diploma)
 Awarded High School Diploma
 Reason for Leaving: Graduated

Dates of Attendance: 1997-2000

Montana State University – Billings,
 1500 University Dr.,
 Billings, MT 59101
 Awarded: Bachelor of Arts, English
 Honors: Summa cum laude; Dean's Honor Role; Lyle Cooper Award for Outstanding Graduate in English.
 Reason for Leaving: Graduated

8. Describe significant high school and college activities including extracurricular activities, positions of leadership, special projects that contributed to the learning experience.

During high school, I was active in school sponsored activities like marching band and tennis, but my heart was in figure skating and the ice was where I spent the majority of my time. Figure skating shaped my life in so many ways. Like many other sports, figure skating taught me commitment, discipline, and the ability to strive for excellence by requiring me to wake up at 5 am to go to a cold Montana ice skating rink to practice the same thing over and over until I mastered the skill.

One of my most vivid life lessons was learned during my Junior Free Figure Skating test. While taking the test, I fell during a required element that must be completed to receive a passing score. On that day, without the completed element, I failed the test. After coming off the ice and having a discussion with my coach, I learned to pass and move forward, I needed to learn to think on my feet and adapt to unforeseen challenges. We discussed that I should have just added the jump somewhere else during the program and I would have passed. This ability to think quickly and adapt to solve problems is a crucial skill that allowed me to pass the highest test level, the Senior (Gold) Free Style test, and it also translated into my professional life as a trial lawyer.

During college, I continued to adapt and grow by transitioning from figure skating to coaching. Coaching students ultimately introduced me to a mentor that encouraged me to attend law school. This mentor taught me the impact of guidance and support in shaping career paths. Tasked in my current role to build a pipeline from Boyd School of Law to the rural communities, I have pulled on my personal experiences of a mentor's impact in shaping my career path and I strive to provide similar support to the law students that I meet.

I was also active in Sigma Tau Delta, the English Honor Society where I served as Treasurer and the Student Activities Board (SAB). As a member of the SAB, I had the opportunity to put together events on campus and had involvement at every step from selecting and designing the events, securing contracts, marketing and promoting the activities. I think the largest learning lesson from SAB was learning that an individual can come up with an idea and completely bring it to fruition. This lesson, of course, was extremely important for my role as Executive Director of the Department of Indigent Defense Services. Just like in SAB where we were at the drawing board starting events from scratch, serving as the first Executive Director of the Department, I was tasked with creating a department without any sort of manual or blueprints. With my learned skill set, I was able to build the Department to success by hiring staff, finding rental space, building budgets, writing regulations, implementing ADKT 0411 and so much more.

My experiences in high school and college activities significantly shaped my character and skill sets and have undoubtably contributed to my effectiveness in my legal career.

9. List names and addresses of law schools attended; degree and date awarded; your rank in your graduating class; if more than one law school attended, explain reason for change.

Dates of Attendance: 2000-2003

University of Colorado Law School
2450 Kittredge Loop Drive, Boulder, CO 80309
Juris Doctorate awarded 06/2003
Rank: 76/156

10. Indicate whether you were employed during law school, whether the employment was full-time or part-time, the nature of your employment, the name(s) of your employer(s), and dates of employment.

Summer 2001 and Summer 2002:

During law school, students were not permitted to have employment during the first year of school. However, during the summer months, I did have the opportunity to work at Fredericks, Pelcyger, Hester & White, LLC in 2001 and 2002. This firm focused on Native American and Environmental Law. The focus on Native American law was particularly helpful later on as a public defender as it provided me with a foundation in understanding sovereign nations as it relates to jurisdiction to bring charges for events happening on such lands. With this knowledge, I successfully advocated for criminal charges to be dismissed against my Native American client for an incident that allegedly occurred on tribal land.

11. Describe significant law school activities including offices held, other leadership positions, clinics participated in, and extracurricular activities.

While in law school I served as the Class of 2003 Treasurer from 2000-2001. I also served as an associate editor on the Journal on Telecommunications and High Technology Law. And I participated in the Rothberger Moot Court.

However, my future career path became clear after participating in the Legal Aid and Defender Program as a Student Attorney in the Spring of 2002. This program gave me my first glimpse into criminal law by allowing me to represent clients at bond hearings, pre-trial conferences, and ultimately a mock trial. My first client, was a defendant that was charged with driving under the influence on a bicycle. I still remember the professor encouraging me to make the argument of “but its just a bike” as a reason to release. As you can guess, he was not released. Unfortunately for him, in Colorado, you can get a DUI on a bike. I just wish the poor client had been lucky enough to be in Nevada, where the fact that he was not on a motorized vehicle would actually be a defense.

During law school, I was granted the opportunity to hone my trial skills by participating in trial competitions. I participated in the Carrigan Cup Trial Court Competition in Fall of 2002 and the National Trial Competition in the Spring of 2003.

One benefit of attending law school in Colorado was easy access to the mountains. My classes were scheduled so that on Fridays I could ski and snowboard with friends. Free time to ski provided the necessary work / life balance to successfully complete law school.

Law Practice

12. State the year you were admitted to the Nevada Bar.

2004

13. Name states (other than Nevada) where you are or were admitted to practice law and your year of admission.

Colorado, 2003

14. Have you ever been suspended, disbarred, or voluntarily resigned from the practice of law in Nevada or any other state? If so, describe the circumstance, dates, and locations.

No

15. Estimate what percentage of your work over the last five years has involved litigation matters, distinguishing between trial and appellate courts. For judges, answer questions 16-20 for the five years directly preceding your appointment or election to the bench.

My involvement in litigation matters as an executive director is very different than my role as a public defender, I will separate the employment in the table below.

16. Estimate percentage of time spent on:

Legal Discipline	As a public defender (2018-2019)	As an executive director (Nov. 2019-current)
Domestic/family		
Juvenile matters	5	
Trial court civil	2.5	
Appellate civil		
Trial court criminal	90	
Appellate criminal	2.5	
Administrative litigation		
Other: Please describe		100

As a public defender, most of my practice was focused on adult criminal defendants in trial court. I also represented juvenile clients that had been accused of being delinquent or in need of supervision. As for civil experience, I was appointed to represent parents in child welfare (432B) cases and represent individuals in civil commitment proceedings. My appellate criminal experience was limited to justice court cases that were appealed to district court.

As an Executive Director, I have participated in the following civil disciplines:

- **Administrative Rulemaking:** the Board on Indigent Defense Services has rulemaking authority. While serving as Secretary for the Board on Indigent Defense, the board successfully implemented both temporary and permanent regulations with my leadership.
- **Open Meeting Law:** as the Secretary of the Board on Indigent Defense Services, my duties include scheduling meetings, preparing meeting agendas, providing all necessary backup for the meeting, following the directives of the board, and assisting the Board, as needed. Understanding Open Meeting Law is crucial to successfully perform this role.
- **Contract Law:** serving as an executive director I am responsible to review all county indigent defense contracts to ensure compliance with NAC 180, as well as perform administrator roles of entering leases and contracts. I am also responsible to understand purchasing requirements and have successfully released Requests for Proposals (RFP),

Requests for Information (RFI), and ultimately entered into contracts with the winning vendor.

17. In the past five years, what percentage of your litigation matters involved cases set for jury trials vs. non-jury trials?

Again, serving as an executive director for the past four years, I have not been involved in litigation matters, so 0%.

While working at the Nevada State Public Defender's Office as a public defender, I was required to carry a caseload of all case types. Likely 85% of the cases would have been set for jury trials and 15% set for non-jury trials. This estimate is based upon the majority of my caseload being adult criminal trial court litigation, the majority of which were case levels that would have been set for a jury trial. However, I also had a misdemeanor caseload where the cases would be set for non-jury trials. I am unable to give an accurate percentage of litigation matters because we did not track case dispositions at the time that I was in the NSPD.

18. Give the approximate number of jury cases tried to a conclusion during the past five years with you as lead counsel. Give the approximate number of non-jury cases tried to a decision in the same period.

As an estimate, in 2018-2019, I do not believe I had a jury trial. Again, the trials were not tracked, but I would estimate that I had 2 misdemeanor bench trials in that time period.

From 2019-2023, I have been serving as an Executive Director and have not been involved in litigation.

19. List courts and counties in any state where you have practiced in the past five years.

As a public defender, I appeared in the following courts in Nevada from 2018-2019:

First Judicial District Court in Carson City and Storey County

Carson City Justice/Municipal Court in Carson City

Storey County Justice Court in Storey County

As an Executive Director, I have travelled to every rural county in Nevada to meet with county leadership. During these travels I would educate county leaders on the creation of our department, the maximum contribution formula, and the need to create a county plan for the provision of indigent defense services. Historically, in 2008, the Nevada Supreme Court via ADKT0411 required every county to enter into a plan for the provision of indigent defense services, however, the rural counties received a temporary stay of this requirement until the state was able to offer assistance. In March 2021, the Temporary Regulations of the Board on Indigent Defense Services became effective and required that all counties enter into such plans as required by ADKT0411. Within a nine month period, even with the challenges created by the pandemic, the department had successfully assisted every county to adopt a plan for the provision of indigent defense services in compliance with ADKT0411 and NAC 180.

20. List by case name and date the five cases of most significance to you (not including cases pending in which you have been involved), complete the following tables:

Case 1
Case name and date: State v. David Paul Lane (2014)
<p>Court and presiding judge and all counsel: Court: First Judicial District Court Presiding Judge: Judge Wilson Counsel for the State: Carson City District Attorney's Office, represented by Mark Krueger and Troy Jordan Counsel for the Defense: Nevada State Public Defender's Office (Marcie Ryba and John Scott Walker).</p>
<p>Importance of the case to you and the case's impact on you: The practice of law is ever evolving and every jury trial is an opportunity to learn. This particular jury trial was unlike any other because Supreme Court Justice Mark Gibbons served on the jury.</p> <p>One may wonder if having a Supreme Court Justice serve on a jury is beneficial or harmful to a defendant, but I am able to clearly state that it was beneficial.</p> <p>Ultimately, although Mr. Lane was convicted of some of the charges, it was a defensive win because he was convicted of less charges than any offer made by the State.</p>
Your role in the case: Lead Counsel

Case 2
Case name and date: State v. Jeffrey Volosin 2014
<p>Court and presiding judge and all counsel: Court: First Judicial District Court Presiding Judge: Judge Wilson Counsel: Marcie Ryba for the defendant and Mark Krueger and Neil Rombardo for the State.</p>
<p>Importance of the case to you and the case's impact on you: Volosin was charged with 10 counts of sexual assault and 2 counts of lewdness on a child under 14. I successfully advocated to dismiss the Criminal Information on the basis that the State failed to give a reasonable amount of detail for Volosin to defend himself.</p> <p>This case stands out as a substantial achievement in my career. It was a result of perseverance and a belief in achieving what is right.</p>
Your role in the case: Lead Counsel for defense.

Case 3
Case name and date: State v. Funches
<p>Court and presiding judge and all counsel: Court: Seventh Judicial District Court Presiding Judge: Judge Dobrescu Counsel: Nevada State Public Defender: Marcie Ryba and Paul Giese, co-counsel for defense Dave Neidert, AG, State of Nevada</p>
<p>Importance of the case to you and the case's impact on you: This case was my first murder trial where we obtained a Not Guilty verdict.</p> <p>Mr. Funches was accused of stabbing an inmate with a typewriter rod in the shoulder. The rod punctured through the inmate's neck and ruptured the carotid artery. However, the forensic pathologist testified that the cause of death was due to a slit throat, not a puncture wound. The slit throat was caused while the doctor attempted to perform a tracheostomy, but according to the forensic pathologist, it was not performed correctly and was the cause of death.</p> <p>Judge Dobrescu allowed a jury instruction to the effect that a person could be found not guilty if an unforeseeable event, such as a doctor incorrectly performing a medical procedure, occurred.</p> <p>Ultimately the jury acquitted our client.</p>
Your role in the case: co-counsel with Paul Giese.

Case 4
Case name and date: State v. Buchspics, 2004
<p>Court and presiding judge and all counsel: Court: First Judicial District Court (Storey County) Presiding Judge: Judge Maddox Counsel: Marcie (Flygare) Ryba was counsel for the defense and Harold Swafford for the State</p>
<p>Importance of the case to you and the case's impact on you: This case was impactful for me because it solidified my belief in the jury to use common sense in reviewing criminal cases. Ultimately, they agreed that this was an action in self-defense and acquitted my client.</p>
Your role in the case: Lead Counsel

Case 5
Case name and date: State v. Potter, 2010
<p>Court and presiding judge and all counsel: Court: Seventh Judicial District Court</p>

Presiding Judge: Judge Papez Counsel: Marcie Ryba for defense Attorney General for the State
Importance of the case to you and the case’s impact on you: This case increased my understanding of prison culture and provided insight to gang activity in the prisons and the limited options that some inmates feel they have.
Ultimately the client was convicted, but he was given his day in court represented by a zealous advocate.
Your role in the case: Lead Counsel

21. Do you now serve, or have you previously served as a mediator, an arbitrator, a part-time or full-time judicial officer, or a quasi-judicial officer? To the extent possible, explain each experience.

No

22. Describe any pro bono or public interest work as an attorney.

My entire career as an attorney has been committed to public interest. After serving as a law clerk, I spent fifteen years serving as a public defender. I have continued that commitment to public interest as serving as the Executive Director of the Department of Indigent Defense Services striving to support and improve indigent defense across Nevada.

23. List all bar associations and professional societies of which you are or have been a member. Give titles and dates of offices held. List chairs or committees in such groups you believe to be of significance. Exclude information regarding your political affiliation.

- First Judicial Bar Association
- Northern Nevada Women’s Lawyer’s Association
- Public Lawyer’s Section
- Nevada Attorneys for Criminal Justice (NACJ)
- National Association of Public Defenders (NAPD)
- National Association of Criminal Defense Lawyers (NACDL)
- National Legal Aid & Defender Association (NLADA)

24. List all courses, seminars, or institutes you have attended relating to continuing legal education during the past five years. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

Yes.

Date	Course Name	Provider	General	Ethics	AAMH

09/07/2023	2023 Legislative Update	Clark County Public Defender	2.00	0.50	0.00
09/01/2023	Navigating the System when Representing a Client with Mental Health or Substance Abuse Issues	Nevada Department of Indigent Defense Services	1.00	0.00	0.00
06/22/2023	State Bar of Nevada Annual Bar Conference	State Bar of Nevada	5.50	2.00	1.00
05/04/2023	DIDS Third Annual Conference	Nevada Department of Indigent Defense Services	7.00	1.00	0.00
04/05/2023	Civility in the Legal Profession	State Bar of Nevada	0.00	0.50	0.00
02/10/2023	How to Speak with the Press When They Call	Nevada Department of Indigent Defense Services	0.00	1.00	0.00
12/07/2022	Ethical Issues in Criminal Defense	Nevada Department of Indigent Defense Services	0.00	2.00	0.00
10/26/2022	Organize Homicide File	Clark County Special Public Defender	1.00	0.00	0.00
09/28/2022	Black Letter Homicide Defenders Law	Clark County Special Public Defender	4.00	0.00	0.00
09/06/2022	Nevada Open Meeting Law	First Judicial District Bar Association	1.00	0.00	0.00
06/22/2022	State Bar of Nevada Annual Bar Conference	State Bar of Nevada	7.50	0.00	0.00
05/27/2022	DIDS Second Annual Conference, Day 2: Investigators	Nevada Department of Indigent Defense Services	5.50	0.00	0.00
05/26/2022	DIDS Second Annual Conference, Day 1: Experts	Nevada Department of Indigent Defense Services	3.00	1.50	1.00

04/15/2022	Client Intake and Witness Interviews: Using Psychology for Effective	Nevada Department of Indigent Defense Services	1.00	0.00	0.00
12/17/2021	(Don't Fear) The Reaper: How to be a Zealous Advocate for Your Forme	Nevada Department of Indigent Defense Services	0.00	2.00	0.00
12/03/2021	2021 Legislative Updates	First Judicial District Bar Association	1.00	0.00	0.00
11/19/2021	Litigating DNA: Understanding the Basics 2.0	Nevada Department of Indigent Defense Services	1.50	0.00	0.00
10/15/2021	Litigating DNA: Understanding the Basics 1.0	Nevada Department of Indigent Defense Services	1.50	0.00	0.00
10/01/2021	Traffic Stops and the Fourth Amendment	Nevada Department of Indigent Defense Services	1.50	0.00	0.00
09/10/2021	Tips on Prosecuting/Defending (Yourself Against) a Post-Conviction C	Nevada Department of Indigent Defense Services	1.50	0.00	0.00
07/30/2021	Building a Winning Criminal Appeal From the Ground Up	Nevada Department of Indigent Defense Services	1.50	0.00	0.00
07/16/2021	The Importance of Pre-Trial Motion Work	Nevada Department of Indigent Defense Services	1.50	0.00	0.00
06/17/2021	2021 State Bar of Nevada Annual Bar Conference	State Bar of Nevada	1.50	2.00	1.00
05/28/2021	Peer Support and Wellness Program for Indigent Defense Providers	Nevada Department of Indigent Defense Services	0.00	0.00	2.00
04/28/2021	How to Calculate Good Time/Work Time Credits for Jail Sentences	Clark County Public Defender	1.00	0.00	0.00

04/23/2021	Pozner on Cross: Advanced techniques using the Chapter Method.	Nevada Department of Indigent Defense Services	6.00	0.00	0.00
04/22/2021	Anatomy of a Case - Fighting the Good Fight From Appointment to Tria	Nevada Department of Indigent Defense Services	2.00	0.00	0.00
04/22/2021	Representing the Challenged Client - Identifying, Raising, and Chall	Nevada Department of Indigent Defense Services	2.00	0.00	0.00
03/19/2021	Juvenile Law in Nevada 2021	Nevada Department of Indigent Defense Services	1.50	0.00	0.00
02/19/2021	Nevada Rules of Criminal Procedure-A Primer	Nevada Department of Indigent Defense Services	1.00	0.00	0.00
02/17/2021	Violation of Lifetime SupervisionCharger....	Clark County Public Defender	1.00	0.00	0.00
01/27/2021	Bodily Injury Case Reviews: What Your Forensic Nurse Expert Can Do f	Clark County Public Defender	1.00	0.00	0.00
01/21/2021	DUI Basics--A Webinar for Litigators	Nevada Department of Indigent Defense Services	1.50	0.00	0.00
12/17/2020	CCPD Presents: Annual Nevada Supreme Appellate Courts Year in Review	Clark County Public Defender	1.50	0.50	0.00
12/17/2020	Defending Sex Cases	Clark County Special Public Defender	2.00	0.00	0.00
11/06/2020	Navigating the Practice of Law & a Pandemic While Endeavoring to Mai	Nevada Department of Indigent Defense Services	0.00	0.00	1.00
11/06/2020	Nevada Law Journal White Paper Symposium Breaking the Cycle: How Nev	UNLV-William S. Boyd School of Law	1.00	0.00	0.00

10/29/2020	Maintaining Control of the Craft: Problem Gambling & the Law	Nevada Department of Indigent Defense Services	1.00	0.00	0.00
09/04/2020	Breath Alcohol Testing - A Webinar for Litigators Prod. 2020	Nevada Department of Indigent Defense Services	1.50	0.00	0.00
08/28/2020	The Interplay Between Strickland's Deficient Performance Prong & the	Nevada Department of Indigent Defense Services	0.00	1.00	0.00
08/04/2020	Nevada's Legislative Process	State Bar of Nevada	1.00	0.00	0.00
06/26/2020	Arguing for Pre-Trial Release after Valdez-Jimenez	Nevada Department of Indigent Defense Services	2.00	0.00	0.00
06/19/2020	Bail: A Pause for the Clause	Supreme Court of Nevada, Administrative Office of the Courts	1.50	0.00	0.00
05/06/2020	Financial Wellness	State Bar of Nevada	1.00	0.00	0.00
05/01/2020	Topical Research on Westlaw (Webinar to Nevada Supreme Court)	WestlegaledCenter (Part of Thomson Reuters)	1.00	0.00	0.00
03/11/2020	Nevada Pretrial Risk Assessment Training for Attorneys	Supreme Court of Nevada, Administrative Office of the Courts	1.00	0.00	0.00
02/21/2020	Employment Law - Updates by Jordan Walsh, Esq,	First Judicial District Bar Association	1.00	0.00	0.00
10/04/2019	Addiction in the Legal Field	First Judicial District Bar Association	0.00	0.00	1.00
09/20/2019	New Updates to Changes in Criminal Codes, Legislative Changes to NRS	First Judicial District Bar Association	1.00	0.00	0.00
03/01/2019	When Tragedy Strikes: Practical, Ethical & Legal Considerations of P	First Judicial District Bar Association	0.00	1.00	0.00

02/13/2019	Preventing Wrongful Convictions	National Association of Criminal Defense Lawyers	14.00	0.00	0.00
12/07/2018	Substance Abuse Education Focused on: Overview of Level of Care Pla	First Judicial District Bar Association	0.00	0.00	1.00
11/09/2018	Accident Reconstruction - Trial Preparation Tips for Civil & Crimin	First Judicial District Bar Association	1.00	0.00	0.00
11/07/2018	DUI & Marijuana Law in Nevada	State Bar of Nevada	2.00	0.00	0.00

25. Do you have Professional Liability Insurance or do you work for a governmental agency?

I work for a governmental agency and do not have Professional Liability Insurance.

Business & Occupational Experience

26. Have you ever been engaged in any occupation, business, or profession other than a judicial officer or the practice of law? If yes, please list, including the dates of your involvement with the occupation, business, or profession.

No

27. Do you currently serve or have you in the past served as a manager, officer, or director of any business enterprise, including a law practice? If so, please provide details as to:

- a. the nature of the business
- b. the nature of your duties
- c. the extent of your involvement in the administration or management of the business
- d. the terms of your service
- e. the percentage of your ownership

No. N/A

28. List experience as an executor, trustee, or in any other fiduciary capacity. Give name, address, position title, nature of your duties, terms of service and, if any, the percentage of your ownership.

N/A

Civic Professional & Community Involvement

29. Have you ever held an elective or appointive public office in this or any other state?

Yes

Have you been a candidate for such an office?

Yes

If so, give details, including the offices involved, whether initially appointed or elected, and the length of service. Exclude political affiliation.

I was appointed by the Nevada Governor to serve as the Executive Director of the Department of Indigent Defense Services in November 2019. In 2023, Governor Lombardo has continued my appointment in this position. I have served in this position for four years.

30. State significant activities in which you have taken part, giving dates and offices or leadership positions.

As a parent, I volunteer with organizations where my children are involved. At this time, I volunteer with St. Teresa of Avila Catholic Elementary School and the Catholic Church. I also volunteer with my children's sporting activities and Girl Scouts.

31. Describe any courses taught at law schools or continuing education programs. Describe any lectures delivered at bar association conferences.

2023: Judicial Education Podcast: I'll Allow It: Episode 5: Department of Indigent Defense Services (DIDS)

2023: Panelist at Boyd School of Law for Employment in Public Interest

2022: Taught a .5 CLE course during the First Annual Homicide Conference with Drew Christensen.

32. List educational, military service, service to your country, charitable, fraternal and church activities you deem significant. Indicate leadership positions.

As discussed in question 30, I do volunteer at my children's school and the Catholic Church. I generally volunteer to assist the room mother with holiday parties for the students and I volunteer to assist with the Crab Feed to raise funds for the school.

33. List honors, prizes, awards, or other forms of recognition.

2022: the Department of Indigent Defense Services was awarded the **Silver Embrace Award from the Boyd School of Law Public Interest Law Association** for being an unsung hero engaged in public interest work in Nevada.

34. Have you at any time in the last 12 months belonged to, or do you currently belong to, any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, creed, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and whether you intend to continue as a member if you are selected for this vacancy.

No

35. List books, articles, speeches and public statements published, or examples of opinions rendered, with citations and dates.

The Department prepares annual and quarterly reports on indigent defense services. These reports can be found on the Department website: https://dids.nv.gov/Annual_Report/home/

Ryba, Marcie, "Department of Indigent Defense Service Helps Clients by Creating Connections," Nevada Lawyer, March 2021, p. 11-12. <https://dids.nv.gov/uploadedFiles/didsnvgov/content/Resources/Department%20of%20Indigent%20Defense%20Services%20Helps%20Clients%20by%20Creating%20Connections.pdf> (last visited November 11, 2023).

Ryba, Marcie, "A Voice for Indigent Defense and a Path for Change," Reasonable Doubt Newsletter, November 2020, <https://dids.nv.gov/uploadedFiles/didsnvgov/content/Resources/Unreasonable%20Doubt%20NA%20CJ.pdf> (last visited November 11, 2023).

Ryba, Marcie, "Positive Changes in Unpredictable Times: Dept. of Indigent Defense Services," Reasonable Doubt Newsletter, February 2021, <https://dids.nv.gov/uploadedFiles/didsnvgov/content/Resources/20210311110641087.pdf> (last visited November 11, 2023).

36. During the past ten years, have you been registered to vote?

Yes

Have you voted in the general elections held in those years?

Yes

37. List avocational interests and hobbies.

I enjoy spending time with my family and my dog. We enjoy traveling to sunny destinations, as well as staying local to ski at Lake Tahoe in the winter and swim in Lake Tahoe in the summer. I enjoy spending time practicing sports with my children such as volleyball, tennis, baseball, and softball. And I enjoy taking daily walks in the outdoors.

Conduct

38. Have you read the Nevada Code of Judicial Conduct and are you able to comply if appointed?
Yes

39. Have you ever been convicted of or formally found to be in violation of federal, state or local law, ordinance or regulation? Provide details of circumstances, charges, and dispositions.
No

40. Have you ever been sanctioned, disciplined, reprimanded, found to have breached an ethics rule or to have acted unprofessionally by any judicial or bar association discipline commission, other professional organization or administrative body or military tribunal? If yes, explain. If the disciplinary action is confidential, please respond to the corresponding question in the confidential section.
No

41. Have you ever been dropped, suspended, disqualified, expelled, dismissed from, or placed on probation at any college, university, professional school or law school for any reason including scholastic, criminal, or moral? If yes, explain.
No

42. Have you ever been refused admission to or been released from any of the armed services for reasons other than honorable discharge? If yes, explain.
No

43. Has a lien ever been asserted against you or any property of yours that was not discharged within 30 days? If yes, explain.
No

44. Has any Bankruptcy Court in a case where you are or were the debtor, entered an order providing a creditor automatic relief from the bankruptcy stay (providing in rem relief) in any present or future bankruptcy case, related to property in which you have an interest?
No

45. Are you aware of anything that may require you to recuse or disqualify yourself from hearing a case if you are appointed to serve as a member of the judiciary? If so, please describe the circumstances where you may be required to recuse or disqualify yourself.

The *Davis v. State* case is presenting in the First Judicial District Court with Judge Wilson. As the Department was tasked to implement the requirements of the *Stipulated Consent Judgment*, a recusal would be necessary under Nevada Code of Judicial Conduct Rule 2.11(A)(6)(b).

Other

46. If you have previously submitted a questionnaire or Application to this or any other judicial nominating commission, please provide the name of the commission, the approximate date(s) of submission, and the result.

I previously submitted an application to serve as Juvenile Master (2015) and Justice of the Peace (2011) in Carson City. I was not selected for either position.

47. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what education, experience, personality or character traits you possess, or have acquired, that you feel qualify you as a supreme court justice. In so doing, address appellate, civil (including family law matters), and criminal processes (including criminal sentencing).

See Attachment

48. Detail any further information relative to your judicial candidacy that you desire to call to the attention of the members of the Commission on Judicial Selection.

The Nevada Current published an article on the Department of Indigent Defense Services and our steps to improve indigent defense services in Nevada. If interested in the article, please see: Girnus, April, “‘Still a ways to go’ but indigent defense is improving in Nevada’s rural counties,” Nevada Current, September 20, 2023, <https://www.nevadacurrent.com/2023/09/20/still-a-ways-to-go-but-indigent-defense-is-improving-in-nevadas-rural-counties/> (last visited November 11, 2023).

49. Attach a sample of no more than ten pages of your original writing in the form of a decision, “points and authorities,” or appellate brief generated within the past five years, which demonstrates your ability to write in a logical, cohesive, concise, organized, and persuasive fashion.

Please find attached a motion from 2018 that was written while I was a public defender. While serving as an Executive Director, I do not prepare writing in the form of a decision, points and authorities, or appellate briefs. Instead, my writing is prepared in memorandum form. I have attached my most recent memorandum where our department is seeking funding from the Interim Finance Committee to further improve indigent defense in Nevada.

This district court vacancy has provided a meaningful opportunity for introspection, allowing me to appreciate the evolution of my education and career. The past two decades of my career have been dedicated to serving the public interest. During this time, I have forged a character defined by resilience, an unwavering commitment to justice, and a nimble aptitude for swiftly mastering diverse legal practice areas. These traits, cultivated through varied experiences, position me as a capable candidate for the role of a District Court Judge.

My educational foundation laid the groundwork for understanding varied areas of law. Entering law school, I did not know what type of law I wanted to practice, I just knew that I always wanted to be a lawyer. Studying law at the University of Colorado School of Law gave me the opportunity to pursue an educational path that encompassed diverse legal experiences. My academic journey included participating in trial court competitions, serving as an associate editor on a law journal, and working as a Student Attorney in the Legal Aid Defender Program. My coursework covered subjects of both criminal and civil law. During my summer breaks, I continued to explore different career paths by volunteering at the Boulder County District Attorney's Office and working at a law firm which specialized in Water and Native American Law which further broadened my perspectives. While criminal law became my focus, the comprehensive foundation across practice areas remains invaluable.

Today, I continue to recognize the importance of ongoing education and involvement in the legal community. I am passionate about continuing not only my personal legal education, but also that of others in the legal community and I am active in organizing public defender training opportunities.

The experiences and challenges that I faced in my twenty-year career journey provide a unique perspective that set me apart and are a compelling testament to my resilience, commitment to justice, and drive. Having spent fifteen years as a trial lawyer with the Nevada State Public Defender's Office, I accrued a wealth of experience in trial courts, making me well-versed in the intricacies of the judicial process. I have had the honor to appear in courts across rural Nevada and developed an ability to learn and adapt to the local rules and practices of each court to ensure that I was an effective advocate. I represented individuals with charges ranging from misdemeanors to felonies, and the First Judicial District Court found that I was competent under SCR 250(2)(e) to provide death penalty representation.

Since 2019, as the first Executive Director of the Department of Indigent Defense Services, I have had the honor to serve on the Governor's Cabinet. My position also requires that I learn the skills necessary to successfully navigate the many areas of law associated with leadership of an executive branch organization. For example, I gained an understanding of open meeting law, learned administrative rulemaking procedures to successfully assist the Board in promulgating regulations, and became proficient in the purchasing rules and requirements for contracts. I participated in the legislative process, and, with the support of the Governor and individual legislators, our department submitted bill draft requests which ultimately became law. Successfully steering legislative bills into law, such as AB480(2021), SB39(2023), AB454(2023), and AB518(2023), illustrates the impact and sustainability of our indigent defense reforms in Nevada.

My character and drive are further reflected in my work to implement the requirements of NRS 180 and the *Davis* “Stipulated Consent Judgment.” As examples, the department was required to create separation of the judiciary from the oversight of the indigent defense function, collect data, and complete and adopt a workload recommendation for public defenders. The implementation of these requirements was achieved by listening attentively, brain-storming possible solutions with all stakeholders, and grit. For this work, the department was recognized in 2022 by the Boyd School of Law Public Interest Law Association and awarded the Silver Embrace Award as an unsung hero engaged in public interest law. My proactive approach in implementing these and other changes, despite facing opposition, demonstrates not just determination and resilience, but also my adaptability and strategic thinking.

My resilience, evident in navigating complex legal challenges, coupled with an unwavering commitment to justice, has consistently driven my pursuit of excellence. My adaptability is reflected in my ability to swiftly grasp diverse practice areas within the legal domain, ensuring a comprehensive approach to complex challenges. Furthermore, my tenure leading an executive branch agency honed my leadership and decision-making skills, enabling me to effectively manage and navigate through intricate legal landscapes. Additionally, actively engaging in the legislative process has equipped me with a profound understanding of policy-making and its implications, enhancing my ability to craft effective legal strategies. I am confident that this unique blend of resilience, commitment to justice, versatility in legal domains, executive leadership, and legislative insights positions me distinctly among applicants for this esteemed role. Thank you for your consideration.

1 MARCIE E. RYBA, ESQ.
2 NEVADA STATE BAR NO. : 8803
3 511 E. ROBINSON ST., STE 1
4 CARSON CITY, NV 89701
5 (775) 684-1080
6 ATTORNEY FOR DEFENDANT

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FILED
2018 FEB 28 AM 9:48

FILED
2018 FEB 28 AM 9:46
STOREY COUNTY CLERK
BY [Signature]
DEPUTY

FILED

**IN THE JUSTICE COURT OF VIRGINIA TOWNSHIP
IN AND FOR THE COUNTY OF STOREY CITY, STATE OF NEVADA**

THE STATE OF NEVADA,
Plaintiff,

vs.

Case No.: 15 CR 00108 1F

WILLIAM THOMAS LYLE, and
JONATHAN SCOTT LYLE,
Defendant.

MOTION TO DISMISS COUNT 2 OF THE AMENDED CRIMINAL COMPLAINT

The Defendant JONATHAN SCOTT LYLE, by and through his attorneys, KARIN KREIZENBECK, Nevada State Public Defender, and MARCIE RYBA, Deputy Public Defender, moves this Court for an Order to Dismiss Count 2 of the Amended Criminal Complaint.

This motion is made and based upon the Points and Authorities attached hereto and all the papers and pleadings on file herein.

DATED this 27 day of Feb, 2018.

KARIN KREIZENBECK
Nevada State Public Defender

By: [Signature]
MARCIE RYBA
Deputy Public Defender

1 **POINTS AND AUTHORITIES**

2 The Sixth Amendment of the United States Constitution and the Due
3 Process Clause of the Fourteenth Amendment mandate that the criminal information
4 give a defendant charged with a crime fair notice of the charges against him so as to
5 permit adequate preparation of a defense. Russell v. State, 369 U.S. 749, 763-764
6 (1962). "An indictment is only sufficient if (1) it contains the elements of the charged
7 offense, (2) gives the defendant adequate notice of the charges, and (3) protects the
8 defendant against double jeopardy." Valentine v. Konteh, 395 F.3d 626 (6th Cir 2005)
9 referring to Hamling v. US, 418 U.S. 87, 118 (1974) and US v. Cruikshank, 92 U.S. 542
10 (1875).
11

12 In U.S. v. Cruikshank, the United States Supreme Court held:
13

14 The object of the indictment is, first, to furnish the accused with such a
15 description of the charge against him as will enable him to make his defense, and
16 avail himself of his conviction or acquittal for protection against a further
17 prosecution for the same cause; and, second, to inform the court of the facts
18 alleged, so that it may decide whether they are sufficient in law to support a
19 conviction, if one should be had. For this, facts are to be stated, not conclusions
20 of law alone. A crime is made up of acts and intent; and these must be set forth
21 in the indictment, with reasonable particularity of time, place, and circumstances

22 92 U.S. 542, 558 (1872) (emphasis added). "[C]ourts have found that the due process
23 rights enunciated in Russell are required not only in federal indictments but also in state
24 criminal charges." Valentine v. Konteh, 395 F.3d 626 (6th Cir 2005).
25

26 **AMENDED CRIMINAL COMPLAINT FAILS TO STATE A PUBLIC OFFENSE**

27 Pursuant to NRS 189.070(3), a criminal complaint may be dismissed if the facts
28 stated do not constituted a public offense. See Sardis v. Second Judicial Dist. Court, 85
Nev. 585, 460 P.2d 163, 1969 Nev. LEXIS 431 (1969). The failure of a complaint to
charge an offense shall be noticed by the court at any time during the pendency of the

1 proceeding. NRS 174.105.

2 The Amended Criminal Complaint reads as follows:

3 That the Defendant, Jonathan Scott Lyle did, on or about September 9, 2015,
4 having knowledge of the commission of the crime of Open Murder by William
5 Thomas Lyle, his brother, as alleged and described above, willfully and
6 unlawfully subsequently destroy or conceal or aid on the destruction or
7 concealment of material evidence, to wit: Johnathan Scott Lyle communicated
8 false and/or deceptive information to the police in order to mislead law
9 enforcement officials, with the intent that William Thomas Lyle may avoid or
10 escape arrest, trial, conviction or punishment, some of which occurred at or near
11 145 Edith Lane, Mark Twain Estates, Storey County, Nevada.

12 The Amended Criminal Complaint fails to state any facts which might be
13 construed as a violation of chapter 195 of the Nevada Revised Statutes. The Criminal
14 Complaint fails to allege that Jonathan Scott Lyle willfully and unlawfully destroyed,
15 concealed, or aided in the destruction or concealment of material evidence as is
16 required under the statute. Instead, it appears that the State is alleging that Johnathan
17 Scott Lyle communicated a lie to the police which at most could amount to Obstruction
18 of a Police Officer, pursuant to NRS 197.190,¹ a charge which the State is now time-
19 barred from pursuing. See NRS 171.090(2). Therefore, it is appropriate for this Court
20 to dismiss Count 2 as the language in the Amended Complaint fails to support a claim
21 that Johnathan Lyle committed the crime of Accessory to Open Murder.

22 **AMENDED CRIMINAL COMPLAINT FAILS TO MEET NOTICE REQUIREMENT**

23 The criminal information must contain "a plain, concise and definite written
24 statement of the essential facts constituting the offense charged." NRS 173.075(1). It

25 _____
26 ¹ NRS 197.190 provides: Every person who, after due notice, shall refuse or neglect to
27 make or furnish any statement, report or information lawfully required of the person by
28 any public officer, or who, in such statement, report or information shall make any
willfully untrue, misleading or exaggerated statement, or who shall willfully hinder, delay
or obstruct any public officer in the discharge of official powers or duties, shall, where no
other provision of law applies, be guilty of a misdemeanor.

1 is indicated by NRS 173.075(2) that the information should either include how the
2 offense was accomplished, or show that the means are unknown. "In the information,
3 the prosecution is required to make a definite statement of facts constituting the offense
4 in order to adequately notify the accused of the charges *and to prevent the prosecution*
5 *from circumventing the notice requirement by changing theories of the case.*" Sheriff v.
6 Levinson, 95 Nev. 436, 437 (1979) (emphasis added), see Simpson v. District Court, 88
7 Nev. 654 (1972). The indictment or information must specify the acts of criminal
8 conduct upon which the state is relying. Bielling v. Sheriff, 89 Nev. 112 (1973). "In
9 accord with these principles, we have held that an information which alleges the
10 commission of the offense solely in the conclusory language of the statute is
11 insufficient." Id.; see Earlywine v. Sheriff, 94 Nev. 100 (1978) referencing NRS
12 173.035(3) which reads: "Each information must set forth the crime committed
13 according to the facts."
14

15
16
17 In Simpson v. District Court, where a Criminal Information was found to be
18 deficient, the Nevada Supreme Court stated that the following principle governs:

19 Whether at common law or under statute, the accusation must include a
20 characterization of the crime and such description of the particular act alleged to
21 have been committed by the accused as will enable him properly to defend
22 against the accusation, and the description of the offense must be sufficiently full
23 and complete to accord to the accused his constitutional right to due process of
24 law. 4 R. Anderson, Wharton's Criminal Law and Procedure, § 1760, at 553
(1957).

24 88 Nev. 654, 660 (1972) (emphasis added.)

25 Even if this Court finds that the language could support a violation of NRS
26 195.030 and 194.040, the State fails to allege the specific acts of criminal conduct upon
27 which the State is relying. The State fails to present what false or deceptive information
28 was allegedly communicated by Jonathan Scott Lyle to law enforcement and to which

1 law enforcement officer this information was allegedly communicated. The timing of this
2 information could lead to a possible defense of whether this was done "willfully." It is
3 necessary to determine whether this information was allegedly communicated while Mr.
4 Lyle was in the hospital under the influence of pain medication after being shot, or if Mr.
5 Lyle was in extreme pain at the time due to his injuries, or if these statements were
6 made after he stated he was advised of his *Miranda* rights and expressed a desire for
7 an attorney. Therefore, if the Court is unwilling to dismiss Count 2, it is requested that
8 the Court order the State to provide a Second Amended Complaint with additional
9 description so that Johnathan Lyle can adequately prepare his defense.

10
11 **CONCLUSION**

12 Based upon the above argument, it is requested that the Criminal
13 Information be dismissed for failure to state a crime. Or in the alternative, it is
14 requested that the State be ordered to provide a Second Amended Complaint which
15 contains such a description of the particular act alleged to have been committed by the
16 accused as will enable him to properly defense against the accusation.

17
18 RESPECTFULLY SUBMITTED this 27 day of Feb, 2018.

19
20 KARIN L. KREIZENBECK
Nevada State Public Defender

21
22 By: Marcie Ryba
23 MARCIE RYBA
Deputy Public Defender

CERTIFICATE OF SERVICE

I certify that I am an employee of the office of the Nevada State Public Defender and that on the date shown below, I served a copy of the foregoing **MOTION TO DISMISS COUNT 2 OF THE AMENDED CRIMINAL COMPLAINT** by preparing for delivery via first-class mail/email/facsimile or by hand a true and correct copy thereof addressed to:

STOREY COUNTY DISTRICT ATTORNEY

PO BOX 496, 201 SOUTH C STREET

VIRGINIA CITY NV 89440

BRET O. WHIPPLE, ESQ.

1100 SOUTH 10TH STREET

LAS VEGAS, NV 89104

DATED this 28 day of February, 2018.

SIGNED: Isaac M. Ryan



**STATE OF NEVADA
DEPARTMENT OF INDIGENT DEFENSE SERVICES**

896 W. Nye, Suite 202 | Carson City, NV 89703
(775) 687-8490 | www.dids.nv.gov

Memorandum

DATE: October 23, 2023
TO: Bridgette Mackey-Garrison, Executive Branch Budget Officer – Team Lead
Don Carlson, Budget Advisor, ASD
FROM: Marcie Ryba, Executive Director, Department of Indigent Defense Services
SUBJECT: Request for AB518, Section 7 Allocation (Work program C64768)

AB518(2023), Section 7 appropriates funding to the IFC for allocation to the Department of Indigent Defense Services to fund:

- (a) The reimbursement of counties for costs in excess of their maximum contribution amounts for the provision of indigent defense services, including, without limitation, the costs of compliance with workload standards;
- (b) The costs of the Department related to compliance with the *Davis v. State* (Nev. First Jud. Dist. Ct. Case No. 170C002271B (Aug. 11, 2020)) consent judgment;
- (c) The costs of the Office of State Public Defender for contracting for legal services for complex cases; and
- (d) The costs for training and pay parity for attorneys who provide indigent defense services.

The Department requests an allocation of \$765,583 from Assembly Bill 518(2023), Section 7, for Fiscal Year 2024 for the Department to comply with the *Davis v. State* (Nev. First Jud. Dist. Ct. Case No. 170C002271B (Aug. 11, 2020)) consent judgment in the following areas: (1) Compliance with Oversight Requirements; (2) Compliance with Training Requirements; (3) Compliance with Workload Standards; and (4) Compliance with the Data Collection and Reporting Requirements. This request is based upon concerns expressed by the *Davis* Monitor in the Ninth Report and the recommendations for compliance contained therein.

Oversight Requirements

The *Davis* Stipulated Consent Judgment requires the following:

Consistent with the ABA Ten Principles, Defendants through the Board, shall ensure that public defense counsel are **systematically reviewed on an annual basis for quality and efficiency according to nationally and locally adopted standards**, including, but not limited to, the ABA Criminal Justice Standards.¹

According to the monitor, the Judgment requires robust assessment and evaluation of both county defense systems and attorneys providing public defense.² This requires in-person visits to observe attorneys in court in each county, as well as reviews of other documentation of attorney performance.³ The monitor notes that it is difficult to see how a robust, annual review of all counties and attorneys could take place without additional staffing for the Department.⁴ To comply with these oversight requirements in the judgment, the monitor recommends that the Department request funds appropriated for the Department pursuant to AB 518 (7)(1) (b) and available in the State Contingency Fund for compliance with the Judgment.⁵

As such, the Department requests an allocation to fund an Administrative Assistant and to fund two-full time hourly contract attorneys to provide oversight. The Department is requesting operating funds to contract with attorneys, rather than hire staff attorneys, because prevailing state salaries are substantially lower than the salaries offered at county public defender offices or compensation offered to contract attorneys; thus, the Department does not believe it will be able to fill two staff attorney positions with attorneys possessing the requisite knowledge to provide oversight. Costs associated with the oversight positions would total \$626,335 in Fiscal Year 2024. NEBS210 is attached.

Total Estimated Cost for Oversight Requirements: Fiscal Year 2024: \$626,335

Indigent Defense Services Training

The *Davis* Stipulated Consent Judgment requires the following:

Consistent with the ABA Ten Principles, Defendants through the Board and Executive Director, shall provide indigent defense providers with access to a systematic and comprehensive training program, specifically including a certain amount of CLE specific to criminal defense.⁶

The Judgment states that the Defendants must offer “a systematic and comprehensive training program,” which covers “at a minimum: (1) client intake interviews; (2) client communication; (3) securing pretrial release; (4) preparation for arraignment, including preservation of client’s rights and requests for formal and/or informal discovery; (5) investigation; (6) filing and responding to pre- and post-trial motions; (7) plea and

¹ Judgment, 16 (emphasis added).

² Ninth Report of the Monitor, July 15, 2023, p. 13-16.

³ Id.

⁴ Id.

⁵ Id.

⁶ Judgment, 16.

sentencing outcome negotiations; (8) trial advocacy; (9) appeals; and (10) special issues regarding the representation of juveniles.”⁷ This provision of the Judgment suggests a systematic approach to ensuring that attorneys have training in all areas crucial to public defense.

The monitor notes that the Department has been able to provide a two-day annual conference for indigent defense attorneys and that the Department obtained an Edward Byrne Memorial Justice Access Subgrant to provide training. However, the monitor believes the Judgment requires more robust training opportunities for public defense providers who lack access to mentorship, mootings, and in-house programming typical of a large defender’s office.⁸ The Monitor recommends that in addition to current training opportunities, the Department should seek funding to send rural attorneys to a national conference/training on a rotating, yearly basis.⁹ Also, the Monitor believes the Department should seek funding for stipends so that attorneys can attend trainings that are held at larger public defender offices within the state and nearby.¹⁰

First, based upon the recommendations of the *Davis* monitor for compliance with the *Davis* training requirements, the Department requests an allocation of \$37,340 per year of the biennium in additional training authority to offer increased CLE for indigent defense attorneys for the purpose of sending five rural attorneys per year to a national trial advocacy college (or similar training). This funding would allow 5 rural indigent defense services attorneys to attend National Trial College (NCDC) per year.¹¹ The mission of the college is to provide the highest standard of trial skills training to criminal defense attorneys across the United States to ensure that people accused of crimes are represented by zealous counsel.

- Estimated Cost: Fiscal Year 2024: \$ 37,340

Next, the Department requests an allocation of AB 518 (7)(1)(d) funds for providing assistance to the Department for, and for reimbursing attorneys, trainers, and law students for their expenses related to attending, the Department’s annual training conference which is currently funded in part by an Edward Byrne Memorial Justice Access Grant. The Department would request \$20,000 to reimburse rural attorneys to travel to the annual conference and other trainings, \$10,500 to reimburse nationally accepted trainers for trainer our indigent defense services providers, and \$21,500 to engage a professional conference manager. These requests are discussed more fully in the bullet points below:

- Funding to reimburse rural attorneys to travel to annual conference (or other conferences that indigent defense attorneys feel are important to attend – like

⁷ Judgment, 16

⁸ Ninth Report of the Monitor, July 15, 2023, p. 17-18.

⁹ Id.

¹⁰ Id.

¹¹ This estimate is based upon the following NCDC TPI Attendance Costs where the total cost per attorney to attend the training is approximately \$7,468.00, including tuition (\$2,700), housing (\$1,633), per diem (\$644), and airfare (\$620). Information was obtained from the NCDC website at <https://ncdc.net/trial-practice-institute/>.

drug court training). Department currently relies on Federal Grant to reimburse attorneys (Byrne Jag subgrant from DPS). It is unknown whether this will continue. The grant was limited to airfare, lodging, and per diem to rural attorneys to attend only the DIDS conference, so the total amounts expended over 2 years of conferences totaled about \$17,700. However, expanding the scope of who can be reimbursed (law students, etc.) and the amounts for which reimbursement may be paid (e.g., parking and travel to and from an airport), and the trainings that can be attended, the amounts expected to be reimbursed would likely increase.

- Estimated Cost: Fiscal Year 2024: \$20,000
- Funding to reimburse nationally accepted trainers to come in to train our defenders. Historically the Department has paid about \$7,500 for fees and travel for a keynote speaker, and approximately \$1,500 in travel for each speaker who came from out of state, typically for 1-2 speakers. The funding would be used to pay for one keynote/paid trainer and 2 speakers from out of state would cost about \$10,500 each year.
 - Estimated Cost: Fiscal Year 2024: \$10,500.
- Funding to engage a professional conference manager. In the past, the Department has handled all the duties associated with planning and hosting its annual conferences. When the initial conference was virtual, this was an easier task to accomplish. With the two conferences that occurred in person, there is significantly more work needed to be conducted to ensure successful training is provided to meet the *Davis* compliance obligations. Engaging with a professional manager (e.g., the Nevada Public Health Foundation) will free up Department time to ensure the best quality conference is provided to defense attorneys throughout the state without any loss of performance in the other duties the Department must fulfill. An estimate to provide such services from the Nevada Public Health Foundation is attached.
 - Estimated Cost: Fiscal Year 2024: \$21,500.

Total Estimated Cost for Compliance with Davis Training Requirements:
Fiscal Year 2024: \$89,340

Compliance with Anticipated Workload Standards

The Department has commissioned a Delphi study to establish workload standards for the rural counties, as is required in NRS 180 and the judgement. Once the workload standards are established, the Department must require compliance with the workload standards within 12 months. It is expected the number of indigent defense services attorneys in the rural counties will be required to increase.

The Department believes that providing stipends for law students to work in the rural counties will create a pipeline for law students to work in the rural counties upon graduation. Pursuant to NRS 180.320(2), the Department shall work with Boyd School of Law to determine incentives to recommend offering to law students to encourage

them to provide indigent defense services. In furtherance of this, in Fiscal Year 2022 and Fiscal Year 2023, the Department had applied for and received grant funding from the State Bar of Nevada to provide stipends to law students who served as interns or externs in a public defender's office in one of Nevada's rural counties. In Fiscal Year 2022, two interns were placed with rural agencies and stipends totaling \$13,000 were paid out. In Fiscal Year 2023, one intern was placed with a rural agency and \$6,500 was paid. The monitor highlights the Department's steps to build a pipeline to the rural counties from the law school via the internship program. However, after Fiscal Year 2023, due to State Bar of Nevada grant funding/awarding policy changes, the Department will no longer be receiving these grant funds and this program will be eliminated unless funding is provided.

The Department believes that this internship stipend program fulfills part of the obligation of the Board to incentivize rural indigent defense practice. If law students are interested in employment in the rural counties after graduation, the program will assist with the compliance with the workload as a source of new attorneys.

Total Estimated Cost for Pipeline: Fiscal Year 2024: \$13,000

Data Collection and Reporting Requirements

The Judgment requires that indigent defense providers report data in a uniform fashion, including case numbers; type; outcome; the hours worked by attorneys, staff, investigators, and experts; the number of motions to suppress filed and litigated; the number of trials; and the attorney's private workload, if any. The Judgment further requires that the Department provide the data collected on rural indigent defense systems to the Plaintiffs and the public on a quarterly basis.¹²

The Department collects data using the LegalServer case management system. NAC 180, Section 45. The Department must renew the LegalServer case management system contract which unexpectedly increased in cost over legislatively budget amounts. The Department is requesting \$4,124 to allow continuance with the case management system and cover the shortfall created by the new contract. A failure to continue the case management system contract will result in a failure to comply with the data collection and reporting requirements.

- Estimated Cost: Fiscal Year 2024: \$4,124

Next, the Monitor recommends that the State should consider providing an incentive for timekeeping to appointed attorneys to encourage consistent and accurate case and hourly reporting.¹³ Based upon this recommendation, the Department requests an allocation of \$32,784 to provide Westlaw EDGE, or a similar online legal research service, to the appointed attorneys that are providing indigent defense services in rural counties. The Department believes that providing access to an online legal research service will incentivize attorneys to comply with the workload reporting requirements so

¹² Judgment, 18

¹³ Judgment, p. 20-22.

that the State will be compliant with the uniform data collection requirements of the judgement because it would cost an attorney \$504 a month to have similar access. Also, prosecutors are routinely provided free access to online legal research systems and such an action would provide the same resources to indigent defense services attorneys as are provided to prosecutors.

- Estimated Cost: \$32,784 Fiscal Year 2024 (6 months at \$5463.94 per month)

Total Estimated Cost for Data Collection Compliance: Fiscal Year 2024
\$36,908

Conclusion

In conclusion, the Department respectfully requests a total allocation of \$765,583 from the AB518(2023), Section 7 appropriation to be used during Fiscal Year 2024 to comply with the *Davis* Stipulated Consent Judgment in the following areas: (1) Oversight; (2) Training; (3) Compliance with Workload Standards; and (4) Compliance with the Data Collection and Reporting Requirements.