

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: Tuesday, September 5, 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/B 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 May 31, 2017 Meeting Summary*
- IV. Discussion of SB377 - *Mr. John McCormick, Mr. Ben Graham*
- V. Update on Nevada Right to Counsel Commission – *Mr. John McCormick*
- VI. Discussion on the Future of the IDC – *All Commission Members*
- VII. Update on Caseload Standards - *Mr. Hans Jessup*

- VIII. Status Update on Indigent Defense Clark County - *Mr. Phil Kohn, Mr. Drew Christensen*
- IX. Status Update on Indigent Defense in Washoe County - *Mr. Jeremy Bosler, Ms. Jennifer Lunt, Mr. Bob Bell*
- X. Status Update from State Public Defender's Office - *Ms. Karin Kreizenbeck*
- XI. Update on Rural Contract Counsel Fees – *Ms. Jamie Gradick*
- XII. Other Business
- XIII. 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 Susan Berget
May 31, 2017
1:30p.m.

<p><u>Attendees Present</u> Chief Justice Michael A. Cherry, Chair Chief Judge Patrick Flanagan Judge Kevin Higgins Judge Mike Montero Judge Al Kacin Judge Mason Simons Judge Jim Shirley Judge Nathan Tod Young Jeremy Bosler David Carroll Lucy Crow Drew Christensen Joni Eastley Jeff Fontaine Franny Forsman Christopher Hicks Kriston Hill</p>	<p>Dana Hlavac Philip J. Kohn Karin Kreizenbeck Chris Lalli Jennifer Lunt John Lambrose Bradley Rasik Rachelle Resnick Amy Rose Diane Roth David Schiek Jeff Wells</p> <p><u>AOC Staff</u> 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 there was no public comment.
- III. Review and Approval of the March 28, 2017 Meeting Summary
 - The summary of the March 28, 2017 meeting was approved.

IV. Update on Caseload Standards

- Hans reported they have been getting completed reports from everyone. There are a few courts that have reported in the past that we do not have information from for the fiscal year. He asked that the courts look at their statistics and forward those on.
- Hans noticed, overall, an increase in cases reported being disposed or closed, and the increase is significant from previous years. Hans does not know if that is an increase in efficiency, administrative closures, or cleaning up caseloads.
- Looking to improve some of the data reporting and find out what trends there are. Will report at next meeting.
- Franny Forsman reported that it is not clear whether or not these numbers include appointed cases through Drew's office or Bob Bell's office. It was suggested they get their statistics into Hans. In those counties that do not have a Public Defender, it must be contracted lawyers reporting in.
- Drew talked with Hans before the meeting and will provide him with the statistics for the last couple of years.
- Hans will follow through with Bob Bell from Reno.

V. Status update on Indigent Defense in Clark County

- Mr. Phil Kohn made remarks about a case in Clark County that he attended that day. Phil stated he was on Justice Hardesty's Committee to Study Evidence-Based Pretrial Release and stated Clark County caseloads are what they are because nothing is being done about ORs and bail, and he is hoping someone sues the court because that is the only way they are going to resolve the situation. There were some questions from other committee members regarding judicial preferences and bail schedules/processes in Clark County. There is an issue with district courts setting higher bail than justice courts.
- Ben Graham mentioned the Legislature and AB136. It was vetoed by the Governor. Ben hopes there will be judicial input to get this initiative pushed through in the future, but it will be interesting to see what gets done and how it develops before the next legislative session.
- There was some discussion about capital murder trials, judges, and litigation among the members; this program starts July 1st.
- There was discussion regarding "reinventing" arraignment processes and the Nevada Pretrial Risk Assessment tool. They are looking at ways to reinvent their arraignment process in Clark County with an eye to reducing jail population. A big piece of that is the Nevada pretrial release tool. They have taken site visits to Maricopa County and to San Antonio. They both have very robust intake services.
- The challenge in the justice community in Southern Nevada is to make the system work to bring jail populations down, intake in an efficient manner, and to do more around the clock than we are now. The Justices, Public Defender's Office, Mr. Wells' Office, Municipal Court, and Metro are all players that are working towards this.

VI. Status Update on Indigent Defense in Washoe County

- Jeremy Bosler stated the County's budget will be flat this year so any additional resources and services will be waiting until the next budget. This will impact the Public Defender's Office because they have a five-fold increase in cases with only one-and-a-half attorneys handling 2,500 involuntary commitment cases.
- They had an audit of immigration services and they are found to be lacking in the Padea compliance. Because they have a flat budget it is not going to be happening easily. They would have to reorganize or shed some cases for that to happen.
- Their pretrial experience has been different than Clark County. They have lots of variety amongst judges. They are still struggling to get the risk assessments to the defense attorneys by the time of the first appearance. They have had an increase in OR releases by the court before the first appearance. They are still tracking an increase in cash bails imposed. Not quite sure what is behind that. The jail population has gone down a small extent.
- They are happy to give Mr. Jessup anything he needs to track caseloads and are curious what the next step is once they get the data.
- Jennifer Lunt stated there is one thing that is different in Washoe County: when they initiated the risk assessment, they did away with the bail schedule because they wanted to know the true count of who was going to be impacted. The problem with that is the judges are then setting bail that they deem appropriate and they could be as high as \$10,000 cash only on nonviolent misdemeanors.
- Ms. Lunt commented that there will be a meeting next month on the change in the criminal law process which will affect the DA, the PD's and the APD's office on how they assign cases. The cases will not be by court department, but on a rotational basis.
- There will be a change in the County Manager position because he is going to Las Vegas.
- Appointed Counsel – Bob Bell is on a month-to-month contract. A bid will go out in July.
- Caseload Standards – David Carroll explained that next steps regarding caseload standards depend upon on what the information shows. There have been many individual state caseload standards, which are really changing how people think about the national standards. The next step would be to look what needs to be done in the state.

VII. Status Update from State Public Defender's Office

- Karin Kreizenbeck commented that her office has been extremely busy. They have three murder trials set from now until the end of the year. There has been an increase in general and violent crime.
- No increase in budget so have to make due with current staff.

- Specialty courts are overcrowded to the point that they have stopped accepting people for the mental health courts because of funding. Because they cannot help those people with mental health issues, it is just a revolving door in and out of jail.
- Chief Justice Cherry asked about appeals in the Carson area and also in rural counties. Ms. Kreizenbeck stated she does not handle appeals except in two counties, Carson and Storey. She stated one attorney is dedicated to appellate and feels overwhelmed.
- Judge Young stated that he has not seen where attorneys do not want anyone to touch their appeal cases and said most attorneys from 9th JD would be delighted to do the appeals. Justice Cherry said that if the IDC continues it will have to be looked at; he was under the impression that this office would handle rural appeals.

VIII. SB377 Discussion/Update

- Chief Justice Cherry thanked John McCormick and Ben Graham for their tireless efforts for this quest.
- SB377 – Ben stated there was not going to be a hearing because of lack of support. The legislative makeup and leadership were disappointing and he described the events and purse strings of the legislature. He asked for everyone’s questions and comments for the future of the Indigent Defense Commission. He does not see a legislative fix to this issue.
- John stated that when he had a meeting with the chair he compounded on the recent Idaho State Court decision and there was not any acknowledgment of the fact that Idaho had set up a commission and the case had been reinstated. At this stage, there is no receptiveness to this commission because of resources and the funding priorities this session.
- John also commented about the amendment for the Indigent Defense Commission and Nevada Rights Counsel, charging it with another study with an attachment about what funding would be necessary but he thinks even with the relative funding that it will not pass.
- Justice Cherry opened it up for discussion. There was some discussion about the amendment and funding. Justice Cherry called John Lambrose for his comments. John Lambrose thanked David Carroll and John McCormick for their hard work during the legislative session. John disagreed with everyone and explained his reasoning behind that. John suggested that the commission bring more political and legislative players into the commission to create a multi-branch membership.
- There were other comments from attendees regarding litigation and how the committee can become better by:
 - Opening the committee up to the three branches
 - Have a planning session at the next meeting
 - Talk about flat fee contracts and conformance with local plans

IX. Other Business

- Chief Justice Cherry asked Jamie to schedule a meeting in September and another for the end of the year.
- Franny Forsman stated that many rural contract attorneys believe their contracts are flat fee. She has spoken with some who think it is a flat fee and they get what they get. There seems to be a belief that “no flat fee” means lawyers do not have to pay for experts or investigators out of their own pockets, not that they can request expenses.
 - Chief Justice Cherry asked John McCormick to find out the correct information from the rural district court judges regarding whether they give extraordinary fees when requested and if the attorneys are aware that they have the right to request the fees.
 - Judge Young commented that, in Douglas County, he has never seen an instance where any request for fees beyond the contract were denied. The attorneys are aware of this.
- Judge Montero wanted it to be known that he is present. Chief Justice Cherry asked him about fees for contract attorneys.
 - Judge Montero told him they do not have contract attorneys. They have a County Public Defender’s office, a County Alternative Public Defender’s office, and occasionally a conflict attorney will be appointed and paid hourly. There is no ceiling on the cost.
- Judge Young asked Franny if most rural attorneys know their contract or if they feel bullied by the judges. Franny does think that is the case. She will look again at the contract for extraordinary fees.
- Jeff Fontaine gave his opinion on the flat fee contract and when they are reviewed. He also thanked John, Ben, and Justice Cherry for SB377 and the work they have done.
- Chief Justice Cherry asked attendees for input on how the Commission should move forward.
 - Franny Forsman suggested having two meetings, one for the committee and one for the invited guests to “brain storm” new goals for the Commission. Justice Cherry agreed.
- Chief Justice Cherry commented that that the Commission membership list is going to be trimmed to remove those who no longer participate in the Commission; adding additional members from other branches of governments will also be discussed.
 - Rural judges and DAs will remain on the Commission.
 - John Lambrose suggested inviting at least one important rural county legislator to the next meeting, i.e., Senator Goicoechea, and a rural county assemblyperson or senator.

X. Adjournment

The meeting was adjourned at 2:15 p.m. The next meeting will be held in September.

CHAPTER.....

AN ACT relating to indigent defense; creating the Nevada Right to Counsel Commission; prescribing the membership and duties of the Commission; authorizing the Commission to request the drafting of not more than one legislative measure for each regular session of the Legislature; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

This bill creates the Nevada Right to Counsel Commission and prescribes the duties and functions of the Commission. **Section 9** of this bill provides that the Commission consists of 13 voting members and the Chief Justice of the Nevada Supreme Court, who is an ex officio nonvoting member of the Commission. Under **section 9**, of the 13 voting members of the Commission, the Governor appoints 10 members from among nominees selected by various entities interested in the provision of indigent defense services and the Majority Leader of the Senate, the Speaker of the Assembly and the Chief Justice of the Nevada Supreme Court each appoint one member. **Section 9** also provides that a member of the Commission serves without compensation but is entitled to receive the per diem and travel expenses for state officers and employees while the member is engaged in the business of the Commission. **Section 32** of this bill provides for the appointment of members of the Commission to terms which expire on June 30, 2019.

Section 11 of this bill requires the Commission to conduct a study during the 2017-2019 interim concerning issues relating to the provision of legal representation to indigent persons. **Section 11** also requires the Commission to recommend to the Legislature standards concerning the provision of legal representation to indigent persons. The recommendations must include: (1) standards related to the caseload and workload of defense counsel; (2) minimum standards for the provision of legal representation to indigent persons; (3) minimum standards for a statewide system for the provision of such services in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties); (4) funding a statewide system for the provision of such services; and (5) any other recommendations in accordance with the findings of the Commission. Recommendations proposed by the Commission must be submitted to the Office of Finance in the Office of the Governor and the Legislature on or before September 1, 2018.

Existing law prescribes the number of legislative measures which may be requested by various departments, agencies and other entities of this State for each regular session of the Legislature. (NRS 218D.100-218D.220) **Section 31.2** of this bill authorizes the Nevada Right to Counsel Commission to request for each regular session of the Legislature the drafting of not more than one legislative measure which relates to matters within the scope of the Right to Counsel Commission.

Section 31.6 of this bill makes an appropriation from the State General Fund of \$115,000 for Fiscal Year 2017-2018 and \$115,000 for Fiscal Year 2018-2019 to the Nevada Supreme Court for expenses related to the Commission.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 180 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 16, inclusive, of this act.

Sec. 3. (Deleted by amendment.)

Sec. 4. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 5 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 5. (Deleted by amendment.)

Sec. 6. *“Commission” means the Nevada Right to Counsel Commission created by section 9 of this act.*

Sec. 7. *“Indigent defense services” means the provision of legal representation to:*

1. An indigent person who is charged with a public offense; or

2. An indigent child who is:

(a) Alleged to be delinquent; or

(b) In need of supervision pursuant to title 5 of NRS.

Sec. 8. (Deleted by amendment.)

Sec. 9. 1. *The Nevada Right to Counsel Commission, consisting of 13 voting members and 1 ex officio nonvoting member, is hereby created.*

2. The voting members of the Commission must be appointed as follows:

(a) One member who is a member in good standing of the State Bar of Nevada, appointed by the Majority Leader of the Senate.

(b) One member who has expertise in the finances of State Government, appointed by the Speaker of the Assembly.

(c) One member who is a retired judge or justice or has expertise in juvenile justice and criminal law, appointed by the Chief Justice of the Nevada Supreme Court.

(d) Two members from among six nominees selected by the Board of Governors of the State Bar of Nevada, three of whom must be members in good standing of the State Bar of Nevada who reside in a county whose population is less than 100,000, and three of whom must be members in good standing of the State Bar of Nevada who reside in a county whose population is 100,000 or



more, appointed by the Governor. The Governor must appoint one member who resides in a county whose population is less than 100,000 and one member who resides in a county whose population is 100,000 or more.

(e) Four members from among six nominees selected by the Nevada Association of Counties who reside in a county whose population is less than 100,000, appointed by the Governor. The Governor must appoint one member who has expertise in the finances of local government.

(f) Two members from among four nominees selected by the Board of County Commissioners of Clark County, appointed by the Governor.

(g) One member from among two nominees selected by the Board of County Commissioners of Washoe County, appointed by the Governor.

(h) One member from among three nominees selected jointly by associations of the State Bar of Nevada who represent members of racial or ethnic minorities, appointed by the Governor.

3. The Chief Justice of the Nevada Supreme Court or his or her designee is an ex officio, nonvoting member of the Commission.

4. Each person appointed to the Commission pursuant to subsection 2 must have:

(a) Significant experience in providing legal representation to indigent persons who are charged with public offenses or to indigent children who are alleged to be delinquent or in need of supervision;

(b) A demonstrated commitment to providing effective legal representation to such persons; or

(c) Expertise or experience, as determined by the appointing authority, which qualifies the person to contribute to the purpose of the Commission or to carrying out any of its functions pursuant to section 11 of this act.

5. A person must not be appointed to the Commission pursuant to subsection 2 if he or she is:

(a) A current judge, justice or judicial officer;

(b) A prosecuting attorney or an employee thereof;

(c) A law enforcement officer or an employee of a law enforcement agency; or

(d) An attorney who may obtain any financial benefit from the policies adopted by the Commission.

6. In addition to the other requirements set forth in this section, not more than two persons who are county managers or



members of a board of county commissioners may be appointed to the Commission pursuant to subsection 2.

7. Each member of the Commission continues in office until a successor is appointed.

8. Any vacancy occurring in the membership of the Commission must be filled in the same manner as the original appointment for the remainder of the unexpired term.

9. Each member of the Commission:

(a) Serves without compensation; and

(b) While engaged in the business of the Commission, is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

10. Each member of the Commission who is an officer or employee of the State or a local government must be relieved from his or her duties without loss of his or her regular compensation so that the member may prepare for and attend meetings of the Commission and perform any work necessary to carry out the duties of the Commission in the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Commission to make up the time the member is absent from work to carry out his or her duties as a member, and shall not require the member to take annual vacation or compensatory time for the absence.

11. The Governor may remove a member of the Commission for incompetence, neglect of duty, moral turpitude, misfeasance, malfeasance or nonfeasance in office or for any other good cause.

12. A majority of the voting members of the Commission constitutes a quorum for the transaction of business at a meeting of the Commission. A majority of the voting members of the Commission is required for official action of the Commission.

Sec. 10. (Deleted by amendment.)

Sec. 11. *1. The Commission shall conduct a study during the 2017-2019 interim concerning issues relating to the provision of indigent defense services.*

2. The Commission shall make recommendations to the Legislature to improve the provision of indigent defense services and to ensure that those services are provided in a manner that complies with the standards for the effective assistance of counsel established by the United States Supreme Court and the appellate courts of this State under the Sixth Amendment to the United States Constitution and Section 8 of Article 1 of the Nevada Constitution. The Commission shall make recommendations concerning:



(a) Standards related to the caseload and workload of defense counsel;

(b) Minimum standards for the provision of indigent defense services;

(c) Minimum standards for a statewide system for the provision of indigent defense services in a county whose population is less than 100,000;

(d) Funding a statewide system for the provision of indigent services; and

(e) Any other recommendations in accordance with the findings of the Commission.

3. Any state agency, political subdivision of this State or any other state or local governmental agency in this State, or any officer, employee or other person acting on behalf of such an agency or entity, shall provide, to the best ability of the agency, entity or person, information requested by the Commission to carry out any of its functions pursuant to this section.

4. The Commission may employ and contract, within the limits of legislative appropriations, such experts as necessary to carry out any of its functions pursuant to this section.

5. On or before September 1, 2018, the Commission shall submit a report of its findings and any recommendations to:

(a) The Office of Finance in the Office of the Governor; and

(b) The Director of the Legislative Counsel Bureau for transmittal to the 80th Session of the Nevada Legislature.

Secs. 12-31. (Deleted by amendment.)

Sec. 31.2. Chapter 218D of NRS is hereby amended by adding thereto a new section to read as follows:

1. For a regular session, the Nevada Right to Counsel Commission created by section 9 of this act may request the drafting of not more than one legislative measure which relates to matters within the scope of the Commission. The request must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. A request made pursuant to this section must be on a form prescribed by the Legislative Counsel. A legislative measure requested pursuant to this section must be prefiled on or before the third Wednesday in November preceding the regular session. A legislative measure that is not prefiled on or before that day shall be deemed withdrawn.



Sec. 31.4. NRS 218D.100 is hereby amended to read as follows:

218D.100 1. The provisions of NRS 218D.100 to 218D.220, inclusive, *and section 31.2 of this act* apply to requests for the drafting of legislative measures for a regular session.

2. Except as otherwise provided by a specific statute, joint rule or concurrent resolution, the Legislative Counsel shall not honor a request for the drafting of a legislative measure if the request:

(a) Exceeds the number of requests authorized by NRS 218D.100 to 218D.220, inclusive, *and section 31.2 of this act* for the requester; or

(b) Is submitted by an authorized nonlegislative requester pursuant to NRS 218D.175 to 218D.220, inclusive, *and section 31.2 of this act* but is not in a subject related to the function of the requester.

3. The Legislative Counsel shall not:

(a) Assign a number to a request for the drafting of a legislative measure to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.

(b) Honor a request to change the subject matter of a request for the drafting of a legislative measure after it has been submitted for drafting.

(c) Honor a request for the drafting of a legislative measure which has been combined in violation of Section 17 of Article 4 of the Nevada Constitution.

Sec. 31.6. 1. There is hereby appropriated from the State General Fund to the Nevada Supreme Court for expenses related to the Nevada Right to Counsel Commission created by section 9 of this act the following sums:

For the Fiscal Year 2017-2018	\$115,000
For the Fiscal Year 2018-2019	\$115,000

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 21, 2018, and September 20, 2019, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred and must be reverted to the State



General Fund on or before September 21, 2018, and September 20, 2019, respectively.

Sec. 32. As soon as practicable after July 1, 2017, the Governor, the Majority Leader of the Senate, the Speaker of the Assembly and the Chief Justice of the Supreme Court, as applicable, shall appoint the members of the Nevada Right to Counsel Commission created pursuant to section 9 of this act to terms that expire on June 30, 2019.

Secs. 33 and 34. (Deleted by amendment.)

Sec. 35. This act becomes effective on July 1, 2017, and expires by limitation on June 30, 2019.



Indigent Defense Caseload Statistics, Fiscal Year 2016-2017		Fiscal Year		
		2016	2017	Percentage of Change
Washoe Public Defender	New Appointments	6,733	6,867	2%
	Re-Activated	-	-	0%
	Adjudicated/Disposed/Closed	6,649	5,969	-10%
	Placed on Inactive Status	-	-	0%
Lyon County District Court	New Appointments	154	228	48%
	Re-Activated	40	50	25%
	Adjudicated/Disposed/Closed	122	186	52%
	Placed on Inactive Status	69	69	0%
Esmeralda County District Court	New Appointments	-	-	0%
	Re-Activated	-	-	0%
	Adjudicated/Disposed/Closed	1	2	100%
	Placed on Inactive Status	-	-	0%
Nye County District Court	New Appointments	366	319	-13%
	Re-Activated	79	101	28%
	Adjudicated/Disposed/Closed	346	324	-6%
	Placed on Inactive Status	125	150	20%
Humboldt County District Court	New Appointments	194	175	-10%
	Re-Activated	16	19	19%
	Adjudicated/Disposed/Closed	106	226	113%
	Placed on Inactive Status	14	30	114%
Eureka County District Court	New Appointments	-	-	0%
	Re-Activated	1	-	-100%
	Adjudicated/Disposed/Closed	3	-	-100%
	Placed on Inactive Status	-	-	0%
Lincoln County District Court	New Appointments	26	2	-92%
	Re-Activated	14	7	-50%
	Adjudicated/Disposed/Closed	32	19	-41%
	Placed on Inactive Status	8	3	-63%
White Pine County District Court	New Appointments	26	20	-23%
	Re-Activated	11	9	-18%
	Adjudicated/Disposed/Closed	47	32	-32%
	Placed on Inactive Status	10	3	-70%
Clark County Public Defender	New Appointments	24,015	24,069	0%
	Re-Activated	-	-	0%
	Adjudicated/Disposed/Closed	19,142	24,687	29%
	Placed on Inactive Status	4,947	6,785	37%
Clark County Special Public Defender	New Appointments	32	290	806%
	Re-Activated	-	6	0%
	Adjudicated/Disposed/Closed	28	137	389%
	Placed on Inactive Status	-	22	0%
Churchill County District Court	New Appointments	252	215	-15%
	Re-Activated	88	76	-14%
	Adjudicated/Disposed/Closed	432	364	-16%
	Placed on Inactive Status	97	89	-8%

Lander County District Court	New Appointments	34	35	3%
	Re-Activated	-	1	0%
	Adjudicated/Disposed/Closed	13	30	131%
	Placed on Inactive Status	-	2	0%
Mineral County District Court *	New Appointments	9	13	44%
	Re-Activated	-	-	0%
	Adjudicated/Disposed/Closed	7	7	0%
	Placed on Inactive Status	3	-	-100%
Pershing County District Court	New Appointments	115	118	3%
	Re-Activated	9	7	-22%
	Adjudicated/Disposed/Closed	124	108	-13%
	Placed on Inactive Status	9	6	-33%
Total	New Appointments	31,956	32,351	1%
	Re-Activated	258	276	7%
	Adjudicated/Disposed/Closed	27,052	32,091	19%
	Placed on Inactive Status	5,282	7,159	36%

* FY 2017 missing May and June Reports

Source: Indigent Defense Caseload Statistics, AOC, Research and Statistics Unit.



Survey Responses: Rural Contract Counsel Fees (by Judicial District)

	Does your jurisdiction/county utilize contract attorneys for purposes of indigent defense?	If you answered "yes" to Question 2, how often does contract counsel request extraordinary fees from your court?	If you answered "yes" to Question 2, under what circumstances does your court grant and/or deny extraordinary fee requests from contract counsel?	If you answered "yes" to Question 2, is it your understanding that contract attorneys in your jurisdiction are familiar with their contacts and are aware of their ability to request extraordinary fees from your court?	Please provide any additional comments:
First Judicial District	Yes	Rarely	Requests are granted when the defense shows necessity, and denied deny when it does not.	Yes	
		As needed on a case-by-case basis.	The Court can for reasons specified in NRS 7.125 (4) (a)(d), award extraordinary fees to the contract counsel in particular matters. Each request is reviewed by the judge to determine if extraordinary fees should be awarded. At times, hearings are held to obtain further information.	The Conflict Counsel are presented with the contracts and given time to review and provide any suggested changes to the court. The contracts are signed by conflict counsel and notarized. It is our understanding that the contract attorneys are fully aware of their ability to request extraordinary fees.	
Third Judicial District	Yes	The Public Defender contracts cover rates paid. I believe the contracts have provisions for additional pay in death penalty cases only. A public defender would deal with the County directly if there was a dispute. As to conflict counsel that is not covered by the three contracts, I appoint outside counsel without a contract and pay at the statutory rate. Very rarely do I have to appoint on a case that would exceed the	In 10 years I have denied 1 or 2 requests for costs. Typically counsel will request expenditure limit and order will grant up to that amount. Then counsel submits request for payment. The 1 or 2 cases I denied were when the counsel submitted over the expenditure order and had no justification in line with how the request had been in error. In the handful of statutory appointments, I can think of 1	Yes. When new attorneys take over, it takes about 2-3 cases for them to figure out how to submit for payment of costs. I will explain at Law and Motion calendar if staff notes that motions and orders not being submitted properly. Staff will contact appointed counsel to get them to submit billings with motion. I have never received any negative feedback from appointed counsel on the timing of	I don't believe we have had a problem in the Third JD with appointed attorneys receiving fair compensation in a timely manner. I have no opinion as to the public defender contracts as that is between the County and the Public Defenders. As to cost requests, I don't believe we have a problem in the Third JD with the public defenders or

		<p>statutory maximums. As to cases that have gone to trial with outside appointed counsel, I almost always exceed the statutory maximum. I can think of a couple of cases over the last 10 years that went to trial on sex assault, lewdness and murder charges.</p> <p>The numbers I am relating are truly guestimates as to request for costs:</p> <ul style="list-style-type: none"> • Category A felonies 95% of the cases will have at least 1 request for investigation fees over \$5000 and expert fees for items like psychological evaluations over \$1500.00 • Category B felonies 10-20% for investigative fees and psychological fees. Child Abuse cases almost always • Category C felonies 5% for investigative fees. If DV case, almost always • Category D felonies 1% • Category E 1% 	<p>case in which I did not grant the requested fees. The matter started off as a death penalty case and a mistrial was declared. The State dropped the death penalty and I informed appointed counsel that as it was no longer a death penalty case the public defender would handle. Appointed counsel asked to remain on with the public defender as he already had prepared for the case. I advised him that the statutory maximum would be in play from this point on as the Court would approve all of the hours up until mistrial (over \$100,000) and that the additional maximum should cover a three week trial which he had already prepared for. Appointed counsel submitted a bill for an additional \$150,000 which was denied after going through the required analysis.</p>	<p>payments. Appointed counsel simply attaches an affidavit explaining why the case was complex if it exceeds the maximum.</p>	<p>appointed counsel receiving funds to investigate.</p>
		<p>Hardly ever any extraordinary attorney fees. Consistently request investigative fees and expert fees</p>	<p>Generally for investigative and expert fees the Court grants a large majority of the requests without hearing. In rare instances, when the request is unusually large, we would hold a hearing to determine if the request is reasonable and necessary under the circumstances of the case.</p>	<p>Yes</p>	

Fourth Judicial District	No	NA	NA	NA	<p>The Fourth JD does not utilize contract counsel, which I am defining as an attorney with a contract with a county to provide legal services for indigent criminal defendants appearing in the courts in that county.</p> <p>As you know, Elko County has a public defender's office. Private attorneys are appointed to represent indigent criminal defendants for whom representation by the public defender's office is prohibited by a conflict of interest. All private "conflict" attorneys are very aware that they can request fees in excess of the statutory maximum from each DJ in the Fourth Judicial District. In fact, these attorneys often do just that. Both district judges invariably grant these requests. Both district judges agree an "extraordinary fee request" would be denied only if there is solid evidence that the "conflict" attorney is "padding" his/her bill.</p>
Fifth Judicial District	Yes	Nye County has contracts with 5 individuals who serve as public defenders. They are: Harry Gensler, Nathan Gent, Jason Earnest, David Richter, and Jonathon Nelson. The Justice Court may appoint	We review the bills and if the additional charges appear to be warranted, approve them.	Yes.	The method by which public defenders and conflict counsel are chosen leaves much to be desired. I believe that the respective counties should have an application process, so that the most

		<p>contract counsel outside of these 5 if all are conflicted. In Esmeralda County, Chris Arabia is the contract public defender, and the Justice Court appoints conflict counsel. At the District Court level, we routinely receive requests in almost every case for an investigator, for the payment of experts, etc.</p> <p>I would estimate in 98% of the cases we receive outside cost requests. Outside fee requests occur when the designated public defenders have conflicts and then 100% of the cases seek extraordinary fees.</p>			<p>qualified public defenders are selected. This is not the case. Instead, attorneys who may be interested, advise the county, and the county manager, who is not an attorney, decides. I do not believe that the most qualified attorneys are selected, and it concerns me with regard to the defense provided.</p>
Sixth Judicial District	No	NA	NA	NA	<p>Humboldt County has a Public Defender's office, a County Alternative Public Defender's office, and occasionally a conflict attorney will be appointed and paid hourly. There is no ceiling on the cost.</p>
Seventh Judicial District	Yes	<p>Contract counsel have not requested extraordinary fees since White Pine, Lincoln, and Eureka counties began contract counsel agreements in May, 2015.</p>	<p>The contracts provide for counsel to apply for extraordinary fees. The court would consider any request under NRS 7.125(4)</p>	Yes	<p>Contract counsel have been providing excellent services to date.</p>
		<p>In 3+ years, I have not had a request for extraordinary fees.</p>	<p>Any reasonable request would be granted.</p>	<p>Our contract attorneys are aware of their ability to request extraordinary fees.</p>	<p>I have practiced law since 1986, and been on the bench since 2001. Until approximately three years ago, our district had always been serviced by the Nevada State Public Defenders office.</p>

					Over the years I have seen many attorneys come and go through the local office: some good, many not so good. Overall, our contract attorneys have been providing the most consistent, high level of Representation I have ever seen.
Ninth Judicial District	Yes	NA	In Douglas County, the judge has never seen an instance where any request for fees beyond the contract were denied. The attorneys are aware of this.	Yes	
Tenth Judicial District	Yes	They request these type of fees regularly.	The requests are made on an exparte basis. The are granted upon a showing of good cause. To date I can't recall ever denying a request.	Yes	I would be happy to answer any additional questions.
Eleventh Judicial District	Yes	Investigative and psychological/psychiatric evaluations happen frequently.	Generally, the requests are granted.	Yes	It seems that resources are requested on an "as needed" basis. The resources in small counties are limited. Counsel makes use of those resources when they believe the need arises.