

Judicial Council of the State of Nevada



Report of the

COMMISSION
ON
RURAL
COURTS

September 2003

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A Commission empanelled by the Judicial Council of the State of Nevada

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A Message From The Commission Chairman

First Judicial District Judge Michael R. Griffin

Nevada's present fiscal crisis is being keenly felt by the entire judiciary, but particularly by the courts in our rural counties. The sparse populations and great distances between communities compound the burdens faced by the justice system in these areas. For example, it is not unusual for rural judges to sentence defendants to legislatively mandated counseling programs in areas where there are no local providers of such programs. In some areas, there are no providers within several hundred miles.



The Commission on Rural Courts tried to identify some of the most serious problems, many of which are simply unknown to those who live elsewhere in the state. This report addresses steps we believe must be taken to ensure equal justice for all Nevadans. Rather than simply seeking more funding, the Commission explored methods of solving some of the rural court problems by pooling efforts and sharing resources across county lines, judicial districts, and jurisdictions. The goal of the Commission has been to make realistic recommendations to improve the court system in rural Nevada and elicit the help of the Supreme Court, the Legislature, the Governor and all of the rural counties and courts to implement these recommendations. The Commission believes that the court system in rural Nevada can be greatly improved through a combined effort at modest expense.

The members of the Commission worked diligently and this report completes the first phase of the task. But it is still a work in progress since the Commission strongly feels that an interim study by the Legislature is imperative to further explore the issues and provide realistic solutions.

MICHAEL R. GRIFFIN
Chairman, Commission on Rural Courts

Commission on Rural Courts — Membership

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District Judge Richard Wagner ____ Sixth Judicial District (Humboldt, Lander and Pershing Counties)

Judge D. Lanny Waite _____ Moapa Valley Township Justice Court (Overton)

District Attorney Gary Woodbury _____ Elko County

Introduction

Nevada is more than the bright lights, glitter and glamour of Las Vegas and Reno, although that is where nearly 90 percent of Nevadans live.

Nevada is more than its casinos, although that is its most recognizable industry and the economic base for more than half a century.

Beyond the stereotypical Nevada, there is rural Nevada – more than a hundred thousand square miles of open land infrequently dotted with towns where hearty souls find and cherish unique lives. These communities were established around mining, ranching, farming or the railroad. There were times of prosperity, but for many areas of Nevada that time is waning. Mines that supported communities have closed and others will follow as the ore runs out. Once productive farmlands and open range have struggled under years of drought conditions that are predicted to continue. The economic bases in much of rural Nevada are diminishing. Natural resources are being lost. Even the traditional salvation of gaming is suffering as competing casinos sprout up across the country.

The rural way of life across much of Nevada is in crisis.

The task of the Commission on Rural Courts was to analyze the problems and issues facing the courts in Nevada's sparsely populated areas. The next step was to explore innovative and effective ways to resolve or, at least, minimize the problems. Finally, realistic recommendations were to be formulated.

Nevada is 110,540 square miles in area, ranking it 7th in size among all states.

But with just more than 2.1 million residents, Nevada is only ranked 35th in population.

Difficult economic times for rural communities naturally translate into hard times for the rural courts. Yet the Commission knew that simply demanding large amounts of money from the state and the counties was not the answer, although it is clear that some problems can only be resolved with infusions of cash. For example, most courts across Nevada have been struggling to cope with aging courthouses that are woefully inadequate for today's requirements. Many county courthouses are nearly a century old, deteriorating and expensive to maintain. But in difficult economic times, most counties have little money for upgrades, much less for construction projects.

Rather than simply seeking additional funding, the Commission knew that its recommendations must first urge communities and courts to look inward for solutions using available resources. The Commission explored geographic partnerships where one court or community can tap into a resource available in a nearby community.

Tapping into resources available in Nevada's urban centers also is being urged. With today's Internet

technology, sharing information becomes more realistic. But in rural Nevada, many people still do not have computers and even access to public computers is limited.

A major goal of the Commission was to find ways to provide the same access to justice in the rural counties that is available in the urban centers. For example, Drug Courts are available in urban centers, but not in most rural communities. Urban defendants can have their criminal records cleared by completing the Drug Court program. Rural defendants with the same charges may leave court with felony convictions and prison sentences.

Equal justice is also an issue in drunken driving and domestic violence cases. Convictions for those misdemeanor crimes require counseling and other specific steps. But few qualified counselors are available in rural communities. A DUI offender convicted in Caliente must travel 150 miles to Las Vegas to receive legislatively mandated counseling – a difficult task considering that such offenders also lose their drivers' licenses for a period of time. Finding ways to make counselors available to rural residents was a priority of the Commission.

Providing lawyers to indigent defendants and litigants has been a problem for many rural communities. Many attorneys have little interest in living and working in rural settings. To address the inadequate number of lawyers, the Commission creatively recommended that young lawyers be given the opportunity to work in a rural community in exchange for having some or all of their student loan debt forgiven. The Commission also suggested that attorneys licensed in other states be allowed to practice law as provisional attorneys in rural communities for a number of years and then be allowed to take an abbreviated bar exam to become licensed in Nevada. The Commission additionally recommended having William S. Boyd Law School students serve internships to help *pro se* litigants in more remote areas.

Courthouse security in increasingly dangerous times also was a focus of the Commission. Courts generally find it difficult to separate those called to jury duty from lawyers, defendants and court staff. Some Nevada courthouses do not have metal detectors to prevent the smuggling of guns into courtrooms. Some courts simply do not have the law enforcement officers available to staff scanners or otherwise protect the public.

Other issues addressed by the Commission involve the closing of rural courts in areas where populations decline, and how to provide court services to residents in those regions.

A relatively new challenge involves the influx of non-English speaking residents and visitors to the rural areas. Courts are being burdened with having to pay for translators when these cases come to court.

One final goal of this report by the Commission is to educate the urban residents of Nevada – and particularly the legislators from urban areas – about the challenges faced by those who have sought the benefits of living in less populated regions.

Nevada's urban counties continued explosive growth and the state's 3.6% jump in population kept it the nation's fastest growing during fiscal year 2001-02.

But populations declined significantly in several rural counties, adding to the burdens of the courts and local governments

These counties include:
Esmeralda at -7%
Lander at -4.6%
Eureka at -3.2%
Humboldt at -2.3%
Elko at -1.4%

Facilities —

Inadequate and dangerous

Many of Nevada's rural courthouses were built in the late 1800s or early 1900s. Most are still in use today.

At one time, rural counties in Nevada built stately halls of justice. They represented the commitment to the rule of law and a civilized way of life in times that were often less than civil. Many of these county courthouses were built a century ago, but remain in use today despite being well out of date. They creak and groan with daily use and are costly to maintain. They are often too small for the demands of the 21st Century. They have difficulty meeting modern standards for electrical and technology requirements and bathroom facilities are generally insufficient. Few of these can readily accommodate the handicapped and only a couple of courthouses were designed with that in mind.

Across the state, new or upgraded county courthouses are sorely needed. Yet, in difficult economic times, rural counties are not able to replace these aging facilities. Sometimes it is difficult simply to keep them operating.

During the remodeling of one courthouse, holes were left in walls of a conference room where pipes had been removed. Through these holes, jury discussions could be heard as well as conversations between attorneys and clients.

Some courthouses have particular difficulty handling jurors, who should be kept separate from defendants, litigants, witnesses and attorneys. Should jurors see a defendant being shackled, or otherwise portrayed as a prisoner, it is grounds for a mistrial. The courts have ruled that such exposure can taint jurors by indicating the defendant is a prisoner and, therefore, likely to be a danger to the community. In the White Pine County Courthouse, the only thing separating jurors from defendants is a tarp hung across a hallway.

Throughout Nevada, there have been incidents of lawyers and litigants getting too friendly with jurors, or allegations of outright attempts to influence jurors. In the Elko County Courthouse, jurors must walk through public areas to use restrooms. Jurors are citizens who perform a vital public service and should not be made to feel uncomfortable, much less intimidated. While every effort should be made to minimize this, the limitations of existing courthouses can compromise this task.

Some courts have complained that defendants must be brought into courtrooms past victims and witnesses. This can traumatize victims and make witnesses uncomfortable.

Most of the old courthouses in Nevada do not meet the requirements of the Americans with Disabilities Act.

At one aging courthouse, a judge held probate hearings in the parking lot because elderly survivors could not climb the stairs into the courthouse.

Lower Court Facilities

Adequate facilities are also an issue for some lower courts — Justice and Municipal Courts. Some of these courthouses are merely manufactured structures converted to courtroom use. Safety and security can be compromised in such facilities. Some lower courts share space in county courthouses. In one such case, the justice of the peace must walk through the county clerk's office to reach the courtroom. But co-location also can be something of an advantage because the additional courts can help keep the building secure and reduce overall operating costs. In addition, the public knows that judicial matters are all handled at one location.

When lower courts are located away from District Court buildings, it can confuse the public. Whenever possible, all courts in a community should be located in the same facility. In communities with a Justice Court and a Municipal Court, co-location is preferable because both handle misdemeanor and traffic issues and the public may not understand which court they must visit. If the courts are co-located, jurisdictional mix-ups can be readily rectified. When new courthouses are constructed, judges must be included in the design team at the earliest point to ensure all judicial needs and requirements are met.

Security

Security is a major issue for many – if not most – rural courthouses. Metal detectors are sometimes not available or are unreliable. The numbers of bailiffs or other law enforcement personnel are often inadequate to prevent or handle confrontations. In the event of an incident, backup law enforcement may not be readily available.

Security cameras are also lacking in many courthouses.

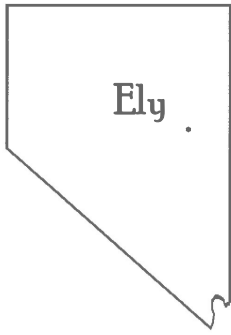
One court complained that the courtroom is so small that court staff must sit within arms length of a criminal defendant.

Preferably bailiffs would be present in courthouses during operating hours, but in some rural courthouses, bailiffs (or other law enforcement officers acting as bailiffs) are only available when court actually is in session.

Court security must become a priority. Screening devices (metal detectors and cameras) must be available. Bailiffs must be readily available and must be POST certified. Space must be provided to separate defendants from witnesses, victims and jurors. Secure holding facilities for prisoners must be available. Emergency plans should be in place and backup officers must be able to respond to calls for help.

The White Pine County Courthouse often is the scene of trials and hearings involving maximum security inmates from the nearby Ely State Prison, where Nevada houses its most violent offenders.

On such occasions, it is routine for the courthouse to be guarded by law enforcement officers toting shotguns and M-16 rifles.



White Pine County Courthouse

Ely, the county seat of White Pine County, has experienced boom-and-bust cycles for decades as nearby mines open, close, re-open and close again. Needed economic stability was provided when the state prison system constructed a maximum security prison outside Ely. The prison, however, also brought more than its share of problems.

Prison crime and prisoner lawsuits must be tried in White Pine County, placing a burden on the residents and the court facilities. Citizens in White Pine County are often summoned for jury duty several times during the year, while residents of other counties are usually asked to appear no more than once a year. While this is a burden on White Pine County residents, it is a small inconvenience that citizens readily accept in exchange for the economic benefits derived from the prison.

But the burden on the century-old courthouse cannot be overlooked. The facility is simply inadequate to deal with the security issues that arise from trials involving the state's most violent prisoners. Citizens and court staff are routinely being put at risk because adequate security cannot be provided in a building not designed for that purpose.

With the current economic downturn in Ely as a result of the most recent mine closings, White Pine County is incapable of constructing a new courthouse or even funding needed renovations on the existing courthouse. Since the situation was created by the state's decision to place the maximum security prison outside Ely, the burden of providing a secure courthouse should fall to the state. The citizens of Ely must be protected.

Facilities— Recommendations

1. Basic security must be provided in every rural Nevada courthouse to protect citizens and preserve justice.
2. Metal detectors and other security devices must be purchased, installed and staffed by trained law enforcement officers to ensure that weapons or other contraband is not brought into the courthouses.
3. Security cameras should be installed as a cost effective way of monitoring activities in understaffed courthouses.
4. Emergency plans should be formulated to respond to incidents that endangers jurors, citizens or court staff. The plans should ensure that backup law enforcement officers are available to respond to calls for help.
5. Courthouses must be upgraded to securely separate jurors and other citizens from violent offenders and other defendants to prevent mistrials.
6. Whenever possible, District, Justice and Municipal Courts should be located in the same facility to ensure better building security and provide a single, user friendly destination.
7. The state should construct a new courthouse in Ely to provide a secure setting for trials that involve inmates from the Ely State prison, which houses Nevada's most violent offenders.

Detaining Juveniles — Rural Facilities are Few and Costly

Not only are more of today's children coming in contact with the juvenile justice system, but the charges have changed from childhood pranks to much more serious offenses. Dealing with these youngsters often requires secure settings and the availability of needed juvenile services. Rural offenders have the same right to have services available as juveniles in urban counties.

Nevada's rural areas are remote and lengthy travel to more urban areas is often required to find appropriate facilities or needed services. Consequently, immediate actions to resolve problems usually cannot occur because the necessary resources are located in semi-urban or urban areas that are often hours away.

These long distances are often traveled in inclement weather, endangering the children and the officers. Additionally, the costs of the journeys — the fuel and vehicle costs plus the officers' time or overtime — are a financial burden to local communities. The unavailability of these officers for other duty can adversely impact communities as well.

Great Distances

White Pine County

White Pine County is one of many areas with no facility to hold juveniles securely overnight. Currently, juveniles must be transported to Elko's juvenile facility 187 miles away. A deputy must make a 374-mile round trip simply to detain a juvenile and then make the same round trip every time a court hearing is scheduled. In the easiest of cases, a White Pine County deputy is required to make two round trips. If the juvenile is ultimately sentenced to serve time in a youth institution, that requires another 374-mile trip to Elko, where the only juvenile institution in the area is located.

Lincoln County

A juvenile arrested in Pioche or Panaca in Lincoln County requires an even longer journey to reach the same juvenile holding facility in Elko — 294 miles one way.

A juvenile arrested in Tonopah on a charge that required he be held in a secure facility was sent by the judge to Wittenberg Hall in Washoe County, a trip of more than 230 miles.

But because the youth was required to take prescription medication, officials there refused to take custody of the boy.

The youth then had to be transported by the Nye County officer to the juvenile detention facility in Elko, another 320 miles away.

The total trip covered over 550 miles one way.

Every court hearing required that the boy be transported from Elko to Tonopah, 306 one way..

Eureka County

Juveniles apprehended in Eureka County must also be transported to Elko a one-way trip of more than 100 miles.

Lander County

A probation officer in the Lander County seat of Battle Mountain recently had to travel 125 miles to pick up a juvenile arrested in Lovelock in Pershing County. Because Battle Mountain has no juvenile holding facility, the officer had to transport the youngster 72 miles to the closest secure juvenile facility in Winnemucca in Humboldt County. By the time the officer made the return trip to Battle Mountain, he had covered 250 miles.

Juveniles arrested in Austin in Lander County also go to Winnemucca, a distance of 142 miles.

Nye County

In Nye County, the juvenile probation department detained 167 youths in 2002. About 120 of these resided in Pahrump. Although just 62 miles from Las Vegas, that facility is habitually overcrowded and not available for juvenile offenders from Pahrump. Low risk juveniles must be transported 280 miles to a non-secure facility in Hawthorne in Mineral County. High risk offenders are taken to the Douglas County Juvenile Detention facility on the shores of South Lake Tahoe, 430 miles from home. Nye County spent \$325,000 in fiscal year 2001-02 to detain juveniles, not including transportation or medical costs.

Elko County

The lack of availability of professional treatment providers is another critical problem area for rural communities. Because of the shortage or lack of psychological counseling and evaluation programs for juveniles in Ely and Elko, a counselor from Twin Falls, Idaho is paid to travel to Elko when evaluations must be made.

Clark County

Even in the state's most populous county, distances are a factor. A juvenile arrested in Mesquite on the Interstate 15 border with Arizona and Utah must be transported 79 miles to the juvenile facility in Las Vegas. Transporting a juvenile from Laughlin, at the state's southern tip, to Las Vegas is a trip of 95 miles. Although these rural communities are within Clark County's borders, they experience the same problems as the more rural communities — transportation costs and lack of services.

Washoe County

The same situation is evident in Washoe County, where Gerlach is more than 100 miles north of Reno, the location of the juvenile detention facility and courts.

Nye County's Juvenile Probation Department is not permitted to transport juvenile offenders during nighttime hours.

Instead, the county pays "watchers" to sit with youths until safe travel can be conducted during daylight hours.

Juvenile Program Successes

In Elko, a judge and court staff members volunteer to work with area youth. They conduct a Goldilocks Program to teach fourth graders about the court system. Additionally, they supervise a Teen Court and provide pamphlets reproduced on court paper.

The Sixth Judicial District — Humboldt, Lander and Pershing Counties — created a multi-county juvenile program headquartered in Winnemucca. District Judge Richard Wagner and Juvenile Probation Officer Fernando Serrano spearheaded the successful effort to construct an outstanding juvenile facility, Leighton Hall. The focus of Leighton Hall is to teach teens just entering the juvenile justice system the skills they need to keep them out of the system and become productive members of their communities. More than \$15 million in federal and private grants were obtained to fund the program.

The new facility provides teachers to ensure that students do not fall behind in their studies and counselors to assist the juveniles with self-esteem issues, interpersonal communication skills and substance abuse matters. An holistic approach is taken with each individual.

Leighton Hall's Project MAGIC (Making A Group and Individual Commitment) earned the 1997 Award of Excellence from the National Rural Institute of Alcohol and Drug Abuse. This consolidation of efforts by these three counties has demonstrated how juvenile justice issues can be effectively addressed.

Detaining Juveniles Recommendations

1. Adequate juvenile facilities within reasonable distances must be provided throughout the rural areas of Nevada.
2. Funding should be pursued for regional facilities like the Winnemucca project. Smaller facilities may require that treatment providers travel throughout a region to provide services. The ultimate goal is to develop, enhance or deliver services to the juvenile justice system in the rural areas that are reasonably comparable to those provided in urban areas.
3. Juvenile masters should be provided with training on juvenile matters, including evidentiary issues involving juveniles. Masters also should be invited to general or limited jurisdiction activities for networking.
4. Governmental entities must provide dependable vehicles to ensure the safe transportation of juveniles from rural areas to areas with juvenile facilities.
5. Governmental entities should contract with a grants specialist to secure public and private grant funding to meet the needs of the rural courts.

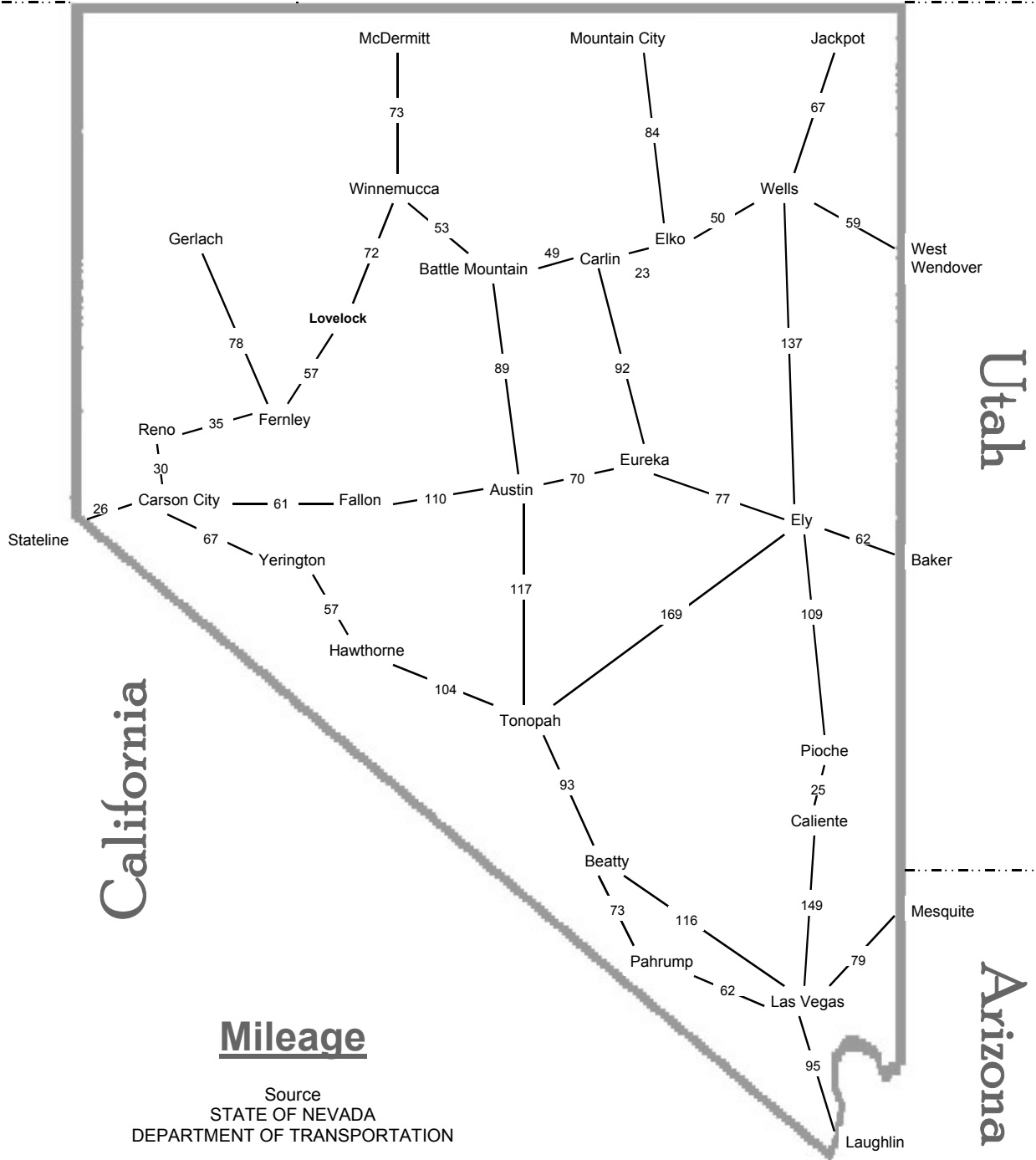
Transporting juvenile prisoners through rural Nevada poses many problems, including the terrain itself.

Nevada is the most mountainous state in the nation, with 314 individual mountain ranges and hills.

Nevada has more than 42 named summits over 11,000 feet.

Oregon

Idaho



Treatment providers — Lack of services limits rural courts

While the law mandates that those convicted of such crimes as drunken driving, domestic violence and drug crimes undergo counseling, that has been far from easy for residents of many rural communities. A lack of available certified counselors requires those needing such services to travel hundreds of miles to fulfill their obligations. Most towns do not have programs to meet mandatory sentencing requirements.

Attending DUI victim impact panels are difficult for Battle Mountain residents. The panels, coordinated through the Lyon County Chapter of Mothers Against Drunk Driving, are held only twice a year, planned a year in advance and conducted at locations more than 60 miles away. Critics note that the scheduling and location issues makes it unnecessarily difficult for defendants to fulfill their statutorily mandated program requirements and may set them up to fail.

Economic hard times are an issue for those facing sentencing on DUI charges and the courts that must sentence them. The law requires that before sentencing, DUI offenders must undergo an assessment. If defendants cannot pay, are courts responsible for funding the assessments? And if they cannot pay, should they be required to sit in jail?

Access to Drug Courts is also an issue. Drug Courts operate in only a few rural counties, preventing equal treatment for many defendants because they do not have the same opportunities to clear their criminal records as those who live in areas where Drug Court programs exist. If a Drug Court is available, a person arrested on a felony drug charge can successfully complete the year-long course of counseling, testing and court appearances and have the felony charge dismissed. If no Drug Court is available, the judge has no recourse but to convict the defendant of a felony violation and provide an appropriate sentence.

Concerns also have been voiced that mandatory sentences requiring counseling have a disproportionate impact on rural residents because a lack of available treatment providers in most towns.

An example cited involved a major employer in one town that only allows an employee to miss work a certain number of days per year. Missing too many days results in the employee being fired. This has been a dilemma for the court in sentencing such employees on charges that require counseling when counseling is only available in another town. Judges know that if the person has already missed some work

In rural Northern Nevada, only one treatment professional is certified to perform statutorily mandated counseling duties.

to attend court and must miss more to attend required counseling for 6 months, the person simply will not be able to successfully complete the sentence without losing his or her job. When the person is fired, there will be no funds to pay for the counseling and no way to fulfill the statutory obligation. The consequence is the possible revocation of probation and a jail or prison term. A potential secondary consequence is that the person's family may have no other source of income and require government-sponsored services.

A domestic violence shelter in Ely has expressed concerns about the lack of available counselors in rural areas. Yet even when rural clinics can hire qualified counselors, it proves difficult to retain them.

One court uses a correspondence course for the required DUI school. The court also allows violators to attend a traffic school near their home if they are from out of town.

It was argued at the Commission that Legislatively-required counseling as a portion of a sentence in certain cases, like DUI and domestic violence, constitutes an unfunded mandate that many communities cannot provide. It was suggested that in such cases, the Legislature should provide funds so these requirements can be reasonably met by rural residents.

To address the need for a Drug Court in the rural counties of Western Nevada, Third Judicial District Judge Archie Blake created a legislatively funded, multi-county Drug Court to serve Carson City and Churchill, Douglas, Lyon and Storey Counties. Judge Blake rides circuit, like judges of old, to preside over the Western Nevada Regional Drug Court.

Similar multi-county Drug Courts could be established in other areas of the state to provide the same benefits to all Nevadans whose drug issues brought them in contact with the courts. The benefits of Drug Courts have been recognized by Governor Kenny Guinn in his 2003 State of the State address and the Legislature during recent sessions.

With the state funding, Nevada has developed one of the most innovative and effective Drug Court systems in the nation.

In Nevada's Municipal and Justice Courts, persons convicted of drunken driving or domestic battery must obtain counseling to satisfy the legal requirements of Nevada Statutes.

For those convicted in Caliente Municipal Court, the nearest treatment providers are nearly 150 miles away in Las Vegas.

It is not unusual for rural residents to travel more than 100 miles to satisfy their legal obligations while urban residents can find counseling programs within a matter of minutes.

Treatment Providers — Recommendations

1. The Nevada Legislature should be asked for funding to provide circuit counselors to travel from community to community within rural areas. This would require several counselors because of the vast distances involved. (Clark, Elko and Washoe Counties have treatment providers readily available and would not be included in the proposed circuit counselor program.) Counselors could serve specific collections of judicial districts or specific geographic areas, even if it divides judicial districts. Counselors could serve not only the needs of the courts for persons convicted of DUI, domestic violence and drug/alcohol offenses, but could serve juvenile offenders and their parents and others in need of such services who are not involved in court-mandated programs.
2. Rural residents are entitled to justice that is equal to that afforded residents of the urban counties. Multi-county Drug Court systems, like the Western Nevada Regional Drug Court, should be established in all areas of Nevada through funding provided by the Nevada Legislature.
3. If counselors are unavailable in particular communities — particularly in the more remote towns — video counseling should be made available. Video conferencing facilities are available across the state at many governmental facilities, including community colleges, the Nevada Department of Transportation, the public works board and the Nevada Gaming Commission.
4. E-mail counseling may also be a possible solution.
5. Qualifications must be established for counselors that does not limit counselors only to Nevada-certified counselors, so local counselors and professionals from other states (in the case of border towns) can be utilized by the courts.

The nation's fifth Drug Court was opened in Clark County, Nevada in 1992.

Nevada had the nation's first ...

- ◆ Juvenile Drug Court (Clark County)
- ◆ Family Drug Court (Washoe County)
- ◆ Early Release Re-Entry Drug Court (Clark and Washoe Counties)
- ◆ Multi-County Rural Drug Court (Carson City, Churchill, Douglas, Lyon and Storey Counties)

Legal Assistance — Limited For Rural Residents

Access to the justice system is vital for all Nevada citizens. In rural communities it can be a difficult or an overwhelmingly expensive process if insufficient numbers of attorneys are available to serve the litigants. Citizens must represent themselves in an increasingly complicated court system or pay to have lawyers travel from urban areas. Often these urban attorneys are unfamiliar with court practices and procedures in the small judicial districts or cannot commit the time to handle the cases expeditiously.

Attracting new attorneys to rural communities is the obvious solution, but this has always been difficult because of the lure of jobs and the potential of comparative riches in urban centers. The Commission recognizes that income is an issue for recent law school graduates since there usually are school loans to repay and families to support.

The question for the Commission, therefore, becomes how to provide legal assistance to the residents of rural Nevada. The Commission pursued three possibilities:

1. Assisting those who choose to represent themselves.
2. Utilizing students assigned to internships from the William S. Boyd Law School in Las Vegas to assist in certain types of cases.
3. Exploring innovative ways to attract lawyers to rural Nevada

Assisting pro se litigants through forms, brochures and Internet access to legal information

A wealth of information already exists to help those who choose to represent themselves or cannot afford legal assistance. The true issue, to a great extent, involves how to get the information to litigants in rural communities. Urban courts for years have provided brochures outlining the court process in such areas as small claims and evictions. Brochures are also available to provide assistance in domestic violence situations. These existing brochures can be provided or adapted for use in rural courts, but funding the printing of such brochures could be a major issue.

Likewise, a considerable amount of assistance is available to pro se litigants from Nevada's urban courts over the internet. A variety of court forms and instructions, which help litigants navigate the system, can be downloaded for pennies. Many of these internet forms deal with Family Court issues. Even in urban areas where access to lawyers is abundant, a high percentage of litigants in domestic cases represent themselves

In some rural communities, the only resident lawyer is the district attorney.

Defense lawyers must be brought in from more urban areas to represent those charged with criminal acts.

with the help of internet information and forms. The issue is how can litigants access the internet or, more precisely, where can they access the internet. This access is generally available to the public at local libraries. What the court system must do is provide pro se litigants with directions about how to utilize the computers and navigate to the sites where the necessary information is stored. This can be done through signs, brochures or simple, low-cost handouts.

Law school student assistance through internships

Attending law school should be more than learning theory and law through books and classroom experiences. Lawyers must be able to perform in real life situations. To do that, they must be exposed to real-life situations. Internships have been a mainstay of college and law school training and could become a valuable tool for rural Nevada courts and litigants.

For *pro se* litigants in rural communities, having access to law school students can provide an access to justice where few others exist. The William S. Boyd School of Law at the University of Nevada Las Vegas should partner with rural Nevada to create an internship program that will benefit both the students and the rural residents.

Such a program could expose students to the benefits of living in rural communities. Some may choose to practice law in rural Nevada. Others may begin careers in urban centers and finish their careers in rural communities they had worked in as students. It may be that these one-time interns may simply be more willing to tackle legal issues in rural communities once they become urban lawyers. At the very least, *pro se* litigants in Nevada will receive some attention and assistance they otherwise would not have had. This internship is a win-win situation the Commission urges the courts and the law school to explore.

Offering new admittees forgiveness of law school debt in exchange for a commitment of years to a rural community

It is no surprise that attorneys in rural areas do not have the income producing potential of lawyers in urban communities. For recent law school graduates with massive student loans over their heads, they must obtain employment with sufficient compensation to pay down the loans while leaving enough to provide a reasonable quality of life. If the student loan payments were non-existent or, at least, not as large, new attorneys could explore the benefits of practicing law in a rural setting.

It may be feasible to lure lawyers to rural communities by forgiving some or all of their college debt. The lawyer would have to work as a lawyer for a certain number of years in a needy community to reap the benefits of the program. This likely would work best for graduates of the University of Nevada system or the William S. Boyd Law School. Such programs have been in existence for years to provide doctors for small communities where doctors might not normally settle.

The question, of course, becomes who will foot the bill for the student loan repayment? It may be the state or the university system. It could be the community where the lawyer settles, or a combination of these. Judges could give the lawyers preferential court appointments to represent indigents, with a portion of the

fees going toward reducing the debt. An answer likely would require a study by the State Bar Association.

Allowing lawyers licensed in other states to work as provisional lawyers in Nevada's rural communities for 3 years before being required to take an abbreviated bar exam

Those who live in Nevada's rural communities know they have much to offer. A more relaxed lifestyle is conducive to family life and there are few of the negative influences associated with urban centers. The belief of the Commission is that if attorneys can be lured to the rural communities through incentives for a few years, the chances are good they will choose to stay.

Nevada is finding that licensed attorneys in other states are seeking to relocate here, but some have difficulty passing the State Bar examination that is geared toward recent law school graduates.

The Commission believes this may be an opportunity for rural communities. These veteran lawyers could move to Nevada's rural communities and practice law as "provisional attorneys" for a period of 3 years before taking an abbreviated bar exam. Once the bar exam is passed, of course, the lawyers would be free to relocate to an urban center, but having built a client base for 3 years, the lawyers may choose to stay in the rural communities. Even if they do not, the communities would have experienced legal representatives for 3 years and the process could begin anew. The risk to the legal profession would be minimal because the lawyers would have been certified as competent through their licensing in other states.

Like the previous concept of luring lawyers by forgiving school debt, this concept likely would require a study by the State Bar Association before it could be implemented.

About 4,300 attorneys actively practice in Nevada.

But only 211 live and practice outside Clark and Washoe Counties.

Source: State Bar of Nevada

Legal Assistance for Rural Communities — Recommendations

1. Brochures and internet information should be provided to those who wish to represent themselves in court. County clerks or court clerks should be required to distribute brochures and post instructions about accessing internet sites.
2. Law school students should be assigned to assist pro se litigants in rural communities.
3. The State Bar should explore ways to forgive law school debt in exchange for a period of service to a rural community.
4. The State Bar should study whether a system can be established to allow attorneys licensed in other states to practice as "provisional attorneys" in rural communities for a period of time and then be allowed to take an abbreviated bar exam.

Training — Opportunities Needed

Once again, long distances hamper the abilities of judges at all levels to benefit from training opportunities. The time consumed in travel to judicial training can be particularly difficult to juggle against ongoing court responsibilities.

While funding is available for statewide judicial education seminars and, to a lesser extent, individualized educational programs for judges, little funding is available for training for court staff at all jurisdictional levels. Court staff members need access to a range of training opportunities, from statewide conferences and regional training to individualized education. Statewide court staff conferences are held when funding permits, but are attended by only a portion of rural court staff because of the need to keep courts open while the other staff attend the conferences. The result is that a rural court employee may be able to attend only one statewide conference every 6 or 8 years.

Statewide conferences need to be complemented by regional trainings, through which trainers and educators go to the individual courts to provide needed education. Individualized training for senior court staff must be funded to provide education on key topics of importance to their court. Once trained, those senior staff members can carry the information back to the staff in their courts.

County clerks and their employees, who generally have the responsibility to staff the District Courts in rural areas, are especially in need of increased training opportunities. Topics of particular importance for all court staff involve the collection of fees and fines, providing assistance to citizens who represent themselves in court matters, minute-taking, file management, tracking restitution, and evidence procedures.

Rural courts face a wide range of issues involving the bailiffs or court security officers who must be used. In some jurisdictions, the bailiffs are retired police officers. In other courts, security is provided by sheriff's deputies on an "as-needed" basis. Most courts are unable to provide these officers with any job-specific training to ensure that legal requirements are met, the facilities and those in them are protected and the interests of the public and courts are served. But despite the limited resources available, the courts and the citizens who must use them deserve to have secure courthouses and bailiffs who are trained and capable of protecting the people. All bailiffs must be POST-certified, but this initial training must be complemented with continuing education that focuses on the unique responsibilities of the judiciary.

Most of the judges in the rural Justice and Municipal Courts are not attorneys. Many, in fact, have little background in legal matters. This can pose a problem when these judges must deal with complicated legal matters, primarily those when attorneys are involved. While the ability of these judges to make decisions is not in question, there have been concerns raised by the judges themselves that training in basic legal terminology and other elementary legal issues should be enhanced. Such basic training could be part of the program at the National Judicial College, or could be provided at state judicial conferences.

Successes

In Elko, one of the full-time bailiffs is used to help collect fines and fees. Clients must report to him on a regular basis for an update on their counseling and payment schedules.

One Justice Court used administrative assessments to pay for a jailer to get bailiff training in Las Vegas.

The isolation of rural judges places a premium on judicial education.

Yet budgetary problems and the economic downturn have made it difficult to provide educational opportunities for individual judges.

Training— Recommendations

1. Training for bailiffs must be provided. Humboldt County Sheriff Gene Hill is presently head of POST and is willing to coordinate efforts to institute bailiff training classes.
2. A bailiff manual focusing on the issues in rural courts should be produced and should be consistent with manuals used in urban areas. The manual should be the basis for job-specific training for bailiffs and others who provide security for the courts.
3. Training programs must be provided for court clerks and other non-judicial employees. Traditional and non-traditional funding sources for training must be identified.
4. Judicial college courses should be expanded to provide instruction in basic law and legal jargon for rural justices of the peace and municipal judges who are not attorneys and have little courtroom background. In-state judicial conferences also could include such training.

Minority Issues

With the recent influx of immigrants into Nevada – with many settling in rural communities – the courts at every level have been challenged to provide services that will guarantee equal justice. Equal access to justice has been difficult to ensure and the courts have not always been successful.

Interpreters

The major problem for the court system has been providing interpreters for those whose actions have brought them in contact with the justice system. Certified interpreters are expensive for courts when they are available, and many communities have found they are not generally available. Courts have explored many solutions with varying degrees of success. Primarily rural judges have had to use whoever was available with reasonable interpreter skills. Some courts hired staff members who are bilingual, but other courts had to tap members of the community with those skills. Sometimes, one limited jurisdiction court must work around the schedule of the District Court to obtain access to the township's only interpreter. Interpreters for trials often had to be brought in from Reno or Las Vegas at considerable expense for counties already struggling financially. Lovelock had a court interpreter, but she moved to Sparks and the city must now pay her for two hours of travel plus court time to obtain her services.

The Administrative Office of the Courts has developed an Interpreter Certification Program and several communities have underwritten the participation of staff members. But that only deals with the issue of access to qualified interpreters. What rural courts and counties must take into consideration is the growing need for interpreters. Increased expenses must be anticipated and funds must be allocated.

The issue becomes more acute when a language other than Spanish is involved. Rural courts should explore the possibility of using video or audio conferencing for short hearings rather than having translators travel many miles for limited use.

Minority Issues — Recommendations

The state, the judiciary or the counties should ensure that adequate interpreters are available for use by the courts, defense and prosecution attorneys, parole and probation services and court clerk offices.

Governmental entities, including the courts, are urged to enter into cooperative agreements whereby agencies employ staff members with Spanish language skills and make them available to other agencies or courts. These employees should become certified interpreters at the expense of the employers in exchange for a commitment of years to the duty.

Court Facilities Fee —

Sunset clause hampers courthouse construction

A \$10 “Court Facilities Fee” was authorized by the Legislature to be used for courthouse renovation and construction projects. Although judges are collecting the fee, a 25-year sunset clause is hampering the ability of the courts to make long-term commitments. This particularly affects the cash-strapped rural counties because other construction funds are often unavailable.

Long-term loans are available to build or renovate courthouses, but lenders are reluctant to make the loans when the funding source may run dry. In Pahrump, 110 acres of land is available to construct a new Justice Court, but loans have been denied. The U.S. Department of Agriculture would grant a loan to be paid back over 40 years, but would not do so unless repayment funds were available for the 40 years.

The Nevada Judges Association initiated legislation asking the 2003 Legislature to abolish the sunset clause.

Court Facilities Fee —

Recommendation

1. The 25-year sunset clause on the Court Facilities Fee should be repealed to allow courts to commit to long-term loans for construction or renovation of courthouses.

Legislative Interim Study Committee

The issues, problems and needs of the rural courts and counties are larger in scope than can be addressed by the individual governmental entities. The Administrative Office of the Courts is not authorized or capable of meeting many of the needs of the rural courts under the present state structure and funding systems.

Some of these issues will be addressed by the Nevada Supreme Court's Commission on Funding, but a larger study by the Legislature is warranted. The Commission on Rural Courts is advocating that a Legislative Interim Study Committee be formed.

The present budget crisis is being keenly felt in the rural counties, where sparse populations and great distances increase the difficulties faced by the judicial system in Nevada's rural areas. State law has mandated programs in areas where there are no providers within several hundred miles. It has become necessary that steps be taken to ensure equal justice for all residents of Nevada.

It is the belief of the Commission on Rural Courts that a Legislative Interim Study Committee could expand on the work of this Commission to explore realistic options and solutions for rural community residents.

The Commission on Rural Courts endorses pending legislation to establish an interim study committee to be composed of six legislators. The Commission also endorses the proposal to empanel a 13-member, non-voting advisory group to assist the interim study committee. The advisory group should be composed of two District Court judges, one justice of the peace, one Municipal Court judge, two court clerks, two district attorneys, two law enforcement representatives and two county commissioners and the director of the Administrative Office of the Courts.

As outlined in the pending legislation, the interim study should address:

- ◆ The adequacy of present courthouses, courtrooms, jails and juvenile facilities with respect to size, age, security, overcrowding and number of facilities available.
- ◆ The shortage of staff and need for expanded training opportunities.
- ◆ The shortage or lack of service providers, including alcohol, drug abuse and mental health counselors.
- ◆ The shortage of attorneys and the lack of assistance for residents who represent themselves in court.
- ◆ The limited number of available and eligible jurors because of sparse populations.
- ◆ Geographical constraints because of great distances between population centers.
- ◆ Inadequate technology, including state-of-the-art telecommunications services and a user-friendly case management system.
- ◆ The availability of interpreters, consular corps and other persons or groups who can provide legal assistance to racial or ethnic minorities.
- ◆ The effect of unfunded mandates on rural courts.

Commission on Rural Courts — Conclusion

The court system in rural Nevada simply is in a state of crisis.

Aging courthouses are not capable of providing the facilities that are necessary with today's caseloads and legal requirements. Accommodations for jurors, court staff and the public are inadequate. Security limitations place all those who visit the courthouses at risk.

New or expanded courthouses are needed, but difficult economic times have made it unfeasible for the counties to finance the construction projects. Assistance will be needed or the situation — and the current court facilities — will continue to deteriorate.

Nevada's small rural populations and great distances have limited the abilities to lure treatment professionals and attorneys to the small communities. This, in turn, limits the abilities of the courts to guarantee equal justice. Rural residents often must travel many miles to receive the same services that urban dwellers have readily available. Drug Courts must be established in rural Nevada and professional services must be made available. If the Legislature requires that counseling be a mandatory part of sentencing in drunken driving and domestic violence cases, those services must be made available to rural residents.

Rural Nevadans have shown that they are willing to help themselves. Rather than simply advocating that the state or county governments provide new pools of funds, the Commission on Rural Courts is suggesting that rural courts first look for solutions within their communities and regions. But it is clear that certain governmental assistance is going to become a necessary component.

The Commission on Rural Courts urges those governments to recognize that the judiciary — the third branch of government — in rural Nevada be allotted the basic tools necessary to provide justice to those who choose to live outside Clark and Washoe Counties.