

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: March 06, 2019 at 1:30 pm.

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/B 408 E. Clark Avenue Las Vegas, NV | Second Judicial District Court Room 214 75 Court Street Reno, NV | Seventh Judicial District Court 801 Clark Street Ely, NV | Fourth Judicial District Court 571 Idaho Street Elko, NV |
| Teleconference Access: Dial-In # 1-408-740-7256 Meeting ID 1110011234 | | | | |

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 December 11, 2018 Meeting Summary*
- IV. AB 81 Discussion/Update – *Mr. Ben Graham, Mr. John McCormick*
 - A. Available at: <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6032/Overview>
- V. Clark County Arraignment Process Update - *Mr. Drew Christensen*

- VI. Discussion on Role of the IDC in Submitted Indigent Defense Plans Review Process - *Ms. Franny Forsman*
- VII. Urban County Public Defender Selection Process – *Mr. John Lambrose*
- VIII. Caseload Standards Discussion/Update
 - A. Discussion on NACO’s Rural County PD Reporting Tool
- IX. Status Update on ACLU of Nevada - *Ms. Amy Rose*
- X. Status Update on Indigent Defense Clark County - *Mr. Drew Christensen, Mr. Darin Imlay, Ms. JoNell Thomas*
- XI. Status Update on Indigent Defense in Washoe County - *Mr. John Arrascada, Mr. Bob Bell, Mr. Marc Picker*
- XII. Status Update on the State Public Defender’s Office - *Ms. Karin Kreizenbeck*
- XIII. Status Update on the Federal Public Defender’s Office - *Ms. Megan Hoffman*
- XIV. Update on Eighth Judicial District Court Homicide Case Pilot Project
- XV. Other Business
- XVI. 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 Jamie Gradick

December 11, 2018

1:30 p.m.

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|--|--|
| <p><u>Attendees Present</u> Justice Michael A. Cherry, Chair John Arrascada Drew Christensen Joni Eastley Franny Forsman Judge Douglas Herndon Megan Hoffman Darin Imlay Judge Al Kacin Michael Kagan Philip Kohn Karin Kreizenbeck</p> | <p>Chris Lalli Judge Michael Montero Mark Picker Judge John Schlegelmilch Judge Mason Simons JoNell Thomas Jeff Wells</p> <p><u>AOC Staff</u> Ben Graham John McCormick</p> |
|--|--|

- I. Call to order
 - Call of Roll and Determination of a Quorum
 - Mr. John McCormick called roll.
 - A quorum was not present; Justice Cherry approved moving forward in “subcommittee” status.
- II. Public Comment
 - There was no public comment.
- III. Review and Approval of the October 30, 2018 Meeting Summary
 - The summary was approved.
- IV. NRTCC BDR (AB 81) Update/Discussion
 - Mr. McCormick provided attendees with an overview of the Nevada Right to Counsel Commission’s proposed legislation.
 - The BDR has been introduced as a bill; the full text is included in the meeting materials.
 - Attendees discussed concerns regarding funding and no mechanism to hold the state to its funding obligations.

- The Legislature has expressed an unwillingness to “tie the hands” of future legislative bodies in terms of funding.
- Stakeholders will be meeting next week to attempt to find a compromise and to draft amendatory language; the meeting is being hosted by NACO.
- Mr. McCormick briefly discussed the LCB’s memo included in the materials.
- Attendees discussed the need to bring the incoming governor and his team up to speed on indigent defense issues and the indigent defense crisis in Nevada’s rural counties; this may not be something the new administration is familiar with.

V. Clark County Arraignment Process Discussion (*Much of this discussion was inaudible*)

- Mr. Christensen informed attendees that he spoke with Chief Judge Bell; this is a work in progress.
- Judge Herndon commented that homicide cases now go straight to his homicide team and bypass the arraignment court process.
- Mr. Lalli commented that, in general, the Clark County DA’s Office has not taken a stance for or against this process. There is a concern with ensuring cases move along quickly and efficiently.
- Mr. Kohn commented that the arraignment court is “a bad idea” and judges should be taking the plea.
- Ms. Thomas expressed concern regarding the demeaning location and unconstitutional process of the arraignment court.
 - Attendees briefly discussed the possibility of sending Category A and B felonies directly to the judge (along with homicide cases).
 - Attendees discussed the possibility of training judges on how to do a proper please canvas.
- Justice Cherry stressed the importance of the pleas stage of the process; this responsibility should reside with the judge, not a master.
 - Judge Herndon explained that the judges would not mind doing this but scheduling and caseloads are challenges; the trial calendar would suffer.

VI. IDC’s Role in Submitted Indigent Defense Plan Review Process

- Ms. Forsman commented that this issue hinges on the future of the IDC and provided a brief recap of the issue.
 - The model plan recently submitted by Henderson Municipal Court did not not comply with standards but there is no mechanism in place for review or approval.
- Attendees discussed the need for a periodic review of the model plan instead of review of individual court plans.
 - Ms. Forsman will review the model plan and will revisit this topic at the next Commission meeting.

VII. Urban County Public Defender Selection Process

- Mr. Lambrose was not in attendance; this item was tabled for discussion at the next meeting.

- VIII. Indigent Defense Screening Tool and Checklist (*See meeting materials for additional information*)
- Mr. McCormick presented the appointment of counsel checklist and accompanying documentation, including an indigent screening affidavit.
 - Mr. McCormick asked that attendees send him and suggested edits.
- IX. Caseload Standards Discussion/Update
- Discussion on NACO's Rural County PD Reporting Tool
 - Ms. Eastley and Mr. Wells commented that, given the concerns raised by the AOC and the IDC, this document is back in "draft" mode.
 - Mr. Wells commented that the work group is going to reconvene to review the suggestions as soon as Ms. Stapleton is ready to do so.
- X. Status Update on ACLU of Nevada
- This item was tabled for discussion at the next meeting.
- XI. Status Update on Indigent Defense in Clark County
- Increasing caseloads remain a problem; rising homicide caseloads and a lack of Rule 250 qualified attorneys are concerns.
 - Attendees discussed resources; Clark County defense offices need additional resources and employees.
 - Mr. Wells explained that several unfunded mandates have come out of past legislative session; Clark County is cautious of allocating resources during session since it is never sure if the state will require it to begin funding programs.
 - Mr. Kohn introduced Mr. Imlay as the new Clark County Public Defender.
- XII. Status Update on Indigent Defense in Washoe County
- Mr. Arrascada informed attendees that his office has asked Mr. Cotter Conway to reach out to Mr. Christensen for guidance in to streamlining processes and oversight in the Washoe County office.
 - Mr. Conway will attend the next meeting.
 - Legal 2000 cases are increasing.
 - Mr. Picker commented that the oversight committee has been working on changes to the Washoe model plan; Mr. Picker will send it to Ms. Forsman once it is approved in case there are aspects that should be incorporated into the model plan.
- XIII. Status Update from the State Public Defender's Office
- Ms. Kreizenbeck reported an increase in Legal 2000 holds as well; her office is looking into it.
- XIV. Status Update on the Federal Public Defender's Office
- Ms. Hoffman informed attendees that her office has seen an increase in both habitual offender and homicide cases. Both capital and non-capital units are experiencing significant rises in caseloads.

XV. Update on the Eighth Judicial District Court Homicide Case Pilot Project

- Mr. Lalli and Judge Herndon provided attendees with a brief overview of updated statistics.
 - In 2018:
 - 30 cases tried; 2 were capital
 - 158 cases resolved through non-trial means
 - assigned out 132 cases
 - 188 total cases resolved
 - Currently active cases:
 - 190 non-capital, pending trial
 - 55 capital, pending trial
 - Attendees discussed the benefit of judicial adherence to stipulated sentencing; Judge Herndon commented that most of the judges try to follow stipulations but there are times when the judge does not agree.

XVI. Other Business

XVII. Adjournment

- Justice Cherry adjourned the meeting at 2:35 pm.

MEMORANDUM

To: Indigent Defense Commission, Chair Justice Michael Cherry
From: Franny Forsman
Date: November 8, 2018
Subject: Process for Review of Local Plans

On January 4, 2008, the Nevada Supreme Court, in ADKT 411, ordered that all district and municipal courts submit an administrative plan setting forth the process for appointment of counsel, approval of expert witness fees, investigation fees and attorney fees and the determination of indigency. Additionally, this Commission approved a Model Plan for use of the courts in drafting their plans. Following objections by some stakeholders in the rural counties, that order was stayed indefinitely for all courts except Washoe and Clark.

The courts submitted plans in 2008. Some courts have since amended the plans and most recently, Henderson submitted a plan for review by the Commission. However, there is no clear direction in the previous orders as to the process to be employed in reviewing the plans, the role of the Supreme Court in approving the plans. Additionally, the order does not require any periodic review of existing plans to determine whether updating should be considered.

Accordingly, I am asking that the Commission consider requesting an Order in the ADKT 411 docket that will set forth a process for review of the urban plans.

Some suggested elements of the order might be:

- A provision for review of the plans every two years by all courts.
- A provision for submission of any amendments to the Indigent Defense Commission if the plan is amended and a notification to the IDC if no amendments are made.
- A provision for review by the IDC of the plans (original or amended) and a report to the Nevada Supreme Court.
- A provision that the IDC review the Model Plan every 2 years to determine if amendments should be made and notification of all courts of any amendments adopted.

Indigent Defense Data Dictionary

The Indigent Defense Commission approved and directed the collection of indigent defense data on October 2010. The objective for gathering indigent defense data is to identify and define basic data elements for counting of cases assigned to appointed or indigent defense counsel. Phase I is expected to define those basic cases assigned and disposed categories necessary to begin understanding the caseload of appointed counsel. Future phases will expand data elements to be captured by counsel.

Indigent Defense Case Type Definitions

Felony Case: A subcategory of criminal cases in which a defendant is charged with the violation of a state law(s) that involves an offense punishable by death, or imprisonment in the state prison for more than 1 year.

Gross Misdemeanor Case: A subcategory of criminal cases in which a defendant is charged with the violation of state laws that involve offenses punishable by imprisonment for up to 1 year and (or) a fine of \$2,000.

Misdemeanor Non-Traffic Case: A criminal subcategory in which a defendant is charged with the violation of state laws and/or local ordinances that involve offenses punishable by fine or incarceration or both, the upper limits of which are prescribed by statute (NRS 193.120, generally set as no more than 6 months incarceration and/or \$1,000 fine).

Misdemeanor Traffic Case: A criminal subcategory for Justice and Municipal Courts in which a defendant is charged with the violation of traffic laws, local ordinances pertaining to traffic, or federal regulations pertaining to traffic.

Juvenile Case: A subcategory of juvenile cases that includes cases involving an act committed by a juvenile, which, if committed by an adult, would result in prosecution in criminal court and over which the juvenile court has been statutorily granted original or concurrent jurisdiction.

Additional Indigent Defense Caseload Statistics

Death Penalty: The number of defendants for which the District Attorney's Office has filed the notice of intent to seek the death penalty, in accordance with Supreme Court Rule 250.

Probation Revocations: The number of defendants for which post-adjudication criminal activity involving a motion to revoke probation due to an alleged violation of one or more conditions of probation (usually from the Department of Parole and Probation) or suspended sentence. The unit of count for revocation hearings is a single defendant, regardless of the number of charges involved. Revocation hearings are counted when the initiating document (e.g., violation report) is received by the court.

Informal Juvenile Hearing (involving a judicial officer): The number of hearings/events involving a juvenile in which no formal charge has been filed with the court. Only record an informal hearing if it is held on a matter that is not a part of an existing case. The court may impose a disposition as a result of the informal hearing.

Juvenile Detention Hearing: The number of hearings requesting a juvenile to be held in detention, or continued to be held in detention, pending further court action(s) within the same jurisdiction or another jurisdiction. Record a detention hearing that is held.

Conflicts: The number of defendants during the reporting period that a lawyer's appointment to case ended because of a conflict that necessitated the transfer of the case to another lawyer.

Specialty Court Cases: A count of cases in which a lawyer represents a defendant in a specialty court program, i.e., drug court or mental health court. This type of case should be counted in this additional category when the defendant appears during a specialty court session within the reporting period or if the indigent defense counsel is assigned to the defendant for specialty court.

Justice Court Felony/Gross Misdemeanor Reductions: A number of defendants for which any felony or gross misdemeanor charge was totally (and only) adjudicated in justice court.

Caseload Inventory

Unit of Count

For felony, gross misdemeanor, and misdemeanor criminal cases, the unit of count is a single defendant on a single charging document (i.e., one defendant on one complaint or information from one or more related incidents on one charging document is one case, regardless of the number of counts)¹. For juvenile cases, the unit of count is a single juvenile defendant on a single petition regardless of the number of counts. For traffic cases, the unit of count is a single case (by defendant) based on an original charging document from a single incident.

For defendants in cases whereby multiple charges are involved, courts will utilize a hierarchy (described below) when classifying the case for statistical purposes. For example, if a defendant is charged on a single charging document with a felony and a gross misdemeanor, for statistical purposes, the case is counted as a felony.

Felony and gross misdemeanor cases in Justice Court are counted when counsel is appointed to the case by the Court.

Misdemeanor and traffic cases in Justice and Municipal Courts are counted when counsel is appointed to the case by the Court.

Additional charges such as failure to appear or habitual criminal are not counted at this time because those are added after the initial charging document.

Appointment: Any time a lawyer is asked or assigned to act on behalf of a person in a criminal or juvenile matter by a judicial officer. An appointment ends when a lawyer is no longer involved in a case

¹ This definition varies from the national standard as promulgated by the National Center for State Courts in that it counts a single defendant on a single charging document, while the national standard counts a single defendant with a single incident/transaction. This means that the Nevada measure herein, will under report caseload at times when one defendant is charged with separate crimes from separate incidents that may necessitate indigent defense counsel to treat the appointment as multiple cases. In the event that the capacity to accurately count cases in line with the national model becomes available in Nevada, the intent of the Subcommittee is that this definition be revisited.

for whatever reason. There can be multiple appointments for a single defendant/case during the duration of the case.

When to Count Filings

Beginning Pending: A count of cases by defendant that, at the start of the reporting period, are awaiting disposition.

New Appointments: A count of cases by defendant that have been assigned counsel for the first time of each new appointment.

Cases filed in district courts where indigent defense counsel continues to represent the defendant on the case after their appointment in justice court, should be counted as new appointments in district court reports.

Warrant (Placed on Inactive Status): A count of cases in which a warrant for failure to appear has been issued, a diversion program has been ordered, or other similar incident that makes the case inactive.

Returned from Warrant (Re-activated): A count of cases in which a defendant has been arrested on a failure to appear warrant and has appeared before the court, returned from diversion program, or other similar occurrence that makes the case active.

Adjudicated/Disposed/Closed Cases: A count of cases by defendant for which an original entry of adjudication has been entered or for which an appointment has ended.

Ending Pending: A count of cases by defendant that, at the end of the reporting period, are awaiting disposition.

Set for Review: A count of cases that, following an initial Entry of Judgment during the reporting period, are awaiting regularly scheduled reviews involving a hearing before a judicial officer. For example, if a status check hearing is ordered to review post adjudication compliance.

Manner of Disposition

Unit of Count

For felony, gross misdemeanor, and misdemeanor criminal cases, the unit of count is a single defendant on a single charging document (i.e., one defendant on one complaint from one or more related incidents is one case, regardless of the number of counts)². A criminal case is considered disposed when final adjudication for that defendant or case occurs. For statistical purposes, final adjudication is defined as the date of sentencing, date of adjudication, or date charges are otherwise disposed, whichever occurs last. A case may be considered closed for an appointed attorney when the appointment ends regardless of adjudicatory status. Counsel should count the case adjudicated or disposed in the same category as it was counted in (felony in, felony out).

² This definition varies from the national standard as promulgated by the National Center for State Courts in that it counts a single defendant on a single charging document, while the national standard counts a single defendant with a single incident/transaction. This means that the Nevada measure herein, will under report caseload at times when one defendant is charged with separate crimes from separate incidents that may necessitate indigent defense counsel to treat the appointment as multiple cases. In the event that the capacity to accurately count cases in line with the national model becomes available in Nevada, the intent of the Subcommittee is that this definition be revisited.

Draft County PD Reporting Tool

Created 10/2018 by the Nevada Association of Counties

- 1 County: _____
- 2 Law Firm: _____
- 3 Attorney Name: _____
- 4 Reporting Quarter: _____ to _____
- 5 Final Day of Last Reporting Period: _____

6 PENDING CASES - on final day of last reporting period

- Death Penalty
- Murder (Non-Death)
- Class A
- Other Felonies - Non-Specialty Courts
- Other Felonies - Specialty Courts
- Gross Misdemeanor
- Misdemeanor (Non-Traffic)
- Misdemeanor (Traffic)
- Delinquency
- Juvenile Status Offense
- Abuse and Neglect (NRS 432B)
- Termination Parental Rights (NRS 128 and NRS 432B)
- Parole/Probation Revocation
- Mental Health Commitment
- Appeal
- Other

SUB-TOTAL

7 **NEW APPOINTMENTS**

Month: Month: Month:

- Death Penalty
- Murder (Non-Death)
- Class A
- Other Felonies - Non-Specialty Courts
- Other Felonies - Specialty Courts
- Gross Misdemeanor
- Misdemeanor (Non-Traffic)
- Misdemeanor (Traffic)
- Delinquency
- Juvenile Status Offense
- Abuse and Neglect (NRS 432B)
- Termination Parental Rights (NRS 128)
- Parole/Probation Revocation
- Mental Health Commitment
- Appeal
- Other

SUB-TOTAL

8 DISPOSED CASES

Month: Month: Month:

Death Penalty

Murder (Non-Death)

Class A

Other Felonies - Non-Specialty Courts

Other Felonies - Special Courts

Gross Misdemeanor

Misdemeanor (Non-Traffic)

Misdemeanor (Traffic)

Delinquency

Juvenile Status Offense

Abuse and Neglect (NRS 432B)

Termination Parental Rights (NRS 128)

Parole/Probation Revocation

Mental Health Commitment

Appeal

Other

SUB-TOTAL

| 9 DISPOSITION DETAIL | Death Penalty | Felony | Gr. Misdr. | Misd. Misdr | Misd. (Traffic) | Delinquency | 432B | 128 | Revocation | Other | Juv. Status | Mental Health | Appeal | Total |
|----------------------|------------------|--------|---------------|----------------|--------------------|-------------|------|-----|------------|-------|----------------|------------------|--------|-------|
| Dismissal | | | | | | | | | | | | | | |
| Pleas | | | | | | | | | | | | | | |
| Bench Warrant | | | | | | | | | | | | | | |
| # of Bench Trials | | | | | | | | | | | | | | |
| # of Jury Trials | | | | | | | | | | | | | | |
| # of Civil Hearings | | | | | | | | | | | | | | |
| SUB-TOTAL | | | | | | | | | | | | | | |

10 Number of hours spent on court appointed representation (from this jurisdiction): _____
 Percentage of total work hours spent on court appointed representation (from this jurisdiction): _____

11 List other counties and municipalities where you were appointed to represent indigent defendants:

12 What other work did you perform for the criminal justice system (e.g., magistrate)?

13 Please list all support personnel by job classification in your firm or public defender office:

Uniform Case Definition: Count the defendant and all charges involved in a single incident as a single case. If the charging document contains multiple defendants involved in a single incident, count each defendant as a single case.

Rural County Public Defender Reporting Tool Instruction Manual

*Created by the Nevada Association of Counties (NACO)
October 2018*

Introduction: In 2017, Nevada’s legislature took a preliminary step toward reforming the state’s indigent defense system by establishing the Nevada Right to Counsel Commission (NRTCC). This Commission conducted, with the assistance of the Sixth Amendment Center (6AC), a study of the provision of indigent defense services in Nevada’s rural counties. During the NRTCC’s discussions, as well as through information gathered by the 6AC, the Nevada Association of Counties (NACO) heard from its rural county members about one important challenge they faced. That challenge is, although county commissions and county managers in rural Nevada are tasked with overseeing any contract public defenders they may have hired, they do not have a uniform reporting tool or system through which they could gather information from public defenders on their work. Such a tool could accomplish two things: 1) Help county managers and commissions understand the tasks and challenges rural contract public defenders face; and 2) Help counties ensure public defenders are meeting the terms of their contracts.

In response, NACO convened a working group to create such a tool. The working group included a county commissioner, current or former county or assistant county managers, a prosecutor, and a defense attorney. Rural counties are encouraged use the tool. Please ask your county’s contract public defender(s) to fill it out once every quarter. It is suggested the reports be presented to the county commission. The instructions below provide information on how to use the tool.

| Section | Question/Instruction |
|---------|---|
| 1 | <u>County:</u> Please list the county in which you provide indigent defense services and for which the case load report pertains. |
| 2 | <u>Law Firm:</u> Please list the name of the law firm that employs you. If you are self-employed, please list “sole practitioner.” |
| 3 | <u>Attorney Name:</u> Please list the first and last name of the attorney. Please note, a separate report must be filled out for each and every attorney in a public defender office or law firm. |
| 4 | <p><u>Reporting Quarter:</u> A county fiscal year begins on July 1st and ends on June 30th. Therefore, the four reporting quarters are as follows:</p> <p style="padding-left: 40px;">Quarter 1: July 1st through September 30th. Quarter 2: October 1st through December 31st. Quarter 3: January 1st through March 31st. Quarter 4: April 1st through June 30th.</p> <p>Please indicate the appropriate fiscal quarter that is being reported.</p> |
| 5 | <u>Final Day of Last Reporting Period:</u> Please indicate the day on which you last reported your public defender workload. For example, if the current report is for the second quarter of a fiscal year (e.g. October 1 st through December 31 st), then the final day of last reporting period should be marked “September 30 th .” |

Caseload Reporting: For all public defense caseload reporting, Sections #6 through #9, please use the following uniform definition of a “case”: Count the defendant and all charges involved in a single incident as a single case. If the charging document contains multiple defendants involved in a single incident, count each defendant as a single case. When cases involve multiple charges arising out of a single incident, please count the case by “top charge” at the time of filing, regardless of the severity of the case when it is disposed. That is, a case filed as a felony but disposed as a misdemeanor through plea negotiations should be counted in caseload reports as a felony.

Explanation: Using a district attorney’s charging instrument to define a “case” does not produce uniform caseload data because different prosecutors have different philosophies on how to charge (as it should be). For example, one prosecutor may want to charge suspected co-conspirators on a single charging document. However, two separate public defense providers must each represent the individual co-defendants. Each right to counsel provider is ethically bound to provide zealous representation to the co-defendant assigned to them, meaning that each defense provider must conduct independent investigations and engage in separate case prep and plea negotiations. They are, in every sense of the word, two separate “cases.”

Similarly, if a defendant is charged with shoplifting in one store on one day and a separate store on another day, and yet a third store on a third day, a prosecutor may want to file a single charging document to show the serial pattern of the accused. But, from the defense perspective, an attorney must interview three potential sets of eyewitnesses, and investigate three different crime scenes. It is quite possible the defendant committed two of the alleged crimes, but not the third. Each one must be treated as its own case.

This differs in kind with the work and effort needed to investigate and defend all of the charges arising from a single incident. Say a defendant is charged with reckless driving and subsequently is alleged to have resisted arrest or to have accosted the arresting officer. All of the work effort of a defense attorney is around the same sets of facts, the same eyewitnesses and the same crime scene.

Similar issue arise when trying to count a “case” by “charge” or by “defendant.” Because defendants are sometimes charged with multiple counts arising out of a single incident, using “charges” as the definition of a “case,” will artificially inflate caseload numbers. The opposite is true when counting cases by “defendant.” Because defendants may be charged in multiple offenses occurring on different days in different places, counting “defendants” will underreport an attorney’s actual workload.

| Section | Question/Instruction |
|---------|--|
| 6 | <u>Pending Cases:</u> Please list all open, pending public defense cases you have as of the date reported in Section #5 (above) by each classification listed. If you have no cases pending under a specific classification please list "0." No line should be left blank. If you list cases under the category "other," please list the case type. |
| 7 | <u>New Appointments:</u> Please list the total number of new cases to which you were appointed during the time period listed in Section #4 using the uniform definition of a "case." New appointments shall be broken down by each of the three months contained in the reporting quarter. If you have new assignments under a specific classification please list "0." No line should be left blank. If you list cases under the category "other," please list the case type. Cases in which an indigent defense client absconded and for which a bench warrant was issued in a prior report, and for which a client is returned to court during the current reporting period, should be counted as a new assignment. |
| 8 | <u>Disposed Cases:</u> Please list the total number of cases you disposed during the time period listed in Section #4 using the uniform definition of a "case." Dispositions shall be broken down by each of the three months contained in the reporting quarter. If you have no dispositions under a specific classification please list "0." No line should be left blank. If you list cases under the category "other," please list the case type. |
| 9 | <u>Disposition Detail:</u> For each classification of case type, please list the number of cases that were dismissed during the reporting period. Similarly, please list the number of cases by case type for which a defendant entered a guilty plea. Also, please list the number of cases for which an indigent defense client absconded and for which a bench warrant was issued. If an indigent defense client is returned on a bench warrant within the same reporting period and the case is disposed within the same reporting time period, count the case under the actual disposition category. |
| 10 | <u>Number of Hours spent on court appointed representation (from this jurisdiction):</u> Please indicate the total number of hours spent on all indigent defense cases arising from the county listed in Section #1. Do not count hours spent on indigent defense cases arising out of other counties or municipalities. <u>Percentage of total hours spent on court-appointed representation (from this jurisdiction):</u> Please estimate the percentage of work hours expended on indigent defense cases arising from the county identified in Section #1 as an overall percentage of your total time spent on all public and private cases. If you are a full-time government-employed public defender, you should indicate "100%." If you are a private attorney and take indigent defense cases from outside the county listed in Section #1, please count those other indigent defense cases as part of your "private" caseload for this response. |
| 11 | <u>Other jurisdictional indigent defense workload:</u> If you handled indigent defense cases during the reporting period in any other jurisdiction (including municipalities), please list the name of the county or municipality where this work occurred. |
| 12 | <u>Other criminal justice work:</u> If you performed any work in a different criminal justice capacity (e.g., magistrate, prosecutor, etc.) in any jurisdiction (including municipalities) other than the county listed in Section #1, please list the name of the county or municipality where this work occurred. Also, please indicate what criminal justice capacity performed. |
| 13 | <u>Support personnel:</u> Please list any and all support staff employed by the law firm indicated in Section #2 above. You do not need to list individual names but rather by job classification. For example, if a law firm or public defender office employs two legal secretaries, please indicate this as: "Legal secretaries (2)." If the law firm or public defender employs part-time support staff, please indicate the percentage of a full-time equivalent employee. For example, if a law firm or public defender office employs one full-time legal secretary and one half-time legal secretary, please indicate this as: "Legal secretaries (1.5)." |



MEMORANDUM

FROM: Dagny Stapleton, Executive Director, Nevada Association of Counties (NACO)

DATE: December 1, 2018

SUBJECT: Rural County Contract Public Defender Reporting Tool

The Nevada Association of Counties (NACO) recently convened a working group to create a tool for rural counties to use as a reporting mechanism for their contract public defenders. The purpose of this tool is to measure the workload and output of county contract public defenders so that rural county commissions have the information they need to negotiate the terms of those contracts and to understand the work that their contract public defenders do.

NACO heard from its rural county members that, although county commissions and county managers are tasked with overseeing any contract public defenders they may have hired, they do not have a uniform reporting tool or system through which they gather information from public defenders on their work. When the NACO Board directed staff to facilitate the creation of the tool they expressed sincere interest in being able to better monitor and gather information from their contract public defenders, and they were eager to have it at their disposal. It is hoped that such a tool will help counties ensure that contract public defenders are meeting the terms of their contracts.

The tool consists of a spreadsheet containing a series of questions for the attorney(s) to answer. The thought was that any rural county commission could request their contract defender(s) complete the tool and present it before the commission each quarter. The tool is also accompanied by a document containing instructions on how to fill out and use the tool.

The working group that created the tool included a county commissioner, a rural county manager, a prosecutor, a defense attorney and a former rural county commissioner and member of the IDC. David Carroll from the Sixth Amendment Center also reviewed and provided input on a draft of the tool. The tool was completed in October 2018 and shortly thereafter presented to the NACO Board. The tool was distributed to all 15 of Nevada's rural

counties. NACO has also posted the tool on our website and will continue to encourage rural counties who contract with public defenders to use it.

Homicide Project Update 2-15-19

Trial Overview

2016 – 10 trials conducted

2017 – 13 trials conducted (11 after creation of Homicide Team on 7-1-17)

2018 – 30 trials conducted

2019 – 3 trials conducted

Assignment / Resolution Overview

2017 (7-1-17 through 12-31-17)

- 216 cases assigned

(number is inflated due to having to assign out all the pre-existing Homicide cases when the Homicide Team was formed 7-1-17, in addition to new cases coming in from 7-1-17 forward)

- 66 cases resolved

2018 - 132 cases assigned

- 188 cases resolved

2019 - 20 cases assigned

- 14 cases resolved

Active Case Overview

(these are cases pending trial or other hearing but excluding resolved cases pending sentencing)

| | Pending non-capital trials | Pending capital trials | Cases pending other hearing (i.e. trial setting, negotiations, Lakes Crossing, competency court, death review, etc) | Total unresolved cases |
|------|----------------------------|------------------------|---|------------------------|
| DC3 | 42 | 17 | 13 | 72 |
| DC12 | 49 | 13 | 16 | 78 |
| DC17 | 45 | 14 | 12 | 71 |
| DC21 | 47 | 9 | 5 | 61 |
| | 183 | 53 | 46 | 282 |