

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET
Director and
State Court Administrator



JOHN MCCORMICK
Assistant Court Administrator
Judicial Programs and Services

RICHARD A. STEFANI
Deputy Director
Information Technology

MEETING NOTICE AND AGENDA

**Indigent Defense Commission (IDC)
VIDEOCONFERENCE**

Date and Time of Meeting: Wednesday, May 31, 2017 @ 1:30 p.m.

Place of Meeting:

Carson City	Las Vegas	Washoe	Ely	Elko
Supreme Court Library Room 107 201 S. Carson Street Carson City, Nevada	Nevada Supreme Court Building Conference Room A 408 E. Clark Avenue Las Vegas, NV	Second Judicial District Court Room 220B 75 Court Street Reno, NV	White Pine County District Court 801 Clark Street Ely, NV	Elko County District Court 571 Idaho Street, Elko, NV
Teleconference Access: Dial-In # 1-877-336-1829 Access Code 2469586				

****All participants attending via teleconference should mute their lines when not speaking; it is highly recommended that teleconference attendees use a landline and handset in order to reduce background noise.***

AGENDA

- I. Call to Order
 - a. Call of Roll
 - b. Determination of a Quorum
- II. Public Comment
Because of time considerations, the period for public comment by each speaker may be limited. Speakers are urged to avoid repetition of comments already made by previous speakers.
- III. Review and Approval of the March 28, 2017 Meeting Summary*
- IV. SB377 Discussion/Update - *Mr. Ben Graham, Mr. John Lambrose, Mr. John McCormick*
- V. Update on Caseload Standards - *Mr. Hans Jessup*
- VI. Status Update on Indigent Defense Clark County - *Mr. Phil Kohn, Mr. David Schieck, Mr. Drew Christensen*

VII. Status Update on Indigent Defense in Washoe County - *Mr. Jeremy Bosler, Ms. Jennifer Lunt, Mr. Bob Bell*

VIII. Status Update from State Public Defender's Office - *Ms. Karin Kreizenbeck*

IX. Other Business

X. Adjournment

- Action items are noted by * and typically include review, approval, denial, and/or postponement of specific items. Certain items may be referred to a subcommittee for additional review and action.
- Agenda items may be taken out of order at the discretion of the Chair in order to accommodate persons appearing before the Commission and/or to aid in the time efficiency of the meeting.
- If members of the public participate in the meeting, they must identify themselves when requested. Public comment is welcomed by the Commission but may be limited to five minutes per person at the discretion of the Chair.
- The Commission is pleased to provide reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If assistance is required, please notify Commission staff by phone or by email no later than two working days prior to the meeting, as follows: Jamie Gradick, (775) 687-9808 - email: jgradick@nvcourts.nv.gov
- This meeting is exempt from the Nevada Open Meeting Law (NRS 241.030 (4)(a))
- At the discretion of the Chair, topics related to the administration of justice, judicial personnel, and judicial matters that are of a confidential nature may be closed to the public.
- **Notice of this meeting was posted in the following locations:** Nevada Supreme Court website: www.nevadajudiciary.us; Carson City: Supreme Court Building, Administrative Office of the Courts, 201 South Carson Street; Las Vegas: 408 East Clark Avenue.

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Indigent Defense Commission

Summary Prepared by Raquel Espinoza
March 28, 2017
1:30p.m. – 2:38 p.m.

<p><u>Attendees Present</u> Justice Michael A. Cherry, Chair Justice Lidia Stiglich Judge Tom Armstrong Judge Gary Fairman Judge Patrick Flanagan Judge Kevin Higgins Judge Mike Montero Judge Al Kacin Judge John Schlegelmilch Judge Mason Simons Judge Nathan Todd Young Bob Bell Jeremy Bosler David Carroll Drew Christensen Joni Eastley Jeff Fontain Franny Forsman</p>	<p>Kriston Hill Dana Hlavac Michael Kagan Philip J. Kohn Karin Kriezenbeck John Lambrose Mark Picakrd Rachelle Resnick Diane Roth David Schiek Holly Wellborn Jeff Wells</p> <p><u>AOC Staff</u> Raquel Espinoza Jamie Gradick Ben Graham Hans Jessup John McCormick</p>
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- I. Call to Order
 - Call of Roll and Determination of a Quorum
 - Ms. Jamie Gradick called roll; a quorum was present.

- II. Public Comment
 - Chief Justice Michael Cherry determined that there was no public comment.

III. Review and Approval of December 12, 2016 Meeting Summary

- The meeting summary from the August 15, 2016 meeting was approved.

IV. Update on Caseload Standards

- Hans Jessup: You can see in the report, I tried to put together a way for you to see that we have some courts that still have outstanding (inaudible 55:35) for 2016. The 2017 numbers that are provided there are the numbers that have been provided so far, so that is incomplete information. One of the new measures I tried to put on there so you can start seeing how these cases are interacting with each other is (inaudible 55:51), how many cases are being filed versus how many cases are being disposed for the attorneys. I think that kind of shows you how these guys are performing in these areas. There are a couple other places where there are now anomalies, so we are going to look at the courts and make sure they are imputing the data correctly. The example, even though it is a small county, (inaudible 56:13), where they only had one new appointment but they had seven cases close, well, that probably tells me (inaudible 56:22) appoint attorneys so I have to contact them to get that information. Everyone else is within reason. We are comfortable with the numbers we are seeing there. I am happy to answer any questions you might have (inaudible 56:35).

V. Legislation Discussion/Update

- Ben Graham: I am sorry for the confused state. I just got out of a three hour hearing on veteran's court matters and the Assembly Probation and Parole department—very interesting because we had divisions between Clark County and basically the other 14 or 15 counties. Part of the interesting thing was that one of the primary opponents and the most vocal and organized on SB377 was the District Attorney from Douglas County. With much effort the bill has been set for hearing on April 5. It is my understanding that David will be here from his home base and Franny will be here as well. The NACO people have voted to take a neutral stance which is kind of understandable. It is interesting and the discussion that we had, I do not think anyone disagrees with the Constitutional right to counsel, but it seems that over the years Nevada, whether truthfully or not, has kind of taken a buffet style approach to compliance with the law. Everybody wonders what the heck happened to the State Public Defender's Program, there has been studies and studies and I think the facts are going to be unchallenged, except the point is going to be made by Jackson if something is really wrong and we have ineffective assistance of counsel, bring litigation and bring a law suit and we will get a court ruling on it. With that said, the hearing is on the 5th and Franny and David and I will be there. We have a receptive committee. The question will be, and I have not seen a dollar amount, but we have about a week to get that together and if there is not a dollar amount then we need to be able to explain that. I do not know too much else to say except we have had some

blowback from a judge or two and obviously defense counsel in the rurals will be concerned, if not opposed, to the measure, but we have a hearing and we will put on a good show and a good program. If this for some reason does not go, it will be at least a good basis to kick off some other remedy if that is the desire of the participants. If there are any questions or whatnot I am more than open to those. It is a real emotional event for the participants and for the proponents of this legislation. Any thoughts or questions from the group?

- John Lambrose: I hope to be brief here. For those of us that have been on this Commission since 2007, which is most people in this room and on this call, just a brief overview of how we got to where we are on SB377. When this Commission was empaneled there was a Rural Subcommittee panel and on that panel was Judge Papez, myself, and Diane Crow, long story short, we did not come up with a recommendation that was adopted by the Indigent Defense Commission on the protocol for the selection of indigent counsel in the rural counties. We had recommendations that our Subcommittee came up with but they were not adopted by the full Commission and at a district court convention in Lake Tahoe in the summer of 2008 we reached an accommodation whereby we would put it on hold, for lack of a better way of putting it, and Clark County and Washoe County got out and came up with their model plans which, in my opinion, ensured kind of...put up a, what I think, is a much better Constitutional firewall between the judge and the appointment of counsel process. That seems to be working really well from what I have seen from what people have been telling me in both of those counties. A couple of years after that the Rural Subcommittee was asked by the Indigent Defense Commission to look into this again, specifically with an eye toward what some of the counties throughout the state were doing concerning their fee protocols with their court appointed counsel, on that Committee was myself, Diane Crow, and Judge Todd Russell in Carson City. One of our recommendations, among others, was that the Supreme Court bears an order prohibiting flat-fee contracts, without getting into any more detail, in coming up with a contract it allowed for additional fees if the Court saw fit that additional fees were warranted in that particular case. A straight flat-fee contract by an order entered in 2015, that summer, was forbidden. Notwithstanding that, I do not know because I have not done a survey but maybe Franny can speak to this after, since that order came down I do not know if all the counties are abiding by that order, but it was certainly the intent of the Nevada Supreme Court to abolish straight flat-fee contracts. One thing that this Commission also should recall historically from the ADKT in this case, the Nevada Supreme Court has already entered an order, many years ago, endorsing the concept of an Indigent Defense Commission and the type of Indigent Defense Commission contemplated by this Senate Bill. This is nothing new, the Indigent Defense Commission, with regard to the rural counties in Nevada. This is really nothing new, what we have put together here, historically, has a lot of precedent. We met again, it was not with a formal Subcommittee, what I tried to do was put together a Committee of the whole and involve as many rural county judges

as I could, we had a telephone conference call in November and many of the rural judges participated in that call. My recollection was that Jude Young, Judge Schlegelmilch, Judge Kacin, Judge Fairman, and I think, Judge Montero, and we hacked out some of the concerns some of the judges had. It was my feeling at the end of that call that there were concerns that David Carroll was going to deal with. One thing that I recall specifically was that the judges were concerned as to whether or not the BDR, as written, had a problem regarding if a judge was not happy with the quality of defense that the Central Office was providing, what remedies would the judge have, and David can speak to the amendments that he wrote into the bill to, what I can recall, satisfy the concerns of the rural judges that several judges had on that particular topic. What we finally arrived at, and I thought, unfortunately I was not able to make the Indigent Defense Commission meeting last December, but it was my understanding, this Committee, as did Justice Hardesty's Committee, the Legislative Advisory Committee, agreed in principle to endorse this bill going forward. It was not Senate Bill 377 at the time, but the bill draft resolution that David Carroll and I and some other people put together did not differ too much from that. We are here today, now, to talk about where we go from here. I know that on Wednesday, next week, I will provide my testimony in support of the bill and in general my support is predicated on that I sit in front of the Nevada Association of Counties, in front of members of the Criminal Defense Bar, and district attorneys that I know. I think that it works several good things. It has several good outcomes, the first, it returns the obligation to pay for indigent defense in the rural counties to the State of Nevada, and it freezes the amount of money that a county has to pay based on what they paid in fiscal years 15, 16, and 17, forever. If we are talking about this 15 years from now the counties obligation to pay indigent defense cost is frozen at that number. Their obligation will not be any more than that amount of money going forward, absent any legislation in the future. We do not know what the Nevada Legislature is going to do in the future. Number two, it builds a firewall with rules and with (15:08 inaudible) in place that separates the judge from the appointment of counsel process, as we have in Washoe County and in Clark County. Finally, I think it provides enough local control with the counties, it certainly did with most of my friends and colleagues in NACO, except for a few, it provides enough local control on the indigent defense appointment process to allow for the kind of flexibility that a rural court needs in order to get the public's business done on a day-to-day basis. Having said that, I frankly thought coming to this meeting that we had some consensus, obviously, legislation is not easy. I know going forward that SB377 is a starting point and that Senator Segerblom and his Committee are more than willing to work with this Commission to make the kind of amendments that we think might be conducive to getting the legislation passed and making all of the parties in this particular Commission happy without compromising too much. This is not the final bill, it is a process. The last thing I will speak to, I would not get your knickers all twisted about a fiscal impact statement because my thinking about that is the rural counties have been so reluctant to give this

Commission the kind of information we need on the indigent defense appointment process, and I can speak to that with personal knowledge based on the fact that I was on the Rural Subcommittee for the last 10 years and even with letters coming out from Chief Justice Cherry, Chief Justice Hardesty, and Chief Justice Maupin at the time, we were still getting a lot of difficult stonewalling from the rural counties on very valuable fiscal information. I have been told by the Legislative Counsel Bureau and by members of the Legislature that we should not have any difficulty getting that information if this bill, in whatever form it comes out of Senator Segerblom's Committee, if it comes out of his Committee, we will not have any difficulty whatsoever getting that information from the money Committee it will go to. I am frankly not worried. It is certainly going to have a fiscal impact; we all know that, and the fiscal impact we all know is going to be on the State of Nevada. How much money that is? We can only guess. It is going to be a lot of money. We are not going to get that information between now and a week from tomorrow, we just are not going to get it. I have spent 10 years trying to get that information, but perhaps the Senate Finance Committee will have a little easier time getting that information than this Commission has had. Having said that, I am going to shut up and I think Franny was going to say a few things or David. Perhaps David can say a few things but I think we need to hear from my friends and (19:15 inaudible) colleagues on the Rural Subcommittee in the rural counties, the judges that have spent so much time and provided so much valuable input in this process so that going forward we can have some consensus on this, if any. Thanks again, and I appreciate the opportunity to have been able to work on this.

- David Carroll: Thanks everyone. I wanted to start by saying I have been impressed by the amount of collaboration and deep thought that went into the, what we believed was a consensus bill moving forward. I have engaged with lots of judges and county managers and the folks at the Nevada Association of Counties have been really good. We have had a number of long, lengthy conversations and I have been impressed with the caring concern that everyone has brought to this issue. Our role at the Sixth Amendment Center is to try to listen to all the competing concerns and put forward suggestions that have worked in other states and other jurisdictions that we think will help you meet your Sixth and Fourteenth Amendment Constitutional duties. What we cannot do is put forth and draft the actual bill, we can only work on consensus language ahead of time and because we are a 501 (20:59 inaudible) we are not allowed to lobby or do anything once a bill has been drafted. I was a little concerned when the bill came out and there were changes from the last draft that we had. I have read Judge Schlegelmilch's letter reflecting some of the opinions of the other judges that we are working with and I must say that the vast majority of this rings true. There are a lot of things that were agreed upon that did not make that bill draft. I think it is important to get the judges to support this and to get some amendment language in there to fix some of these last minute things. I cannot do that because it is an active bill, the only thing I can do at this point is upon request of the chair of a committee,

testify and provide technical assistance to the entire committee about the process that was reached, the past history, the past problems, my observation as a national expert, but as far as amendments, that is going to have to be the people in this room and on this call to put those forward. If a committee member says “what do you think of this amendment” I can say “that reflects the consensus language that was agreed upon” or something like that, I am just putting that out there. I still think we have a lot of consensus here and if we can fix the judges concern, I certainly think that is the right approach, hopefully they will be able to support it, but we do need someone, whether that is Ben or someone at the court, to be able to get these concerns put forward to Senator Segerblom. I think it will vastly improve the bill. What I can say, this speaks a little to what John Lambrose said, the idea we are trying to fix here is that the Fourteenth Amendment makes Sixth Amendment responsibilities a state concern and even if they push off that obligation on the counties it is still the state’s responsibility to ensure the counties are not only able to be meeting the State’s Sixth Amendment obligations, but that they are in fact doing so. Right now your state has no ability to do that, no one is charged at the state level with ensuring that the counties are doing it. We tried to craft a consensus language that if the counties are doing what they are supposed to then there is no harm, they are allowed to keep local control, and continue local funding, if that is what they so choose. It is all about the State living up to their obligations and that is what I am going to testify to at the fifth, but I do appreciate the judge putting down on paper the concerns that were omitted from what we all agreed on. I am happy to take any questions, but that is where I see things as being right now.

- John Lambrose: I just want to give a response in regards to what David just said. This could move things along. The judges that are on that letter with Judge Schlegelmilch, if there is a way from now and a week from tomorrow, when this bill is heard, that Ben can get the amendment language to the Committee, I think that would be a great idea, particularly after this discussion today where there is a consensus. I have to admit, David is absolutely right, if SB377 did not have the language that we all agreed on after the BDR then it needs to go in there. I apologize for that oversight, thank you David for clarifying that, and Ben Graham I hope you can do something like that before the Wednesday hearing.
- Ben Graham: We will start working on that shortly.
- Franny Forsman: First off, you should know that I have signed on as local counsel with a national law firm with the ACLU; we are in exploratory, investigative stages of preparing a law suit. Hopefully if this legislation goes through then the relief may be exactly what the law suit is seeking. We have done some court watching and have met some of you judges in the rurals and you have seen some of us in your court rooms. My concerns are met by this bill. I did not get into the technical part of what you deal with day-to-day in the counties. My three main concerns, based upon the many years working with the national indigent defense system, were that the selection of counsel and provision of resources to counsel were sufficiently independent of the

judiciary and secondly, that there be a system for the establishment of oversight standards of representation and caseload, and finally, that there be some a system with provision of data so that you can actually evaluate the system. Having read through the bill, I think that all of those needs have been met by this bill, so I will be going to Carson City next week to testify in support of it.

- Judge Schlegelmilch: What I did is take some decent notes (28:28 inaudible) and I went through the Senate Bills and kind of modified it with some proposed language, which I believe was emailed to everybody this morning that is on the Commission. The fact of the matter is the way you see some of the issues in this bill from the rural judges' perspective is that we have not, in the past, been provided the greatest service (29:04 inaudible) the State Public Defender and to make the assumption that just because the State is going to take it over that for some reason and magically they are going to comply with all the State regulations or the adopted standards as well as provide current and, quite honestly, effective defense services in the rural counties is difficult. The last comment that I had heard from one of the judges that just let go of the State P.D.'s Office was that it is not going to work if they send two attorneys up every Monday at noon from Las Vegas to be public defenders. The fact of the matter is, and I think, honestly, the rural counties (30:04 inaudible) do not provide these legal services because the judges, at least the judges that I am familiar with, in the rural counties focus on the fact that everybody is entitled to a good defense. We are kind of the gatekeepers out here in rural Nevada. To be honest with you, the contract experience that we have had, as well as from what I understand, in Ely, Douglas County, and some others, has been very good because it minimizes conflicts and it maximizes the amount of client time with attorneys and some other things. Now, that being said, we discussed a lot of these things, especially in relation to conflicts of interest, in relation to counties being able to opt out of the program, in relation to ensuring that dependency abuse and neglect actions (31:14 inaudible) are included within the indigent defense services, and some of the other significant things pointed out in my letter to the Commission. The language that I proposed is just that, proposals. It just so happened that when I read the bill yesterday it caught me off guard because I was not really prepared for the language that was in the bill. At that point I just felt that I needed to get it in writing because otherwise it would get lost in the system. That being said, that is what it is. These are things that a majority of which were discussed and a consensus was built among the rural judges in relation to these things and I just followed it up with some of my own personal observations and I actually just submitted and wrote some language to be included or removed from the bill. That is my position. I believe there is still a consensus among the rural courts and I have talked to a number of the judges in relation to some of these things. I think that is where the rurals are at this point. To put the Office of Indigent Legal Services in charge of evaluating the counties when they would get the counties' money after reviewing or evaluating the counties' system, to me, is the most crazy idea I have ever seen in my life. How is that independence? To have the District Court and/or the

Supreme Court tell the counties how to provide defense services...how is that not judicial interference with the executive function for them to be able to appoint their own public defenders? The way we see it, there is a number of fundamental flaws in the current bill and all I am trying to do is point those out and see if we cannot get consensus on those things that are necessary changes to this bill to make it work. I think the concept, and I believe all the rural judges believe that the concept, is a good one, but we have to make it work so nobody gets the short end of the stick, so to speak. That is my comment.

- John Lambrose: David, I am going to throw this hot potato over to you because I think Judge Schlegelmilch has made some very good points.
- David Carroll: I do too. I think whenever language goes into the actual drafting, things change for whatever reason, things get omitted, things get added in, and I do think that he points out some of the failings that we felt we all had consensus on. Unfortunately, it is a sitting bill and I cannot work on it without being in violation of (35:08 inaudible) status. I can tell you all the process that we reached to the final language was the one that I was feeling good that we had a broad consensus, nobody was 100% happy with it and that is usually a good sign for legislation because the best legislation, everyone is a little disappointed, but I literally cannot work on the amendments it will have to be others. The judge brings up exactly the points that we had felt we had consensus that are omitted in this new bill.
- John Lambrose: Let me ask you this David, because obviously we do not have a lot of time here, could it be okay for you to... because if you are okay with what Judge Schlegelmilch has put in his letter then I am okay with it because you have been “boots on the ground” with this in terms of hammering out the language that the judges wanted. Would it be okay for you to give that, before it became bill information, to give that to Ben so Ben could then forward it to the Committee for purposes of amending it before the hearing? I am a rookie when it comes to this.
- Chief Justice Cherry: Let me intervene at this time. I think John McCormick and Ben, together with the judge can see if they can start getting language together. You and Ben can get together with the judge. It does not sound like you have an objection what Judge John has said, so let’s go with it.
- John Lambrose: David, did you hear what the Chief just said? How do you feel about that?
- David Carroll: I think that is great, if John McCormick can work on it. Unfortunately, John, your proposal is; can I do the language and pass it on, I’m precluded from doing that, but if John wants to get in contact with me about; does this generally agree with what was the consensus view before, I could do something like that, but I literally cannot put pen to paper on any of this now that it is an active bill.
- John Lambrose: David, just so we are on the same page, I think I understand what you are saying, my thinking is this somehow got all screwed up when it went to LCB because the BDR we gave to LCB had all of the language that the judges wanted in it.

- John Lambrose: Judge Schlegelmilch is absolutely right. It would seem to me that all Ben, John, and Judge Schlegelmilch would need would be our BDR, right? And try it again so that the three of them could, with the BDR that as Judge Schlegelmilch puts in his letter that was finally arrived at in the middle of March, could go to John, Ben, and the judge and could then go to the Committee. That would not get you in trouble with violating...
- David Carroll: No, no, because that was previous, before the bill. Yes, I can send on to make sure everyone has the final language and then John and the judge and whomever can put together the amendments that are necessary. Or I do not know if they could even do a substitute bill.
- Judge Schlegelmilch: I certainly do not have any problem with that and I will participate in trying to clarify the language. I only received the modified language on March 16th; we never had a chance to comment on it. I am not sure that it perfectly reflects our position, but I am absolutely positive it does not reflect Judge Fairman's position or mine in relation to counties abilities to opt out, the modified language, which is also in your packet. The packet that came out of the AOC had the "modified" language attached to it. I am not sure that all the modified language satisfies some of our concerns; it partially satisfies our concerns as set forth for those things that were included in the modified language. The only thing that I can say is that the bill drafters, or whomever you want to say, really did some things to the substance of the bill and move things around. In some respects I thought that was good when I read SB377 because I thought it made it more clear in some respects, but they left out some of those things and we never had a chance to get back to really take a look at Mr. Carroll's language that was proposed to do some of the things that we discussed at the Rural Subcommittee level. I think that is kind of a consensus among some of the judges that some of the language does not go far enough and some of the language included in those proposed changes went too far, especially as it relates to judicial intervention into the process of selection of who is going to provide defense services.
- John Lambrose: Let me make this suggestion. David, tell me if this would work within your comfort zone. If that is the case, if we did not have 100% consensus with the modifications you came up with, would you be able to participate in a conference call with John, Ben, and the judge to work that out before they sent proposed amendments to the Committee before the hearing?
- David Carroll: This is right at that line. I am going to need to get clarification from the Federal Government before I say yes. I do not want to risk anything by stepping into the lobbying field. I will get clarification ASAP and get back to everyone.
- Ben Graham: This is Ben. I have not yet reviewed the judge's letter yet, are there things in that, if anyone has reviewed it, that you do not want blended into 377? Is there anything in there you do not want blended in?

- John Lambrose: It sounds to me, from what David said, please do not hold me to this, (43:32 inaudible) everything that is in the judge's letter was pretty much agreed upon and at large it just did not make it into SB377. Does that sound right, David?
- David Carroll: Yeah, with the caveat, as the judge said, that they never had the opportunity, from that mid-March language, to come back to me and say: "We like this, we do not like that." I do not want to give the impression that there was 100% consensus on that language, but I think that is a fair definition of where things were. I tried to address all their concerns, I put it out there and then at this point some back and forth probably still needed to be done. The idea was to try to address everything that the judges still had as far as; attorneys can still keep private work and some of the issues as far as who is doing the evaluations, the Commission instead of the Office, the representation of some of the civil work, and others. I tried to be as responsive as possible on all those points. I felt like I had answered most of them, but again, there was not a time for them to be able to review and get comments back before the bill landed.
- Ben Graham: Rather than completely redo the bill, which LCB will not go along with essentially, if we could take the existing language of 377, which some of you have said there are some favorable things in there that we like, and blend in the comments from the judge into the existing bill, would that work for the group?
- Judge Fairman: I wanted to throw out a couple of other comments. I think we are on the right path with respect to Judge Schlegelmilch's comments that I concur with. The draft that came out for the Nevada Right to Counsel Commission on March 13th also had some changes which we discussed today and (46:06 inaudible) respect to amendments is towards a blending of what David Carroll had in that draft that did not make it into the final, which I guess was an oversight, together with the judge's comments today and those are (46:23 inaudible) I think you can probably get to the necessary amendments.
- John McCormick: What I am going to do tomorrow is take SB 377 go over it with the language that David sent on the 13th, blend those together, then look at that in terms of Judge Schlegelmilch's letter and then send that out to the rural group that has been working on this to see if that addresses everybody's concerns and then we can make tweaks from there and get it ready to get to the Committee on Tuesday morning.
- John Lambrose: Thank you very much McCormick. David Carroll, out there in ether space, can you participate in that conference call?
- David Carroll: I have to get clearance to find out. I am not going to commit, I would like to, but I cannot do anything that jeopardizes our tax status.
- John Lambrose: I totally understand. Let John know if you do get clearance David, because your (47:31 inaudible) is going to be so valuable in this process and whatever synthesis we get, I would love to have your input on it. Judge Schlegelmilch and Judge Fairman, does McCormick's proposal sound okay to you guys?

- Judge Schlegelmilch: Just so you know, I already put in the bill every amendment I am requesting. It is already inserted inside that bill. I attached it with amendments inserted in the bill. Whether or not that is the proposed language we want to proceed on with the Legislature, that is always another question, so I think some sort of conference committee could discuss that with AOC and a couple of the rural judges, that would probably be a very good idea. If that is the kind of language we want to propose as amendments.
- Ben Graham: You said you put it in the bill, are you talking about the bill, 377, that is in front of us?
- David Carroll: His letter has the bill with new draft language in it.
- John Lambrose: (49:08 inaudible) I do not think it is a bad idea that we get together and say; can we word this better, can we do this better, can we look at it in a different way. I certainly do not have any problems with doing those kinds of things. I do not think Judge Fairman has a problem doing those kinds of things either.
- John Lambrose: Alright, Ben and John McCormick, I remain waiting for you guys, and David, I hope you are able to participate. I certainly would love your input.
- Jeff Wells: I do, I want to bring the voice back from the rurals back to Clark County. I participated with David, early on with NACO in some of the earlier drafts (inaudible 49:57) but to make sure that they had the exceptions in there to pull out Washoe and Clark. First of all, I agree with Ben that the LCB is not going to be happy to try to take away the entire bill so we need to do this by an amendment form, but some of the changes that LCB made, section 14, for example, it used to be a subsection under sections 12 and 13 and then we pulled section 14 out from being a subparagraph to being its own section and it does not have that limitation. (50:35 inaudible) to clarify that so we pulled the big counties back out so we could stay out of your way so the rural folks can go forward and do what they want to do. Last session Clark County sort of put a (50:54 inaudible) which raised a fiscal note substantially, we are not going to be doing it this year and based on the way 377 was drafted, if we get the amendments on here, we are not even going to put a fiscal note on the bill as it stands from a county perspective at all which will allow Clark County to come forward (51:15 inaudible) to support it. I just wanted Justice Cherry to know that we had moved that far. (51:20 inaudible) the judge's email today, I have to make sure that nothing in there inadvertently stuck us back under some of those provisions that were designed to be under the 100,000.
- Franny Forsman: I had one question with regard to the bill before it became a bill so I think you can answer the question about the intent. Responding to the judge's comment about who does the evaluation of the individual programs, my understanding was that it was our intent that it would be the Commission that did the evaluation, not the Office of Indigent Legal Services, is that right?
- David Carroll: That language was attempted to be clarified in the March 13th language draft. The idea was the Commission would be responsible for hiring

objective, outside, evaluations of all systems including those run by the Office of Indigent Legal Services.

VI. Status Update on Indigent Defense in Clark County

- Phil Kohn: Yesterday I was given a copy of AB (inaudible 53:10) which (53:14 inaudible) adjudications and mental health, I know they do it differently in Washoe County so I will defer until Jeremy's discussion to see how they are doing it up north because I am a little concerned about how we are doing it down here.
- Unknown Speaker: Special Public Defender's Office, (53:37 inaudible) January 1st and we are moving forward with the exception of all the conflict Category A felony cases along with our murder cases.
- Chief Justice Cherry: How are you doing with caseload standards, are you okay?
- Phil Kohn: Murder cases, we are working well with the county on caseloads on murder cases. We have not reached a point with Category A felony cases where I need to address that issue yet. We are (inaudible 54:04) Category A felony cases since the first of the year which is about what we calculated, it is a little higher than I calculated with my staff but it is about the 5 year average (54:20 inaudible).
- David Schieck: I just want to comment on (inaudible 54:47) how they come through. There appears to be, at least from my standpoint, a pattern of overcharging some of these cases that should not be charged as Category A felonies when they could have been handled by the contract attorneys that are assigned these departments (Inaudible 55:07). I am still looking at them. It is still very early in the process on those cases, of whether or not the District Attorney is overcharging (inaudible 55:17).

VII. Status Update on Indigent Defense in Washoe County

- Jeremy Bosler: We have seen an uptick on criminal cases generally in the county. Our biggest concern right now, I think Phil mentioned AB 253, but since the year 2013 the amount of involuntary commitment hearings that we have been assigned to has more than quadrupled. We project a (inaudible 57:29) increase in involuntary commitment cases in 2017. We spoke to the county about the resources needed for that, we thought we had a very good audience with the county, but we have had some flooding so that has used up some of the money the county has set aside for staff. The other thing that I think the Committee should be aware of is that late last year we asked Professor Kagan, from the Boyd Law School, he runs the immigration clinic, to come to Washoe County and review the processes for the Public Defender's Office to give us some indication whether we should be doing more to achieve (inaudible 58:20) compliance. He gave us a report on March 6th, I shared it with the county, his opinion is that we need to likely devote full-time staff to provide immigration resources to these 8,000 or so people we represent each year. I have also talked to the county about that, we cannot get additional resources; we are going to have to restructure our offices and probably shed cases. The two biggest critical needs of

Washoe County, at least for the Public Defender's Office, are the hospitalization resources and the immigration resources.

- Phil Kohn: What resources are they using right now to do the adjudications (inaudible 59:13) our numbers are staggering. We have 21 facilities that we are going to and now they do not want to give me the reports except for at the time of the hearing, we are not going to support that (inaudible 59:27). I am really worried. (59:30 Inaudible)
- Jeremy Bosler: We, luckily, have built a historical model in Washoe County where we, defense council and prosecution, will be present when the patient is interviewed by the court doctors, we can ask questions, the state can ask questions, the state can take the doctors aside to ask them questions about whether people meet criteria, it is a much more robust due process system here in Washoe County. We cannot operate the system we have now with the numbers that you have in Clark County and we certainly could not operate with those numbers if we did not have the medical reports within a timely fashion to do some investigation, to interview the patients, and to consult with the doctors if necessary, or consult with the treatment facilities the patient has been to. We are shocked with some of the timelines (inaudible 1:00:34). It just is not as directly applicable to our practice.
- Phil Kohn: This is something we did not look at as a community, the mental health problem. (1:00:59 inaudible) Everything is done over video and it has to be that way with facilities and I understand that but we just do not have (1:01:13 inaudible). I cannot support that.
- Mark Pickard: Jen is out of town and she sent me in her place. Just to give you a brief update to go a little bit on what Jeremy has talked about, we took over specialty courts about a year and a half ago and we took over the felony courts last July. The numbers are up on all of that, we have had to restructure our office the same as Jeremy is doing in his because we just (1:02:00 inaudible) specialty court up here with Reno Justice Court adding a DUI court, so we have actually reduced our family court attorneys to turn one of our family court attorneys into a specialty court/criminal deputy. We have restructured a little bit. We have talked to Jeremy about the immigration issue (1:02:23), Jeremy brought him upstairs to our office and we had the same discussion with him. We are a slightly different situation, in that a little over a year ago we hired a criminal deputy who had 20 years of immigration experience, so we actually have that resource in the office and he stays up on the immigration information and we have provided his services to the Public Defender's Office as well, but as Professor Kagan noted, that invites the question of conflict of interest because they are getting information on cases in which we may both have defendants. It is not the perfect system, but at least we have some resource, but we are looking at the fact that that is going to grow. That is where we are at. We have restructured a little bit just to get there.
- Bob Bell: Yes, I am here, Chief Justice. Our program has not changed much. We have had an uptick in our family court process because of the APD having to switch some of the deputies based on the specialty courts and criminal courts in Washoe

County so we are getting some more family court cases more than the usual right now. I am not sure how long that is going to last. We are trying to solicit more attorneys for that. That has resulted in a little uptick for our office. As the PD and APD's are reporting, our numbers are starting to go up again as well. Depending on what happens in their office, it slopes down to our office. We are all dealing with that right now and not knowing exactly where this whole thing is going to go with our county budgets and with some of the (inaudible 1:04:47). We will have to see what happens.

VIII. Status Update from State Public Defender's Office

- Karin Kreizenbeck: Not much terribly new. We are doing well. We have got our two counties. The judges seem satisfied with what we are doing. We too have seen an amazing uptick in the number of involuntary commitments, we cannot quite figure out why, but we are able to cover them with current staff. Typically by the time the hearing date arrives, they get dismissed and we never even have to appear in court on them. I know the judges are working with the hospitals in an attempt to try to figure out why they get set and then they get taken off, it does waste staff time and energy, and we are working on resolving that. We have seen an uptick in some violent crime. We have got three murder trials set before the end of the year and like I said, there is an uptick in home invasions, sexual assaults, I am not sure why, but we are monitoring that, and again, we are able to cover that with current staff. We are just watching the bill very closely, about the Public Defender's Office; we will be there on April 5th with everybody else to see what happens.

IX. Other Business

- Chief Justice Cherry: Anything new with the municipal courts? Anything you want to say about misdemeanor representation here in Clark County?
- Unknown Speaker: (inaudible 1:06:36) There is some language in that bill that talks about municipal court being responsible (inaudible 1:06:40) basically invoking it for all county services, it does not clarify where municipal stands in that. As far as our municipal court, we are getting ready to reissue our RFP's that go back out for new contracts to be issued on July 1st. We will wait to see what happens with that. It could be an independent commission (inaudible 1:07:05).
- Unknown Speaker: As long as they maintain the under 100,000 provision to all those other things, you are not going to get affected either because you are still in a city within a county that is under over 100, so you may (1:07:17).

X. Adjournment

- Chief Justice cherry adjourned the meeting at 2:38 p.m..

Indigent Defense Caseload Statistics and Estimates, Fiscal Year 2016-17.		Fiscal Year		
		2016	Current 2017	Estimated 2017
Washoe Public Defender	New Appointments	6,733	NR	6,733
	Re-Activated			
	Adjudicated/Disposed/Closed	6,649	NR	6,649
	Placed on Inactive Status			
Lyon County District Court	New Appointments	154	103	206
	Re-Activated	40	16	32
	Adjudicated/Disposed/Closed	122	84	168
	Placed on Inactive Status	69	30	60
Esmeralda County District Court	New Appointments	-	-	-
	Re-Activated	-	-	-
	Adjudicated/Disposed/Closed	1	2	3
	Placed on Inactive Status	-	-	-
Nye County District Court	New Appointments	366	245	327
	Re-Activated	79	101	135
	Adjudicated/Disposed/Closed	346	222	296
	Placed on Inactive Status	125	411	548
Humboldt County District Court	New Appointments	194	149	199
	Re-Activated	16	14	19
	Adjudicated/Disposed/Closed	106	207	276
	Placed on Inactive Status	14	25	33
Eureka County District Court	New Appointments	-	-	-
	Re-Activated	1	-	-
	Adjudicated/Disposed/Closed	3	-	-
	Placed on Inactive Status	-	-	-
Lincoln County District Court	New Appointments	26	1	1
	Re-Activated	14	6	8
	Adjudicated/Disposed/Closed	32	15	20
	Placed on Inactive Status	8	3	4
White Pine County District Court	New Appointments	26	15	20
	Re-Activated	11	9	12
	Adjudicated/Disposed/Closed	47	27	36
	Placed on Inactive Status	10	2	3
Clark County Public Defender	New Appointments	24,015	19,803	23,764
	Re-Activated			-
	Adjudicated/Disposed/Closed	19,142	20,420	24,504
	Placed on Inactive Status	4,947	5,606	6,727
Clark County Special Public Defender	New Appointments	32	222	266
	Re-Activated	-	4	5
	Adjudicated/Disposed/Closed	28	92	110
	Placed on Inactive Status	-	13	16
Churchill County District Court	New Appointments	252	142	213
	Re-Activated	88	53	80
	Adjudicated/Disposed/Closed	432	244	366
	Placed on Inactive Status	97	61	92

Lander County District Court	New Appointments	34	4	10
	Re-Activated	-	-	-
	Adjudicated/Disposed/Closed	13	13	31
	Placed on Inactive Status	-	-	-
Mineral County District Court	New Appointments	9	13	17
	Re-Activated	-	-	-
	Adjudicated/Disposed/Closed	7	7	9
	Placed on Inactive Status	3	-	-
Pershing County District Court	New Appointments	115	99	132
	Re-Activated	9	5	7
	Adjudicated/Disposed/Closed	124	83	111
	Placed on Inactive Status	9	5	7
Total *	New Appointments	31,956	20,796	31,888
	Re-Activated	258	208	296
	Adjudicated/Disposed/Closed	27,052	21,416	32,579
	Placed on Inactive Status	5,282	6,156	7,489

NR - Not Reported

* Total and Projections for fiscal year 2017, include carry forward of 2016 data for Washoe County.
Source: Indigent Defense Caseload Statistics, AOC, Research and Statistics Unit.