

ANNUAL REPORT  
OF THE  
DEPARTMENT OF  
INDIGENT DEFENSE SERVICES



THE TRANSFORMATION BEGINS

JULY 1, 2021



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# Letter from the Chair

The Department is taking steady, incremental steps towards making Nevada a more just place. Improving indigent defense in Nevada is an ambitious goal, as there is so much work to do. While last year marked the creation of the fledging Department, this year it has worked to implement positive changes – by developing the tools needed to improve and oversee the delivery of indigent defense services, demanding the resources and legal authority necessary to do it right, and building a statewide indigent defense community.

My tenure as Chair was brought about by the sad passing last September of Robert Crowell, whom we all miss. When this Board was established in 2019, Bob was the natural choice to lead it. He cared deeply about justice, knew the issues well from his service on the Nevada Right to Counsel Commission, and was a gifted, low-key consensus builder who could bring together the many constituents involved in indigent defense reform – judges, attorneys, legislators, officials, and citizens from every corner of Nevada. Bob never lost sight of the goal and always led with humor and humility. The Department staff benefitted so much from his generous mentorship and counsel, as did we on the Board. After Bob's passing, the Board elected me as Chair and Dave Mendiola as Vice-Chair. Bevan Lister from Lincoln County was appointed to fill the vacancy. The Board is grateful for the service of Julie Cavanaugh-Bill and Lorinda Wichman, who recently resigned, and will act quickly to fill the vacancies.

The Department's greatest achievement this year was establishing itself as a small, but serious shop with a deep commitment to quality indigent defense. For starters, the Department delivered on all of its objectives with drive, care, and efficiency. By creating a weighted caseload study and developing a case management system, the Department has framed the infrastructure for understanding what work is being done and needs to be done. The temporary regulations drilled into the nuts and bolts: how appointed counsel are selected, funded, and reviewed. In the coming year, the Department is focused on working closely with each rural county to establish a plan that meets these standards.

Lean budgets and the *Davis v. Nevada* consent judgment added urgency to this work. The Board worked effectively with other stakeholders to ensure that funding from the Interim Finance Committee will be available to implement the *Davis* consent judgment, which requires specific improvements in ten rural counties.

Two legislative changes that the Department helped to secure will transform how indigent defense attorneys get and do their work. AB 480 takes judges out of the business of appointing attorneys to cases and approving their expenses and also removes per-case compensation caps so that attorneys will be justly compensated for their work.

Another remarkable achievement this year was the Department's leadership in creating a defender-to-defender network. The Department's efforts to provide training and resources led to a number of collaborations between rural and urban defenders: partnering to co-teach, brainstorming case rounds as part of the new "SOAR" (Support, Outreach, and Assistance Resource) program, and the creation of a practice resource with the help of UNLV law students. By helping to build a sense of community and shared purpose among Nevada's indigent defense bar, the Department is elevating the work of appointed counsel and reinforcing its value.

The Department, though tiny and still new, is strong, and already marking meaningful milestones as a result of their tireless work and dedication. And yet the road to improving indigent defense throughout Nevada is long. That work has only just begun.

*Proessor Anne Traum,*



Anne Traum, Chair

# Introduction

## "The Transformation Begins"

This report captures the first full year of work by the Nevada Department of Indigent Defense Services ("Department"). With the close of last year's annual report, the Department was provided funding by the Interim Finance Committee ("IFC") for four items: (1) a workload study, (2) a data analyst, (3) a data collection system, and (4) training. Discussed more fully in this report, the Department used this allocation to make positive changes for indigent defense across the State.

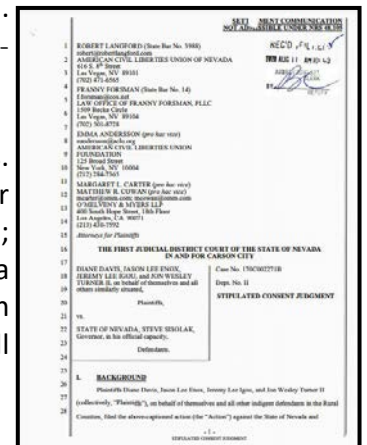
In August of 2020, the judge presiding over *Davis v. Nevada* approved a "Stipulated Consent Judgment" ("Judgment"). The State of Nevada, by and through the Board, has agreed to comply with the terms of the Judgment by a certain time-frame. A copy of the Judgment can be found on our website.

Although delayed by the pandemic, the Board marked a milestone with the adoption of Temporary Regulations. These regulations discuss topics of: the Maximum Contribution Formula and Financial Reporting (Sections 18-21); Plans for the Provision of Indigent Defense Services (Sections 22-29); Attorney Qualifications, Training and Education (Sections 30-39); Audit, Investigation, or Review (Sections 40); Economic Disincentives and Contract Terms (Section 41-42); and Uniform Data Collection (Sections 43-47). The Temporary Regulations became effective on March 5, 2021 and will expire by limitation on November 1, 2021. A copy of the Temporary Regulations can be found on our website. After July 1, 2021, the Board will resume working on the regulations and will work toward the creation of Permanent Regulations.

The Department closed the year with two successes at the 81st Session of the Nevada Legislature. First, Assembly Bill (AB) 480 was adopted by the Legislature. AB480 eliminates economic disincentives by removing caps to the rate of compensation for appointed attorneys providing indigent defense services and creates independence from the judiciary by removing it from the approval and reimbursement of expenses, as well the selection of counsel. Second, \$1.2 million was set aside by the Legislature in the IFC Contingency Account for reimbursement of indigent defense expenses pursuant to the maximum contribution formula for those counties that were included in the *Davis* litigation.

This report starts with an introduction to the Board and our Department. Next the report will discuss the *Davis* Judgement, its obligations, and how the Department has begun to implement those changes by eliminating economic disincentives, establishing minimum standards, providing training and resources, and standardizing data collection. The report will close with a presentation of the data that has been collected by the Department.

The Department has put Nevada's system of indigent defense on a clear path to transformation. We are committed to continuing our leadership on this path throughout the coming year and into the future.





# Members of the Board on Indigent Defense Services

## **Anne Traum (Clark), Chair**

Selected by the Chief Justice of the Nevada Supreme Court pursuant, her term ends June 30, 2022.

## **Dave Mendiola (Humboldt), Vice Chair**

Selected by the Nevada Association of Counties and appointed by the Governor, his term ends August 31, 2022.

## **Drew Christensen (Clark)**

Selected by the Board of County Commissioners of Clark County and appointed by the Governor, his term ends on August 31, 2022.

## **Joni Eastley (Nye)**

Selected by the Nevada Association of Counties and appointed by the Governor, her term ends August 31, 2022.

## **Laura Fitzsimmons (Carson City)**

Appointed by the Governor, her term ends June 30, 2022.

## **Chris Giunchigliani (Clark)**

Appointed by the Speaker of the Assembly, her term ends June 30, 2022.

## **Dennis Bevan Lister (Lincoln)**

Selected by the Nevada Association of Counties and appointed by the Governor, his term ends August 31, 2022.

## **Robert Telles (Clark)**

Selected by the associations of the State Bar of Nevada who represent members of racial or ethnic minorities and appointed by the Governor, his term expires October 31, 2022.

## **Kate Thomas (Washoe)**

Selected by the Board of County Commissioners of Washoe County and appointed by the Governor, her term ends August 31, 2022.

## **Jeff Wells (Clark)**

Selected by the Board of County Commissioners of Clark County and appointed by the Governor, his term ends on August 31, 2022.

## **Justice A. William Maupin, retired (Clark)**

Designated by the Chief Justice of the Nevada Supreme Court to serve as a non-voting member to represent the interests of the Court.

The Board consists of thirteen voting members and one non-voting member. Two seats are currently vacant.

Statutory qualifications for appointment to the Board consist of:

- (1) significant experience in providing indigent defense services;
- (2) a commitment to providing effective legal representation to indigent persons; or
- (3) expertise or experience which qualifies the person to contribute to the purpose of the Board or to fulfilling its functions.

## **Board on Indigent Defense Services Meetings**

The Board met seven times during the 2020 2021 reporting year. On December 2, 2020, the Board held a Workshop for the creation of Temporary Regulations. On January 28, 2021, a hearing was held for the Adoption of Temporary Regulations of the Board. The Temporary Regulations were adopted and became effective on March 5, 2021.

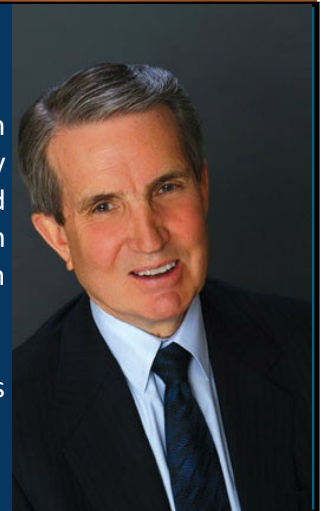
All meetings are open to the public, unless otherwise noted. Agendas, attachments, and minutes for the board meetings are available on the Department's website at <http://dids.nv.gov/>. Individuals interested in receiving notifications of upcoming board meetings may contact the Department at [didscontact@dids.nv.gov](mailto:didscontact@dids.nv.gov) to request to be added to the interested parties list.



### **In Memoriam — Robert "Bob" Crowell**

This past year was sadly marked by the passing of our Chair, Robert Bob Crowell. Bob Crowell was a native Nevadan, born in the mining town of Tonopah and raised in Carson City. An attorney by profession, Bob was a Vietnam Veteran and retired Navy Captain. He was elected Mayor of Carson City in 2008 and assumed his duties as Mayor on January 5, 2009. He was re-elected in 2012 and 2016. Bob Crowell served as Chair of the Board on Indigent Defense Services since 2019 until his passing on September 12, 2020. While Chair, Bob served with honesty and integrity. He always made himself available to take calls from the Department, no matter how busy he was. He is dearly missed.

The Board on Indigent Defense Services will hold an in person board meeting in Tonopah in September to honor Bob's memory.



# Department of Indigent Defense Services



## *Executive Director*

In November 2019, Marcie Ryba began her tenure as the Executive Director of the Department. Prior to moving to the Department, Ms. Ryba was an attorney for 15 years with the Nevada State Public Defender's Office in Carson City where she advocated on behalf of indigent persons charged with crimes at the trial level. Ms. Ryba started her legal career clerking for the Honorable Dan L. Papez and Honorable Steve L. Dobrescu in the Seventh Judicial District Court in Ely, Nevada.



## *Deputy Director*

Jarrod Hickman joined the Department as a Deputy Director in December of 2019. Beginning in 2009, he served as a deputy public defender in the rural Colorado communities of Las Animas and Huerfano Counties, before moving to Nevada. Since then, Mr. Hickman has worked as an appellate and trial deputy public defender with the Nevada State Public Defender and Washoe County Public Defender offices, respectively.



## *Deputy Director*

Thomas Qualls joined the Department as a Deputy Director in April of 2021. Mr. Qualls was in private practice from 2003 until he joined the Department. Mr. Qualls served on the Washoe County indigent defense conflict panel, as well as the federal CJA panel. He has broad experience in indigent defense in the state and federal courts of Nevada. Mr. Qualls was qualified for capital appellate cases under SCR 250 and obtained the reversal of the death sentence for his clients in two different cases. He is also a published author.

## *Staff*

There are a total of seven employees in the Department of Indigent Defense Services. Our staff also includes: Cynthia Atanazio, Executive Assistant; Jason Kolenut, Management Analyst; and Stanley Morrice, Management Analyst. One position, that of a second Administrative Assistant, is currently unfilled.



# Department Operational Budget

The Department of Indigent Defense Services was appropriated \$1,046,372 for FY22.

FY22 Appropriation	\$1,046,372
PERSONNEL SERVICES	\$ 837,021
OUT-OF-STATE TRAVEL	\$ -
IN-STATE TRAVEL	\$ 10,698
OPERATING	\$ 59,005
COMMISSION TRAVEL	\$ 10,655
INFORMATION SERVICES	\$ 7,385
TRAINING	\$ 3,166
TRAINING AND RESOURCES	\$ 25,000
COURT MONITOR	\$ 75,000
COST ALLOCATION	\$ 12,156
AG COST ALLOCATION PLAN	\$ 6,286
IFC Contingency Funds	\$ 1,200,000

◇ **Training and Resources:** The Department was provided \$25,000 for Training and Resources. The Department will continue to provide high-quality training for indigent defense providers, at no expense to the provider or the counties.

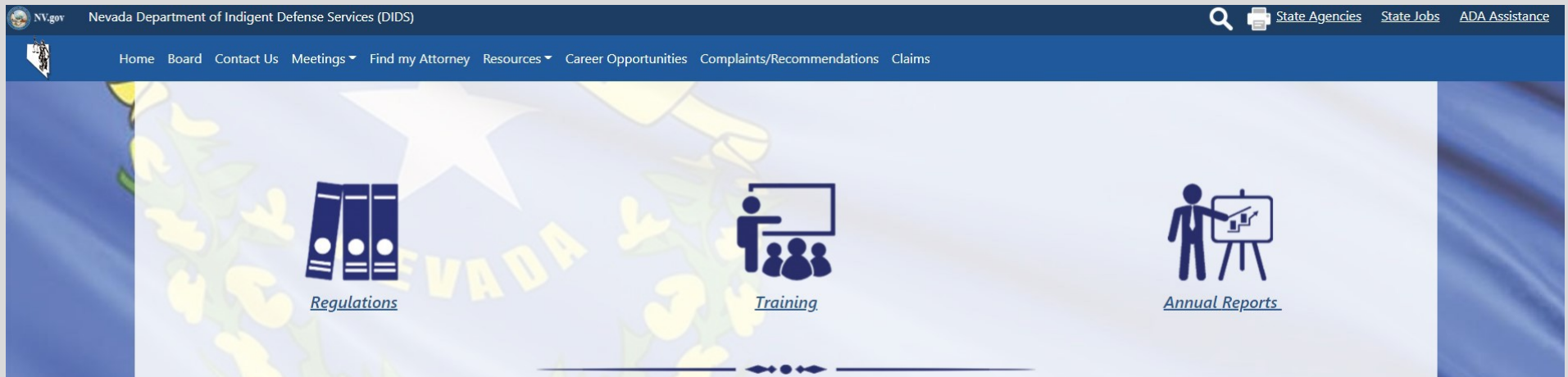
◇ **Out-of-State Travel:** The Department was not allotted funding for out-of-state travel.

◇ **In-State Travel:** The Department was budgeted for in-State Travel in the amount of \$10,698. The funding is necessary to cover travel expenses such as the Department vehicle, per diem, hotel expenses, and incidentals. Even though the Department is specifically required by statute to conduct on-site visits of court proceedings throughout the State, the visits may have to be limited to stay within the budgeted amount.

◇ **Monitor Expenses:** Within the appropriated amount is \$75,000 to pay the expenses for the monitor in the *Davis* Settlement, Professor Eve Hanan.

Positive steps forward were made when the Legislature earmarked \$1,200,000 for the rural counties which are involved in the *Davis* settlement, for reimbursement of indigent defense expenses pursuant to the maximum contribution formula, as set forth in Section 18 of the Temporary Regulations.

In the future, as the Department collects more data related to the cost of indigent defense, the Department envisions funding being allocated within the Department budget for maximum contribution reimbursement.



## Website

The Department maintains a website which serves as the main resource to learn about our Department as we carry out the mission of improving indigent defense in Nevada.

**<http://dids.nv.gov/>**

Visit the website to find:

**Attorney Resources**: training calendar; career opportunities; and application for the list of approved counsel for contracts or appointment in Washoe, Clark, and the rural counties.

**County Resources**: county plans, model contracts, and links to a financial reporting form.

**Keep up to date** with our News and Updates and by joining our Listserv.

**Board on Indigent Defense Services**: find board meetings, agendas, and videos of past meetings.

## OUR MISSION

*The Nevada Department of Indigent Defense Services provides support to counties to develop and maintain quality, cost-effective indigent defense systems that meet the needs of local communities and the requirements of the Constitution and state law.*

The Department does not provide legal assistance or lawyer referrals to individuals. Rather, it operates pursuant to policies and regulations established by the Board of Indigent Defense Services to assist county governments and indigent defense legal services providers in the exercise of their responsibility to provide the effective assistance of counsel to those persons who are legally entitled to counsel but cannot afford to hire an attorney.

### News & Updates

- [Board of Indigent Defense Meeting June 23, 2021 at 1:00 PM](#)
- [Governor Sisolak proclaims March 18, 2021, is Indigent Defense Day in Nevada](#)
- [Public Defender Career Opportunities](#)
- [DIDS Introduces the Support, Outreach and Assistance Resource \(SOAR\)](#)

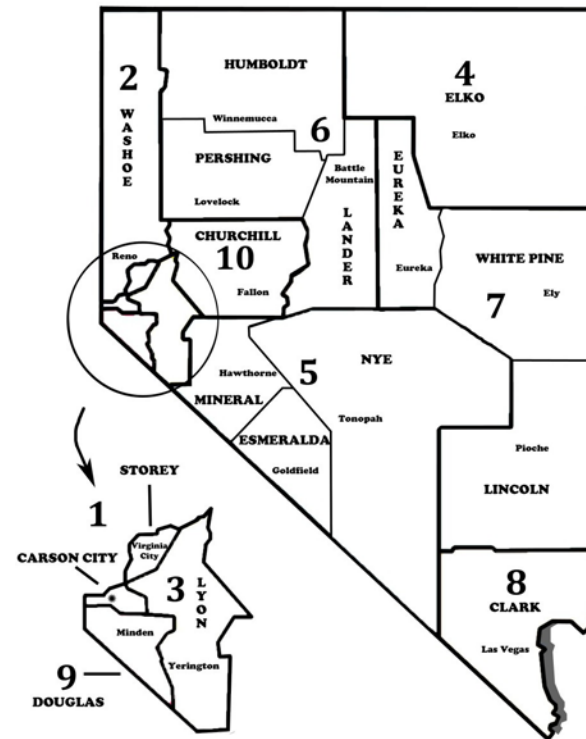
# Indigent Defense Methods of Delivery

## *A Glance at Nevada's Indigent Defense Services*

By statute, counties with a population of 100,000 or more must have a county-funded office of the public defender. Nevada allows counties whose population is under 100,000 to choose the method of providing indigent defense services. In these counties, indigent defense services may be provided through contracting with the Nevada State Public Defender, the creation of a county public defender's office, or contracts-for-service with attorneys to provide the services.

Churchill County moved from the Contract-for-Service system to a County Public Defender system in November of 2020.

- ♦ **Nevada State Public Defender:** Carson City and Storey County utilize the services of the Nevada State Public Defender.
- ♦ **County Public Defender:** Clark, Churchill, Elko, Humboldt, Pershing, and Washoe County have established county public defender offices within their respective counties.
- ♦ **Contracts-for-Service:** Douglas, Esmeralda, Eureka, Lander, Lincoln, Lyon, Mineral, Nye, and White Pine County have established systems where the county contracts with private attorneys to provide indigent defense services.



# **Davis v. Nevada Litigation**

In 2018, Plaintiffs, on behalf of themselves and all other indigent defendants in the Rural Counties, filed an Action against the State of Nevada and Governor Steve Sisolak (collectively, "Defendants"), challenging the constitutionality of Defendants' policies and practices of indigent defense in the rural counties of Churchill, Douglas, Esmeralda, Eureka, Lander, Lincoln, Lyon, Mineral, Nye and White Pine.

On June 3, 2019, the Nevada Legislature passed Assembly Bill 81 ("AB 81"), creating the Department of Indigent Defense Services and the Board on Indigent Defense Services. AB 81 was codified at Nevada Revised Statutes Sections 180.002 *et seq.* AB81 charged the Department with oversight and regulation of indigent defense services throughout the State.

On April 30, 2020, the IFC approved certain expenditures for the Department by providing funding to retain a data analyst, perform a rural specific weighted caseload study, purchase a case management system, and provide training for indigent defense attorneys. This funding allowed the Department to accelerate the implementation of AB 81.

Without any admission of fault or wrongdoing, the Parties wished to settle the Action to avoid cost, difficulty, and the uncertainty of further litigation. In August of 2020, the judge presiding over *Davis v. Nevada* approved a "Stipulated Consent Judgment." The State of Nevada, by and through the Board, has agreed to comply with the terms of the judgment. For a minimum of three years, the court appointed monitor, Professor Eve Hanan, will monitor the state's progress to ensure that Nevada complies with the terms of the judgment and will provide quarterly reports to the Court. The terms of the Judgment will remain in effect until the Defendants demonstrate substantial compliance with the obligations of the Judgment.

The requirements from the Judgment are set out in three parts. First, the state must eliminate economic disincentives to indigent defense providers providing effective representation. Second, the state must establish minimum standards for indigent defense and provide training and resources to indigent defense attorneys. Third, the state must require uniform data collection and reporting on indigent defense services.

The following pages of this report will discuss how the Department has started to address the *Davis* "Stipulated Consent Judgment" obligations. The interim deadlines are also set forth in the table on the next page.

## Interim Deadlines from *Davis*

Event	Deadline	Progress
Establish Standard Contract for Provision of Indigent Defense Services	Within 6 months of effective date	Terms which must be included in a contract are provided in Temporary Regulations of the Board on Indigent Defense Services ("Temp. Reg.") Sec. 42. A Model Contract may be found on our website: <a href="https://dids.nv.gov/CountyResource/CountyResources/">https://dids.nv.gov/CountyResource/CountyResources/</a>
All new county contracts for provision of indigent defense must be approved by the Executive Director (or designee) prior to execution	Within 6 months of effective date	In progress
All Class Members <ul style="list-style-type: none"> <li>· Have immediate access to applications for indigent defense services</li> <li>· Are screened for indigency within 48 hours</li> <li>· If eligible for publicly funded legal representation are represented by counsel at initial appearance</li> </ul>	Within 6 months of effective date	Temp. Reg. Sec. 22-29 set forth that these requirements must be included in a counties Plan for the Provision of Indigent Defense Services ("Plan"). County Plans are due to the Department on September 3, 2021.
Defendants shall establish a system for issuing client surveys to indigent defendants and incorporate the client survey feedback into review process.	Within 12 months of effective date	Temp. Reg. 29 requires counties, through their Plan to ensure client surveys are provided to a client.  The Department has partnered with Data Analyst Dr. Mitch Herian to establish the survey and the process for distribution.
Delphi Study contract executed with qualified provider	Within 12 months after effective date	The Department has contracted with NCSC to perform the rural specific weighted caseload study. An interim report was provided in June 2021.
Delphi study standards included in standard indigent defense contract	6 months after completion of Delphi Study	Temp. Reg. 42 requires contracts to set the maximum workload based upon the workload guideline determined by the Board on Indigent Defense Services.
Compliance with Delphi study workload standards	12 months after completion of Delphi study	Temp. Reg. 42 requires contracts to set the maximum workload based upon the workload guideline determined by the Board on Indigent Defense Services.



## Letter from the *Davis* Monitor

I'm honored to serve as the monitor for the *Davis v. Nevada* settlement agreement. My love of public defense work began many years ago during law school while working on a death penalty case with Professor Andrea Lyon, former chief of the homicide division for the public defender in Cook County, Illinois. My first job out of law school was as a trial attorney in the Boston office of the Committee for Public Counsel Services (CPCS), the public defender for Massachusetts. In addition to representing defendants in felony cases, our office was charged with providing CLE training and oversight for criminal defense attorneys who accepted appointed cases. In my final year at CPCS, I worked in the Special Litigation Division where we litigated issues that emerged as recurring problems for criminal defense attorneys in the state. I then worked as an appellate lawyer at the Public Defender Service for D.C. Later, I worked in Maryland's Office of the Public Defender in the Litigation Support Division, where I assisted attorneys with legal strategy and forensic issues.



*Professor Eve Hanan*

My transition to teaching came after working as a restorative justice facilitator for court-involved youth in Baltimore. I began teaching at the University of Baltimore School of Law where I helped to develop a clinic in which law students represented people sentenced to life in prison as juveniles who were seeking release on parole. When I accepted a position on the faculty of UNLV's Boyd School of Law, I was eager to bring students into the courtroom. In addition to teaching criminal law, I co-direct a clinic in which I supervise students representing misdemeanor defendants in Clark County. I research and write about sentencing issues, prisons, and the roles of defense attorneys and defendants in criminal courts.

As the Monitor, I report to the court and the parties to *Davis v. Nevada* regarding compliance with the terms of the agreement. Nevada has made great strides in fulfilling its constitutional obligation to provide counsel to people charged with crimes who are unable to afford an attorney. Perhaps the most important step was the 2019 creation of The Department of Indigent Defense Services and the Board on Indigent Defense Services. I look forward to working with the parties as the Department and Board work diligently to ensure that indigent people charged with crimes in the rural counties receive effective and zealous legal representation.

*u<sup>3</sup>/<sub>4</sub>. Eve 1-[un,un,*

# **Implementing *Davis* Obligations**

## **Eliminate Economic Disincentives for Effective Representation**

The Judgment tasks the Department with eliminating economic disincentives to effective indigent defense representation in Nevada by establishing standardized contracts for indigent defense providers. Among other things, the Department is obligated to ensure that contracts for rural public defense services are not flat fee contracts. To address Standardized Contracting, the Board adopted Temporary Regulation 42 which requires a reasonable, hourly rate of compensation that is comparable to local prosecutors. Contracts must specify how investigator services, expert witnesses, and other case-related expenses will be provided. And the terms of the contract must avoid any actual or apparent financial disincentives to the obligation of an attorney to provide clients with competent legal services. In addition, the Board has adopted a "model contract" which was adapted from the National Legal Aid and Defender Association's Model Contract for Public Defense Services. The model contract is intended to assist counties in creating or updating their indigent defense service contracts to ensure compliance with the Temporary Regulations. The model contract can be found on the Department website.

The Department must ensure that the selection of private attorneys for public defense contracts is independent of the county District Attorney and the judiciary. To comply with this requirement, Temporary Regulation 24 requires counties, in their Plans for the Provision of Indigent Defense Services ("Plans"), to provide their hiring process for contractor attorneys. The process must be designed to provide notice of the opportunity to apply and provide interested parties with reasonable opportunity to respond, the process should exclude the prosecution and law enforcement officials, and judicial input in the hiring process may be considered, but should not be the sole basis for selection. The Plans are due to the Department on September 3, 2021.

The Department is obligated to recommend legislation to cure defects in NRS 171.188(4) and NRS 7.115-7.175 if the Department determined that these statutes created an economic disincentive to providing representation. After reviewing the statutes, the Department proposed Assembly Bill ("AB") 480 to amend the statutes and eliminate the economic disincentives.

AB480(2021) creates independence from the judiciary, removes caps to the rate of compensation for attorneys providing indigent defense services, and removes the judiciary from the reimbursement and approval of expenses by allowing each county's Plan to address these issues. This legislation was approved by the legislature in 2021; signed by the Governor on June 4, 2021; and slated to become effective October 1, 2021.

Further steps were taken by the Department to eliminate economic disincentives when, in agreement with the Office of the Nevada Attorney General, the Department started processing payments for Prison Defense Expense Claims to reimburse indigent defense providers for their representation pursuant to NRS 212.070. Previously, the indigent defense providers were required to submit their bills to the Attorney General's Office for payment. In October 2020, the Department began processing payments for Post-Conviction Claims pursuant to NRS 7.155.

# Establish Minimum Standards

## Access to Counsel

The Department must ensure that all those constitutionally entitled to counsel have immediate access to applications for indigent defense services, ensure prompt screening for indigency, and that all class members who are eligible for publicly funded legal representation are represented by counsel at his or her initial appearance/arraignment. To address this obligation, the Board has adopted Temporary Regulation 25 which requires counties to include these requirements in their Plan.

## Client Communication

Client communication is also directly addressed in the Judgment. The Department is obligated to ensure indigent defense providers make all reasonable efforts to meet with clients within a certain timeframe and comply with performance standards. To address this issue, the Board adopted Temporary Regulations 26, 29, and 42. Counties will establish in their Plans a description of the facilities for confidential communications. Plans must also set forth a policy that indigent defense attorneys provide representation in a professional, skilled manner guided by applicable regulations, laws, Rules of Professional Conduct, and the Nevada Indigent Defense Standards of Performance adopted by the October 16, 2008 Nevada Supreme Court Order in Administrative Docket 411.

## Attorney Qualifications

The Department must adopt minimum eligibility requirements for attorneys to provide indigent defense services. The eligibility requirements are contained in Temporary Regulations 30 through 39.

Indigent Defense Providers wishing to serve as contract or appointed indigent defense counsel in the rural counties are required to apply through the Department's website at: [https://hal.nv.gov/form/DIDs/Application\\_with\\_the\\_Department\\_of\\_Indigent\\_Defense\\_Services](https://hal.nv.gov/form/DIDs/Application_with_the_Department_of_Indigent_Defense_Services). The application, once received, will be reviewed by the Department and a determination will be made as to level of qualification. To date, sixty attorneys have applied for inclusion on the list.

The Department compiles the information for the rural counties and places the attorneys on the list of eligible attorneys.

The screenshot shows the top portion of a web-based application form. At the top left is the State of Nevada seal. To its right is the header information: "State of Nevada", "Department of Indigent Defense Services", "890 W. Nye", "Suite 202", "Carson City, NV 89703", and "dids.nv.gov". Below this is the title "Application for List of Qualified Contract and Appointed Counsel". A "Date" field with a calendar icon is present. A paragraph of text explains the application's purpose and scope, noting it is for rural counties and excludes certain services. Below this is a "Contact Information" section with fields for "Name" (split into "First Name" and "Last Name"), and "Firm/Office Name". Each field has a "Help" icon.

# Training and Resources

Defense-specific educational opportunities are a building block of a well-functioning public defense system. The ABA includes the provision of continuing legal education among its Ten Principles of a Public Defense Delivery System. This year, DIDS made Nevada history twice, hosting the first-ever state-wide indigent defense conference and providing a series of monthly CLE courses.

In April, the Department hosted its first annual conference. The conference provided 10 hours of CLE credit over two days. A mix of attorneys across the state provided the instruction. Maria Pence, from Douglas County and John Arrascada, from Washoe County taught the basics of case preparation in *Anatomy of a Case – Fighting the Good Fight from Appointment to Trial*. Mario Walther, from Lyon County and Julia Murray, from Clark County canvassed the procedure for litigating competency in *Representing the Challenged Client – Identifying, Raising, and Challenging Competency*. Larry Pozner, the literal author of the book on cross-examination, headlined the conference with a six-hour presentation on the Chapter Method of Cross-Examination. More importantly, attorneys from across the state participated in record numbers – over 100 attorneys dedicated to indigent defense attended each day.

This calendar year, the Department organized 16 hours of CLE credit. Consistent with our theme of beginnings, topics ranged from the basics of litigating DUI cases to a survey of the new Nevada Rules of Criminal Procedure for District Courts. The remainder of the year will continue that theme with presentations focused on the fundamentals of writ practice, both pre-trial and post-conviction, to the basics of understanding and litigating DNA evidence.

In addition to CLE, the Department began work on attorney resources, reference materials, and attorney networking. Partnering with students from the Boyd School of Law, a practice guide following the form of Supreme Court Rule 250's Checklist of Issues is underway. A bank of expert witnesses is available to assist attorneys in zealously defending their clients. And following the tremendously positive feedback from Mr. Pozner's presentation, the Department provided a copy of *Cross Examination: Science and Techniques* to public defender offices and primary indigent defense providers in all counties. We aim to have an attorney resource page featuring fundamental guidance for practitioners functioning by the end of the calendar year. Finally, the Department organizes meetings on the first Friday of the month to discuss and brainstorm current issues attorneys are facing in their practices, via our eponymous First Friday Meetings.

In February of 2021, the National Association for Public Defense Fund for Justice awarded a grant to the Nevada Department of Indigent Defense Services for the creation of SOAR (Support, Outreach, and Assistance Resource). SOAR provides a resource for attorneys providing indigent defense in the rural counties, helps generate interest in law students practicing in the rural counties, and provides networking, communication, and support between law students and public defense providers across Nevada.

At the end of each CLE presentation, we encourage attorneys to provide feedback as to areas of CLE and/or training they need most. Please do not hesitate to contact us with any feedback or recommendations. We look forward to providing defense-centered education and resources to attorneys engaged in indigent defense across the state.

*This graph shows attorney feedback from the April 23, 2021 CLE Conference Presentation by Larry Pozner on the Chapter Method of Cross-Examination.*



## Evaluation and Review

The Department must ensure indigent defense counsel are systematically reviewed on an annual basis. With funding provided by the IFC, the Department partnered with Dr. Mitchel Herian of Soval Solutions, LLC. Dr. Herian's work assisted the Department to comply with the *Davis* "Settlement Consent Judgment" Obligations. Throughout the past year, Soval Solutions was able to assist our Department in developing:

- ◇ **Attorney Monitoring/System Performance.** The Department, with the assistance of Dr. Herian, developed several methods for assessing attorney performance, including a self-rating questionnaire, a court observation template, and a supervisor rating template. The evaluation process is further set forth in Temporary Regulation 40.
- ◇ **Client Satisfaction Survey.** The Department, with the assistance of Dr. Herian, developed several versions of a client satisfaction survey. The final draft of the survey was created after discussions about the specific purpose of the survey. A Spanish version was also created.

In addition to providing valuable assistance in developing the evaluation process, Dr. Mitchel Herian was able to assist the Department with:

- ◇ **Wage Salary Survey.** Dr. Herian collected data from publicly-available sources about pay for public defenders and prosecutors. The data will be used to make comparison of salaries for both sets of individuals.
- ◇ **Annual Reporting Form.** Dr. Herian helped create the Quarterly Financial Status Report, which will be submitted to the Department by the counties on a quarterly basis. The purpose of the report is to identify quarterly expenditures for indigent defense services. The collected information will be used to determine the state reimbursement amount and substantiate future budget requests.
- ◇ **Data Collection with National Center for State Courts (NCSC).** Dr. Herian served as liaison for data requests from the National Center of State Courts (NCSC) to Nevada Administrative Office of the Courts. The collected data was used to determine whether current data collection mechanisms in Nevada had utility in the NCSC caseload study.
- ◇ **Counties Maximum Contributions.** Dr. Herian collected county-level budget data for analysis.

*Dr. Mitchel Herian*

**SOVAL**  
SOLUTIONS





# National Center for State Courts NCSC Workload Study

The Department, in collaboration with the National Center for State Courts (NCSC), conducted a study to determine the appropriate numerical workload standards for providers of indigent legal representation in the rural counties of Nevada. Conducted between January 25 and March 5, a period during which a global pandemic shut down or severely altered court-related work, the study did not result in the immediate development of average case processing times (case weights) by case types for attorneys. Although 100% of the staff that was expected to participate in the study did so, changes in work processes resulted in average case processing times that were not complete. Case filings were lower than usual, bench and jury trials were not conducted at pre-pandemic rates, and hearings were either canceled or held remotely. Additionally, attorneys traveled less to meet with clients or, in some cases, could not access clients in detention settings. These factors altered the time attorneys normally spend on case work and with clients compared to pre-pandemic times. Finally, complete case counts could not be obtained in a consistent manner, further hampering the NCSC's ability to calculate case weights.

All of these issues combined resulted in the need to suspend work on this project until more complete data can be obtained. The Department will begin collecting data on the number and type of cases on which attorneys are working, along with the number of hours spent on those cases in October 2021. The NCSC will work with the Department again, as soon as 6-9 months of data have been collected, to develop a recommendation for case weights.

As the leader in workload assessment for courts and justice systems in the U.S. and internationally, the NCSC employs a sophisticated multi-method approach to translating caseload into workload. The highly participatory process integrates empirical data with stakeholder perspectives on quality of justice and effective practices. NCSC has conducted workload assessments for judges, court staff, probation and parole officers, prosecutors, and public defenders in 35 states. To learn more about NCSC, visit their website at: [www.NCSC.org](http://www.NCSC.org). The NCSC Team that assisted our Department is pictured below.



*Suzanne Tallarico, Principal Court Management Consultant*



*John Douglas, Principal Court Management Consultant*



*Shannon Roth, Business Analyst*



*Brian Strom, Principal Research Consultant*

# Data Collection and LegalServer

*Davis* obligates the Department to ensure that indigent defense providers are reporting workload data on a quarterly basis. The Board on Indigent Defense Services has adopted Temporary Regulations which address caseload and time reporting by indigent defense providers in Sections 45-47. The Regulations require uniformity across counties whose population is less than 100,000, so that each indigent defense provider tracks their number of cases, the type of cases, the total number of motions to suppress, and the number of trials over a period. Indigent Defense providers, investigators, staff, and experts are also required to track time spent working on cases.

To support the indigent defense providers in the caseload and time reporting requirements, the Department has contracted with LegalServer. LegalServer is a case management and time tracking system which has been customized to Nevada's needs.

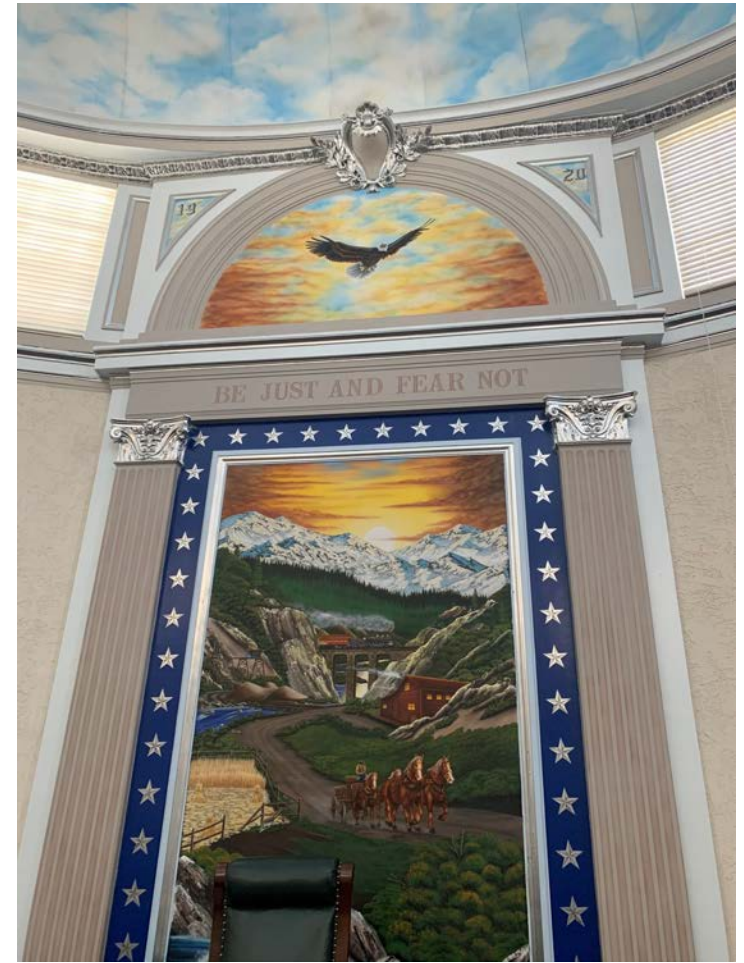
Every week in June of 2021, the Department provided trainings on the use of the system. All trainings were offered twice, in attempt to accommodate everyone's schedules. These trainings are available online.

The first two offerings – **Intro & Intakes** and **Cases, Time and Activities**, are recommended for all LegalServer users. The second two offerings – **Calendars & Reports** and **Advanced Admin Training** – are advanced trainings for administrative staff and those who want to take advantage of all the features of LegalServer.

Much of the data gathered to date has been incomplete or inconsistent. The use of LegalServer allows the Department to collect standardized data from across the state on caseloads, time, and resources allocated. Through the system, the Department can create reports and monitor activity to ensure compliance with mandates and Board recommendations.

Standardized and verifiable data allows the Department to provide maximum support to the counties in reimbursement of indigent defense expenses.

**Much like the prior year, the data is organized by county. Staffing ratios will be represented by the number of attorneys to the number of staff type which is rounded to the nearest whole number. Data regarding attorneys contracted to provide conflict representation is not represented as sufficient data was not received.**



*Mural in the Pershing County Courthouse*

## Nevada State Public Defender

**Type:** Public Defender Office

**Counties Served:**

Carson City

Storey County

State of Nevada

**Number of Attorneys:** 8

**Investigators:** 2 ratio 4:1)

**Social Workers:** 0

**Support Staff:** 5 ratio 2:1)

**Mitigation Specialist:** 0

**Time Spent:**

Carson City: 67 % of hours

State of Nevada: 27 % of hours

Storey County: 6 % of hours

**Jury Trials:** 4

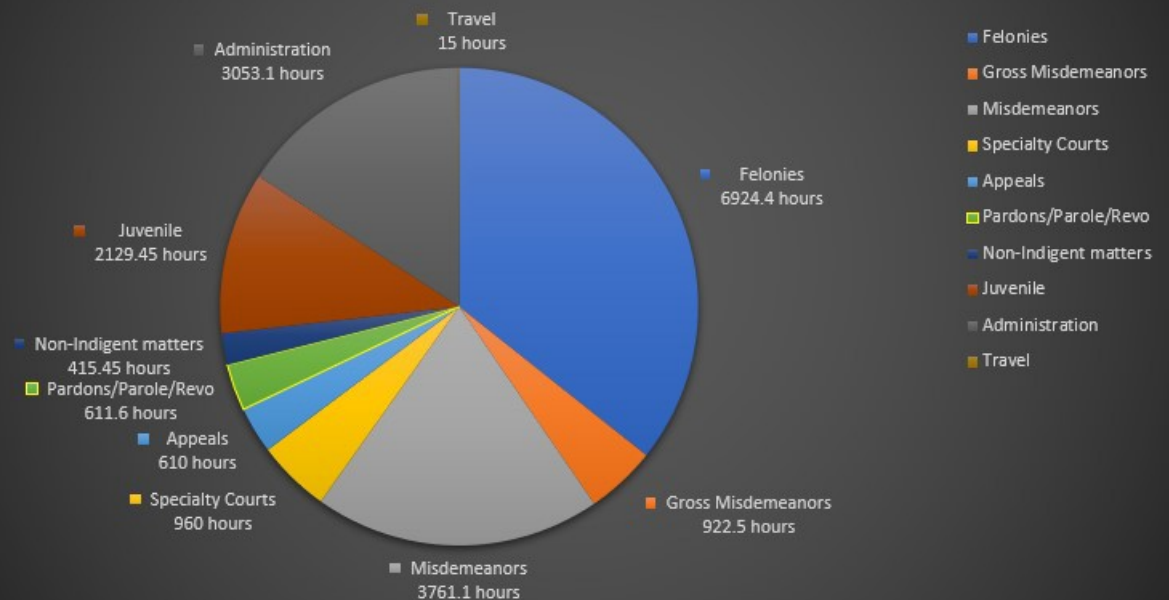
**Motions to Suppress:** Not Tracked

**Conflicts:** 3 Contract Conflict Attorneys

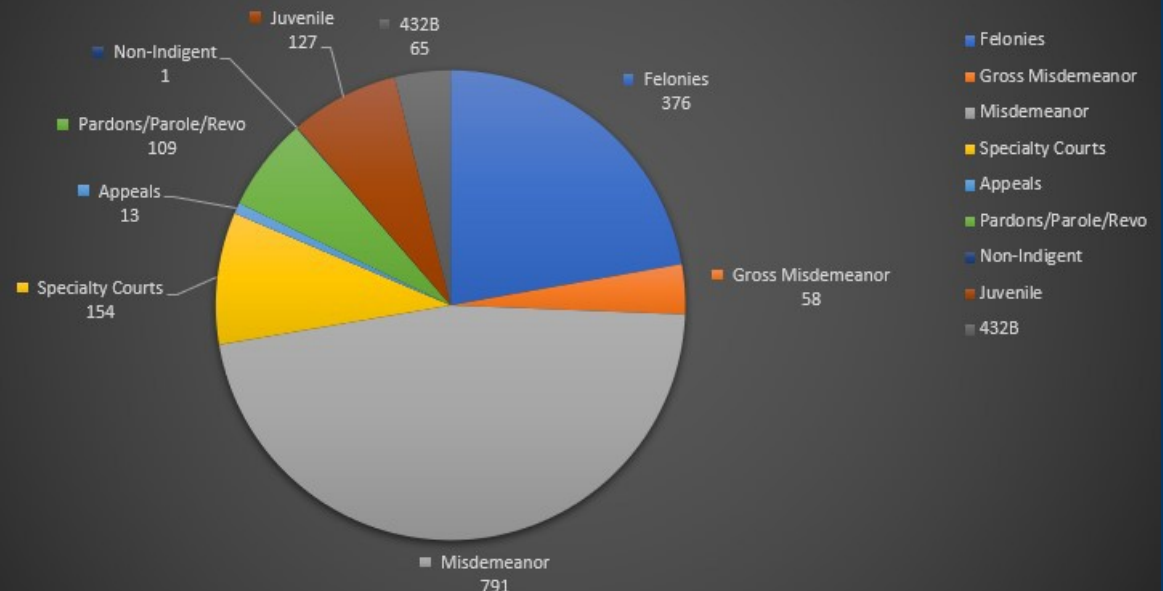
*The top pie graph indicates the total number of hours spent by attorneys and investigators by case type.*

*The bottom pie graph indicates the number of new cases assigned in FY 2020 by case type.*

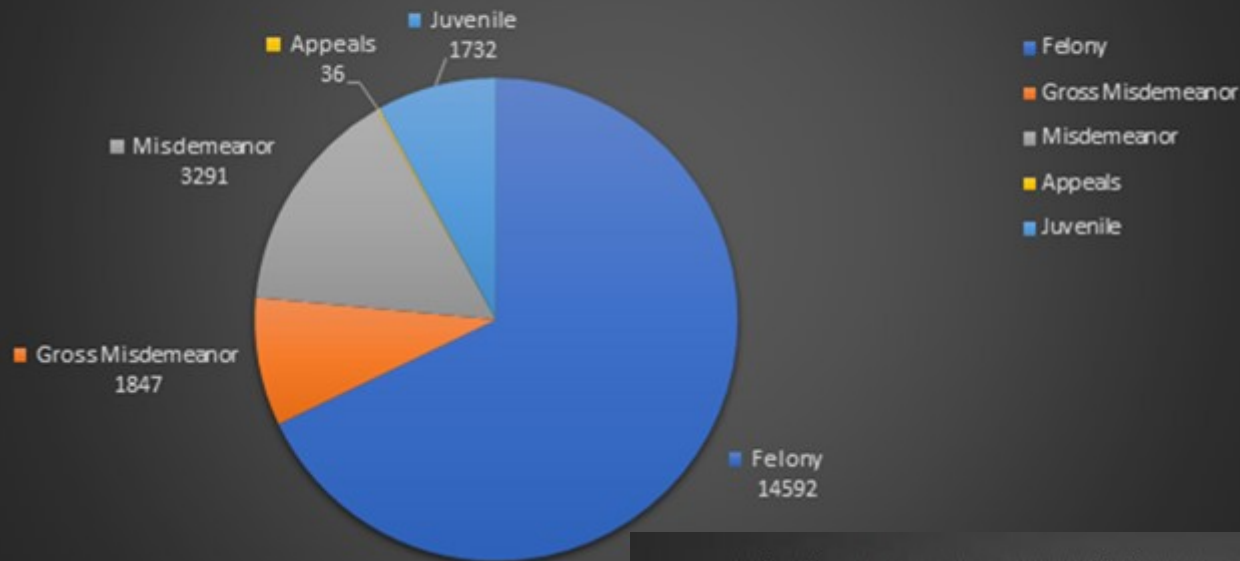
### NSPD FY2020 Case Hours



### NSPD FY2020 # of Cases Assigned



## Clark County PD 2020 # of Cases Assigned



### Clark County Office of the Special Public Defender (SPD)

Type: Public Defender Office

Number of Attorneys: 20

Investigators: ratio 3:1}

Social Workers: 1 ratio 20:1}

Mitigation Specialists: 2 ratio 10:1}

Support Staff: 9 ratio 2:1}

Jury Trials: 3

*The bottom right pie graph indicates the number of new cases assigned in FY 2020 by case type.*

## Clark County Public Defender

Type: Public Defender Office

Number of Attorneys: 124

Investigators: 17 ratio 7:1}

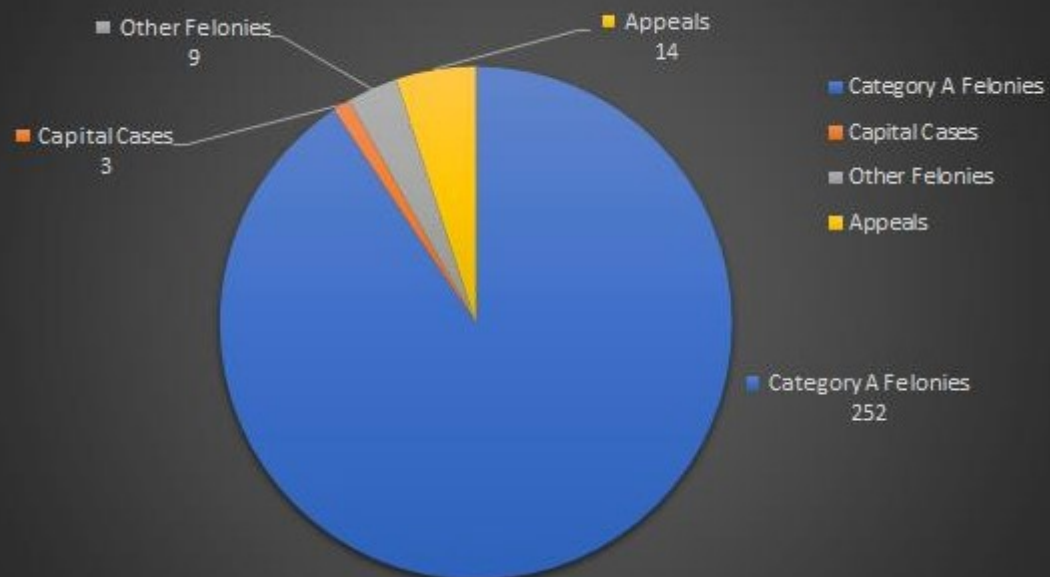
Social Workers: 9 ratio 14:1}

Mitigation Specialists: 3 ratio 41:1}

Support Staff: 43 ratio 3:1}

*The top left pie graph indicates the number of new cases assigned in FY 2020 by case type for the Clark County Public Defender.*

## Clark County Special PD # of cases FY2020

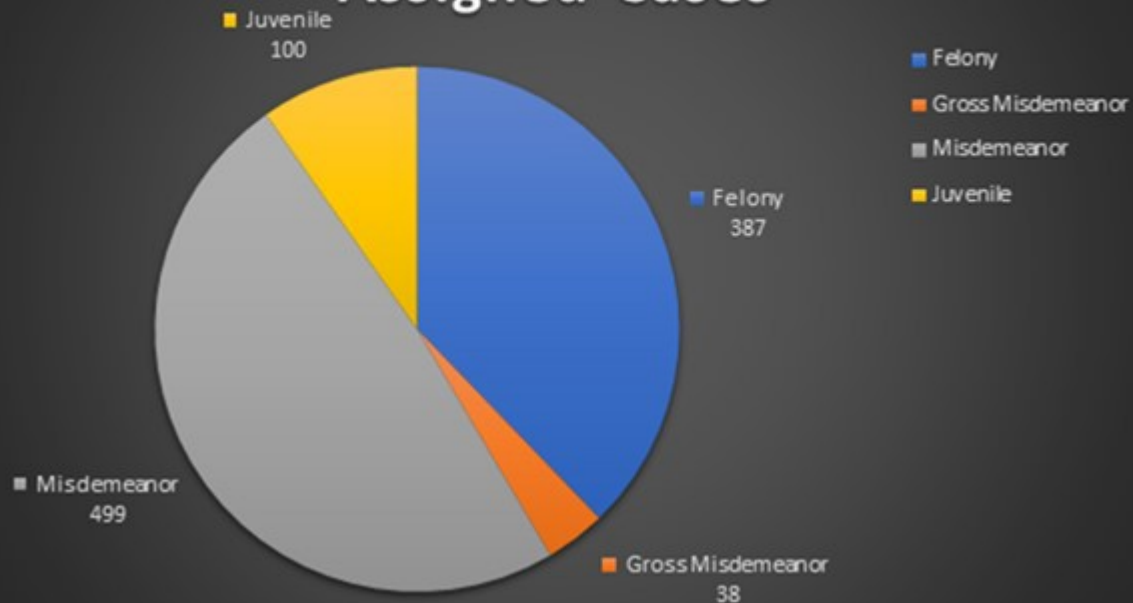


Tertiary Conflicts in Clark County are handled by the Director of the Office of Appointed Counsel, Drew Christensen.



## Elko County

### Elko County FY2020 # of Assigned Cases



Type: Public Defender Office

Number of Attorneys: 7\*

Investigators: 0

Social Workers: 1 ratio 7: 1}

Support Staff: S\*\* ratio 1:1}

Mitigation Specialist: 0

Jury Trials: Not Tracked

Motions to Suppress: Not Tracked

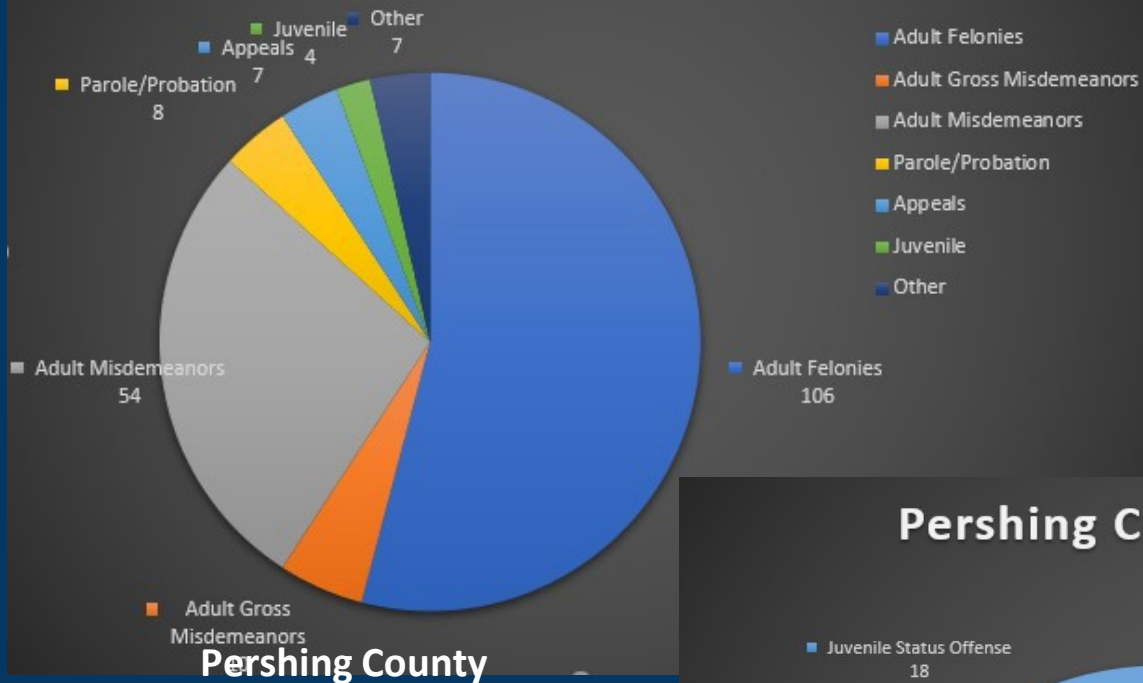
*Graph indicates total number of new cases for the Public Defender in FY2020 by case type.*

\*Elko Public Defender will add an additional 2 attorneys to their office in FY2021. The first position will start on July 1, 2021. The second position will start on January 1, 2022.

\*\*Elko Public Defender will add an additional support staff on January 1, 2022.



## Humboldt County 2020 # of Cases Assigned



### Pershing County

**Type:** Public Defender Office

**Number of Attorneys:** 1 Public Defender

1 Contract Conflict Public Defender

**Investigators and/or Mitigation Specialists:** 0

**Social Workers:** 0

**Support Staff:** 1 ratio 1:1}

**Jury Trials:** Not Tracked

**Motions to Suppress:** Not Tracked

*raph indicates new cases ftled in FY2020 by case type.*

## Humboldt County

**Type:** Public Defender Office

**Number of Attorneys:** 1 Public Defender

1 Alternate Public Defender

**Investigators and/or Mitigation Specialists:** 0

**Social Workers:** 0

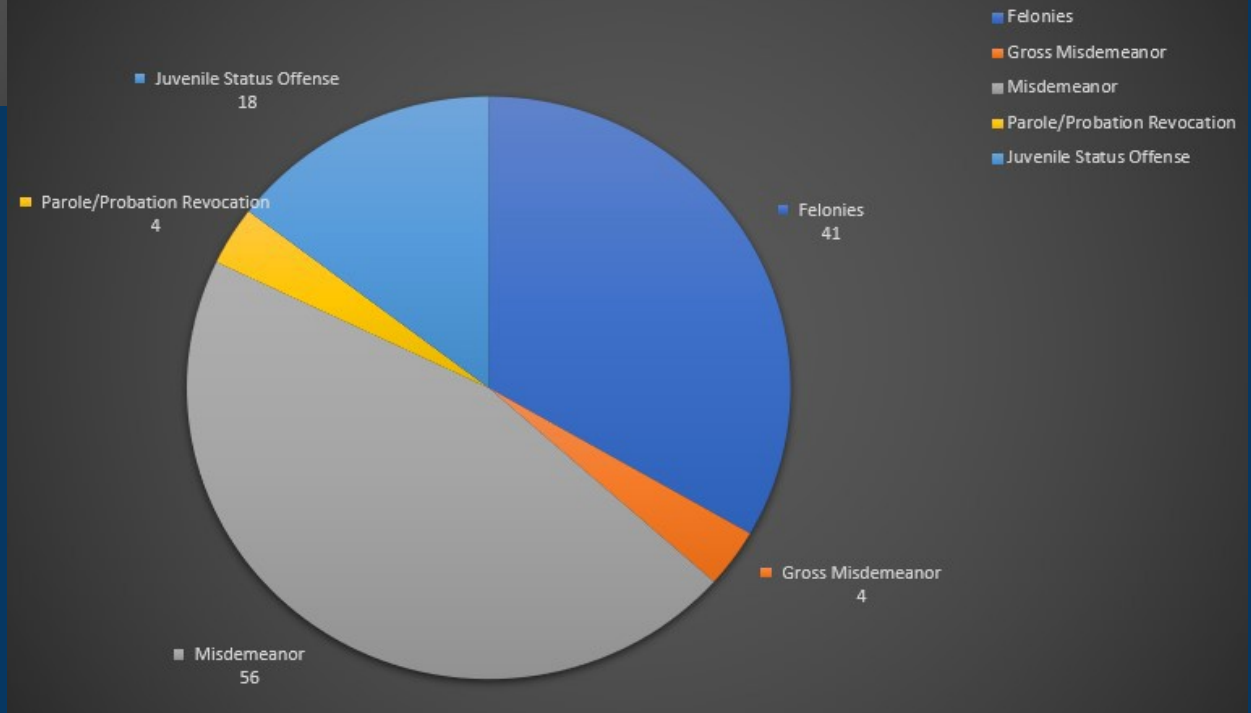
**Support Staff:** 1 ratio 1:1}

**Jury Trials:** 1

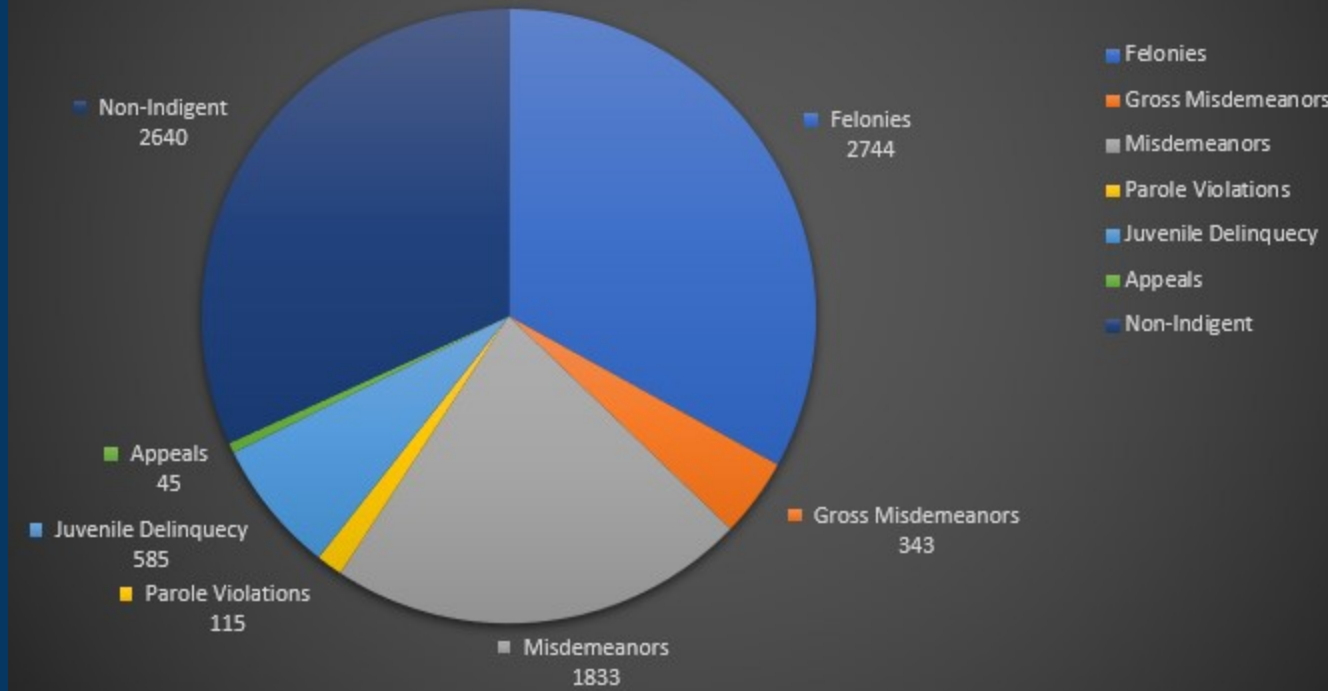
**Motions to Suppress:** Not Tracked

*raph indicates combined total number of new cases for the Public Defender and Alternate Public Defender in FY2020, by case type.*

## Pershing County FY2020 # of Cases



## Washoe County 2020 # of Cases Assigned



### Washoe County Public Defender

Type: Public Defender Office

Number of Attorneys: 37

Investigators: 8 ratio S:1}

Mitigation Specialists: 1 ratio 37:1}

Support Staff: 1 ratio 2:1}

Jury Trials: Not Tracked

Motions to Suppress: Not Tracked

*Graph indicate total number of new cases for the Public Defender in FY2020 by case type.*

### Washoe County Alternate Public Defender (APD)

Type: Public Defender Office

Number of Attorneys: 11

Investigators: 2 ratio :1}

Social Workers: 0

Support Staff: 5 ratio 2:1}

Mitigation Specialist: 0

Trials: Criminal: 3; Family: 4

Motions to Suppress: Not Reported

Type	Total
i 2020	
S ci lt ourt	
i 2020	

### Tertiary conflicts

in Washoe County are handled by the Appointed Counsel Administrator ("ACA"),  
**Krista Meier.**

## Churchill County



Jacob Sommer, Churchill PD



Wright Noel, Deputy PD



Emily Tunsil, Admin Assist

Churchill County recently moved from a contract-for-service method to create the Churchill County Public Defender Office which opened November 2020. Due to the change limited data was reported. The office address is: 48S West B Street, Suite 10S, Fallon, NV 8940 .

**Type:** Public Defender Office

**Number of Attorneys:** 2

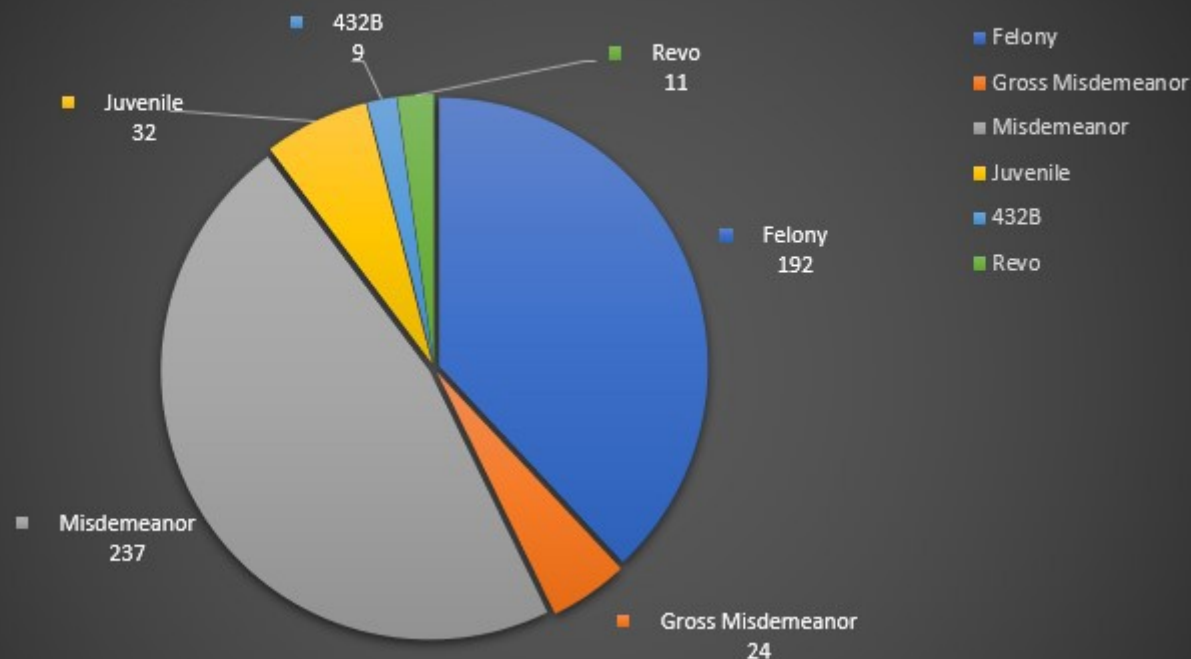
**Investigators:** 0

**Mitigation Specialist:** 0

**Social Workers:** 0

**Support Staff:** 1 (ratio 2:1)

## Douglas County FY 2020 # of Cases



## Douglas County

**Type:** Contract for Service

**Number of Attorneys:** 5

**Investigators:** 0

**Mitigation Specialists:** 0

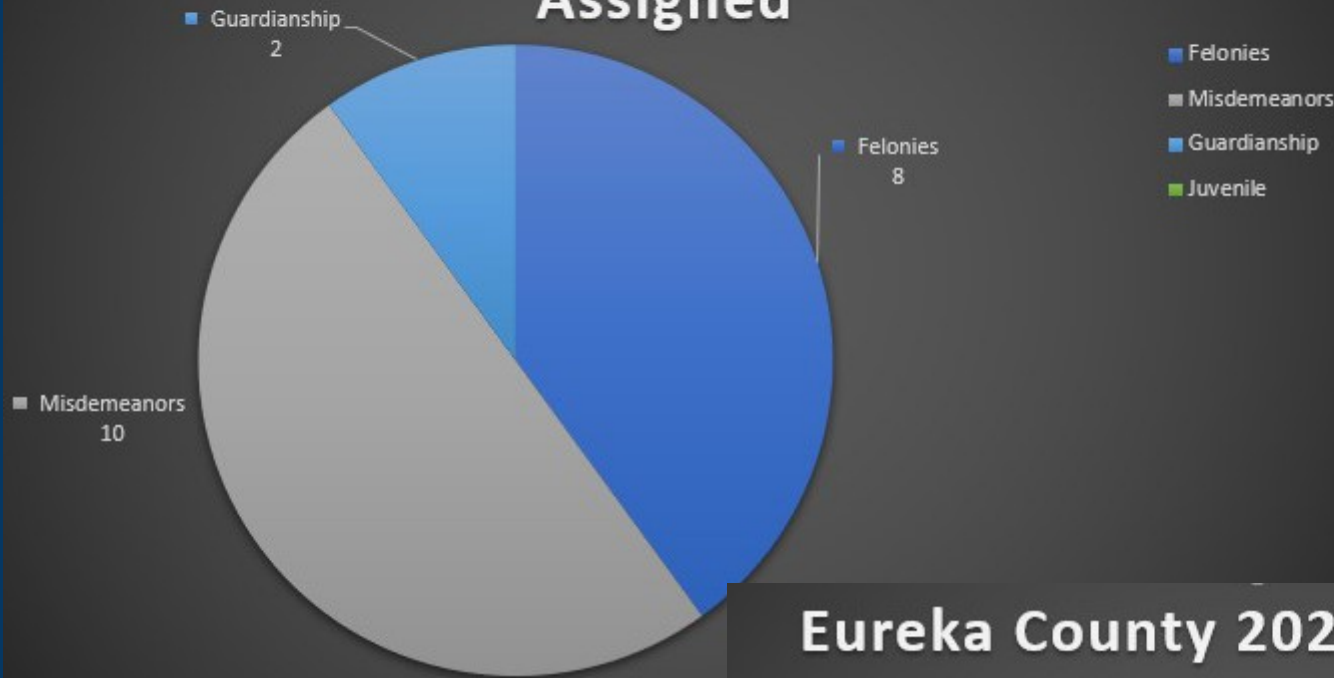
**Social Workers:** 0

**Jury Trials:** Not Tracked

**Motions to Suppress:** Not Tracked

*Graph indicates FY2020 number of new cases assigned by case type, as reported.*

## Eureka County 2020 # of Cases Assigned



Top left graph indicates the total number of cases assigned in FY2020 by case type.

## Eureka County

Type: Contract for Service

Number of Attorneys: 1

Investigators: 0

Social Workers: 0

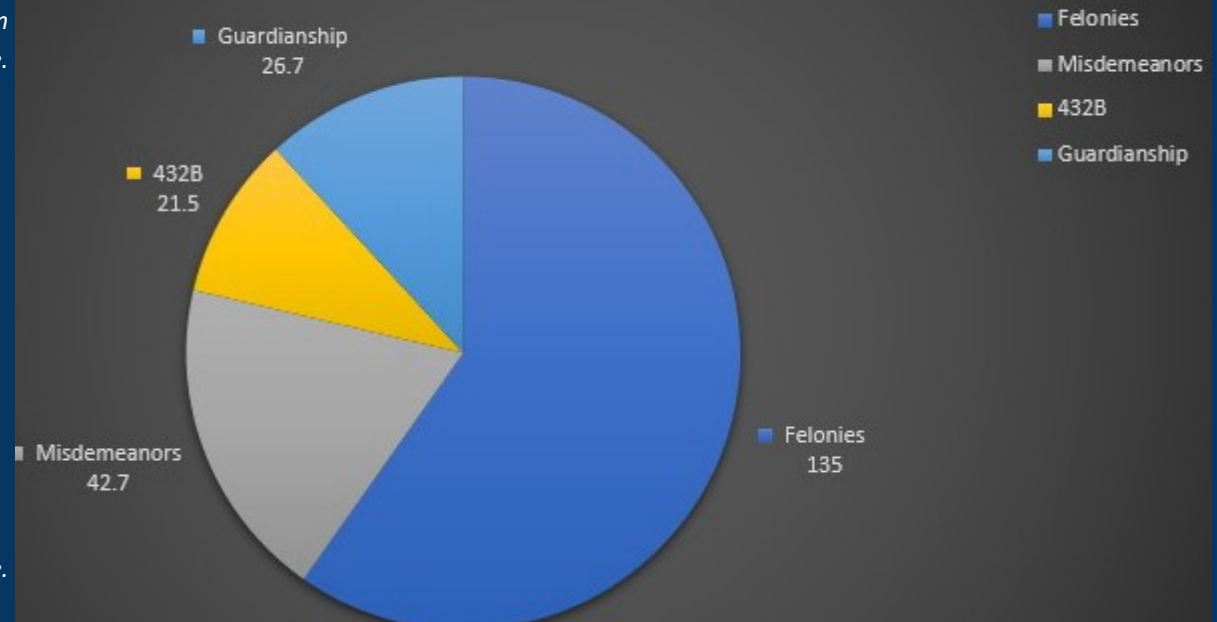
Mitigation Specialists: 0

Support Staff: 0

Jury Trials: Not Tracked

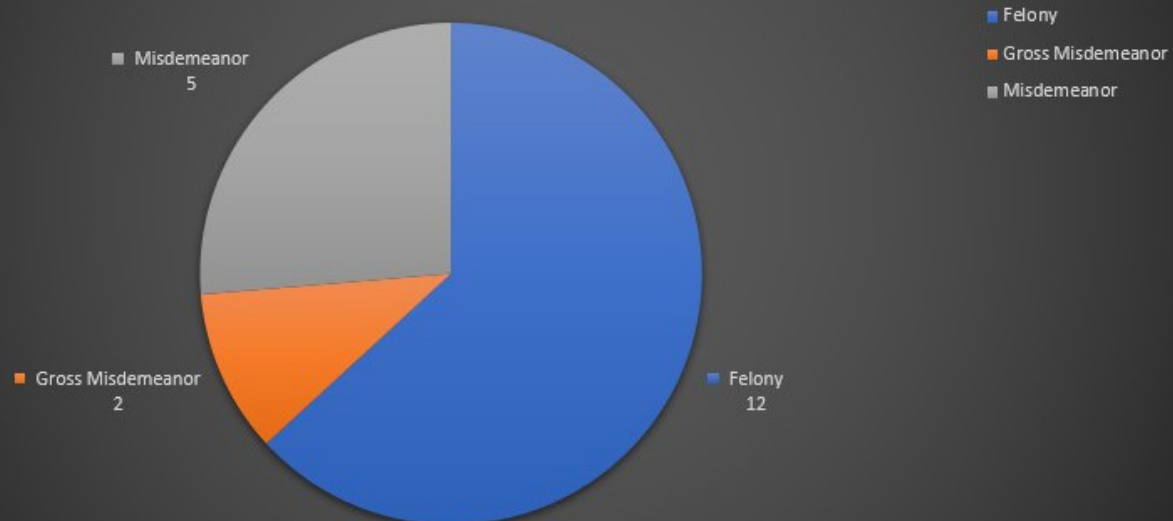
Motions to Suppress: Not Tracked

## Eureka County 2020 Case Hours



The lower right graph indicates the total case hours by case type.

## Esmeralda County FY2020 # of Cases Assigned



## Esmeralda County

Type: Contract for Service

Number of Attorneys: 1

Investigators: 0

Social Workers: 0

Support Staff: 1.5

Mitigation Specialist: 0

Jury Trials: Not Tracked

Motions to Suppress: 0

*Graph indicates number of cases assigned by case type in FY2020, as reported.*

## Lander County

Type: Contract for Service

Number of Attorneys: 1

Investigators: 0

Social Workers: 0

Mitigation Specialist: 0

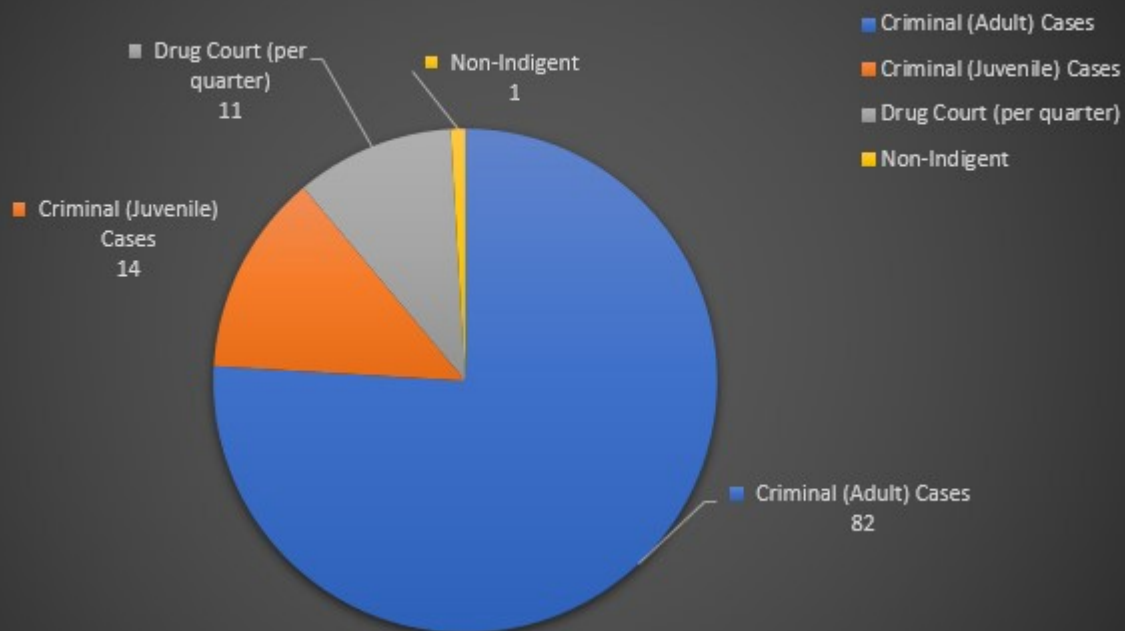
Support Staff: 2

Jury Trials: Not Tracked

Motions to Suppress: Not Tracked

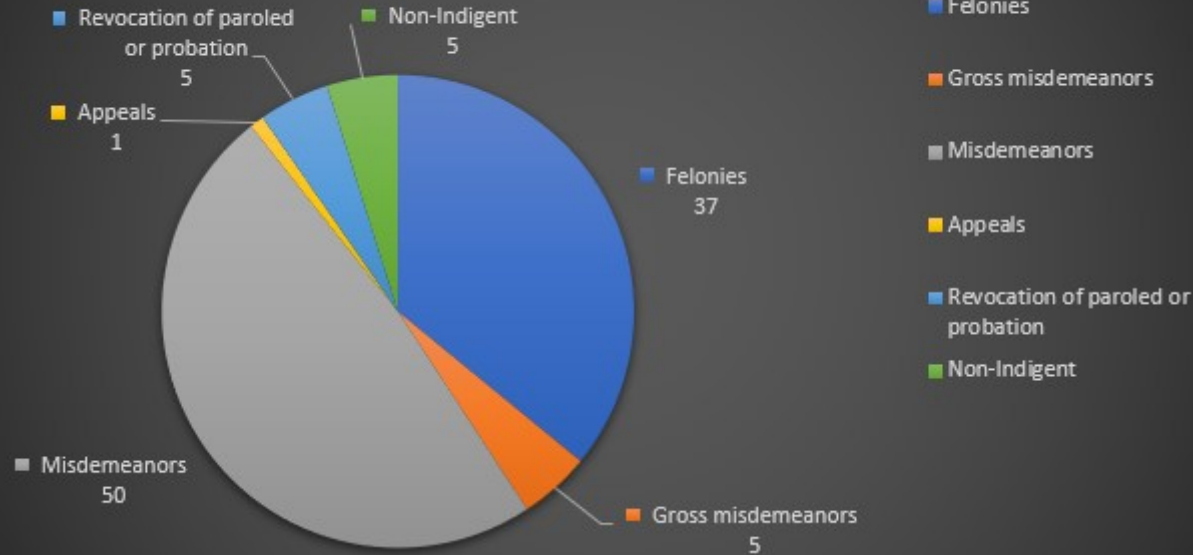
*Graph indicates number of cases assigned by case type in FY2020, as reported.*

## Lander County FY2020 # of Cases Assigned





## Lincoln County FY2020 # of Cases



The top left pie graph indicates the number of new cases for the Lincoln County Contract Public Defender filed in FY2020.

## Lincoln County

Type: Contract for Service

Number of Attorneys: 1 Contract Public Defender

Investigators: 0

Social Workers: 0

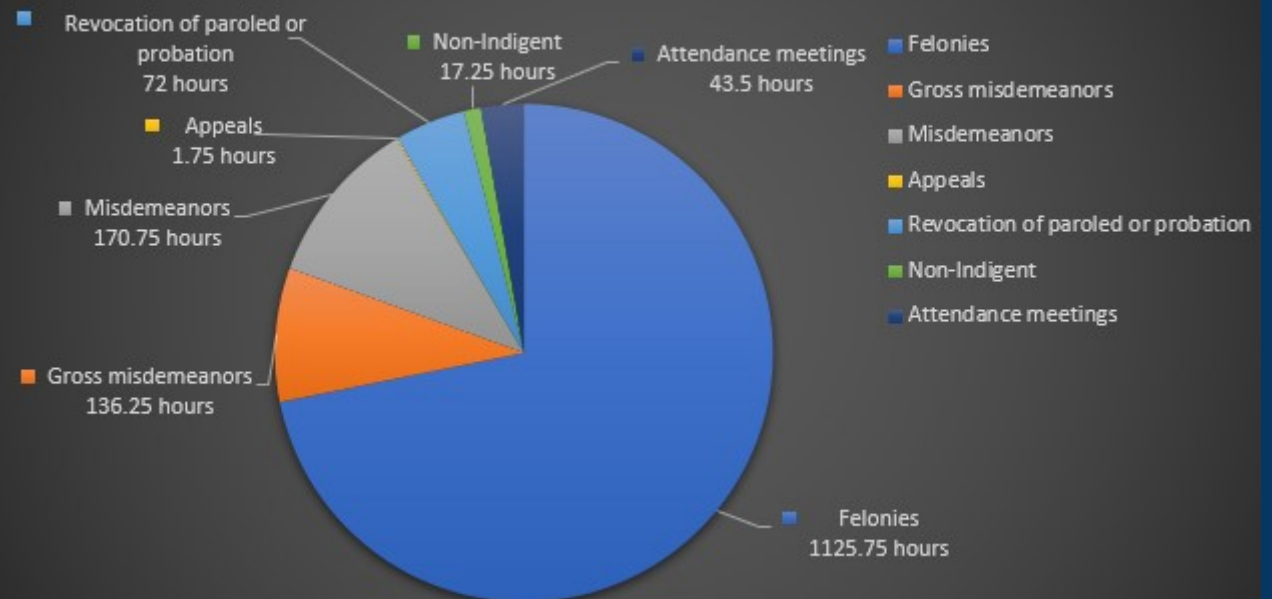
Support Staff: 1

Mitigation Specialist: 0

Jury Trials: Not Tracked

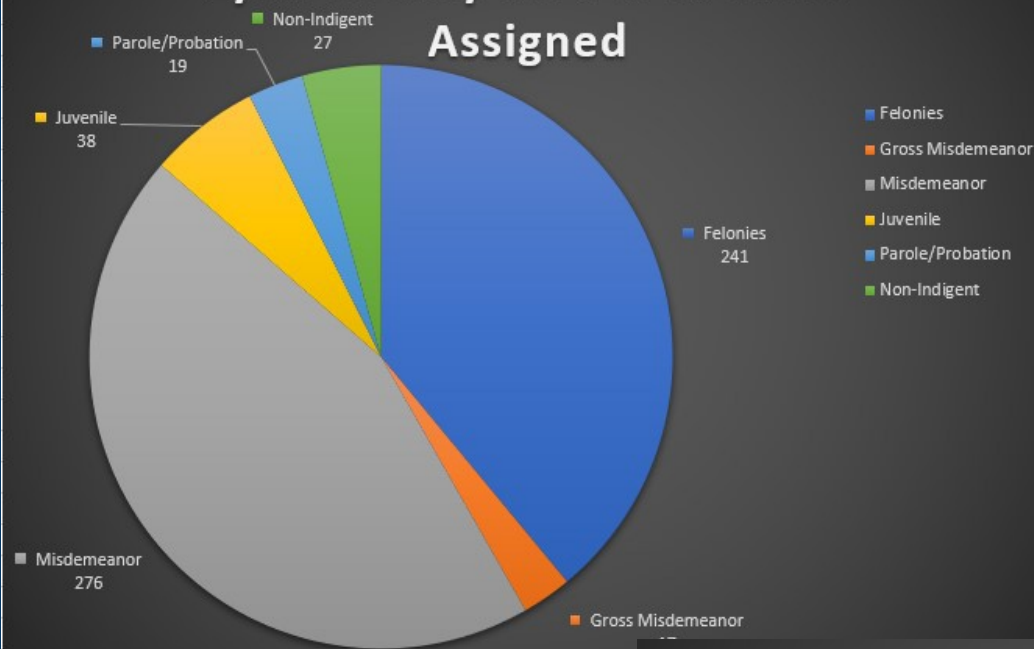
Motions to Suppress: Not Tracked

## Lincoln County FY2020 Case Hours



The bottom right pie graph indicates number of attorney hours spent by the for the Lincoln County Contract Public Defender by case type for FY2020.

## Lyon County 2020 # of Cases Assigned



## Lyon County

**Type:** Contract for Service

**Number of Attorneys:** 3 independent contractor firms of at least 2 attorneys

**Investigators:** 0

**Social Workers:** 0

**Mitigation Specialist:** 0

**Jury Trials:** Not Tracked

**Motions to Suppress:** Not Tracked

*raph indicates total number of new cases reported for FY2020 by case type, as reported.*

## Mineral County

**Type:** Contract for Service

**Number of Attorneys:** 1

**Investigators:** 0

**Social Workers:** 0

**Mitigation Specialist:** 0

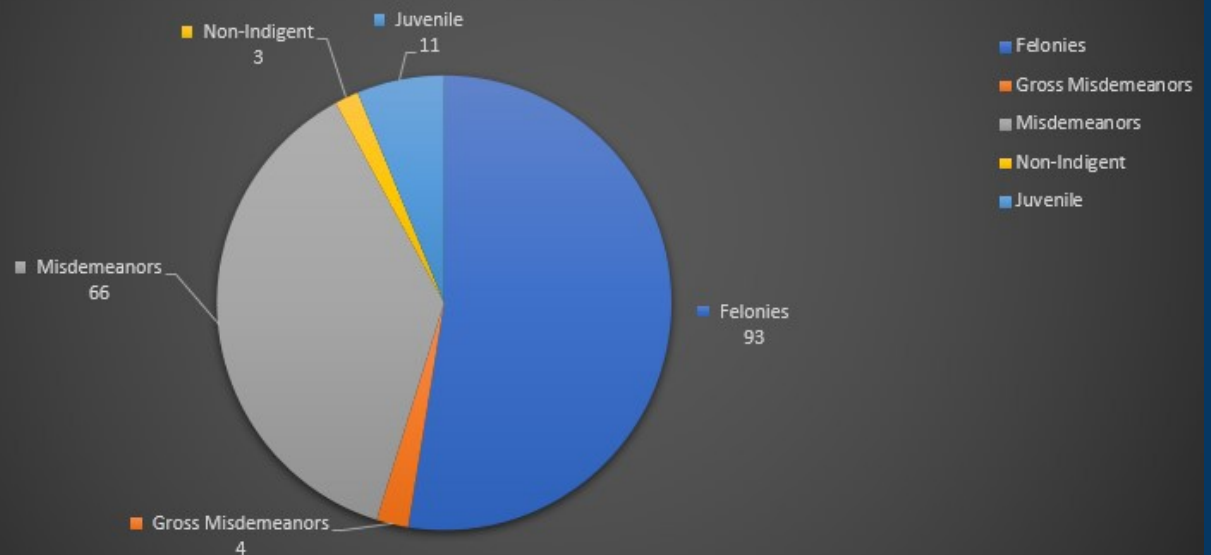
**Support Staff:** 0

**Jury Trials:** Not Tracked

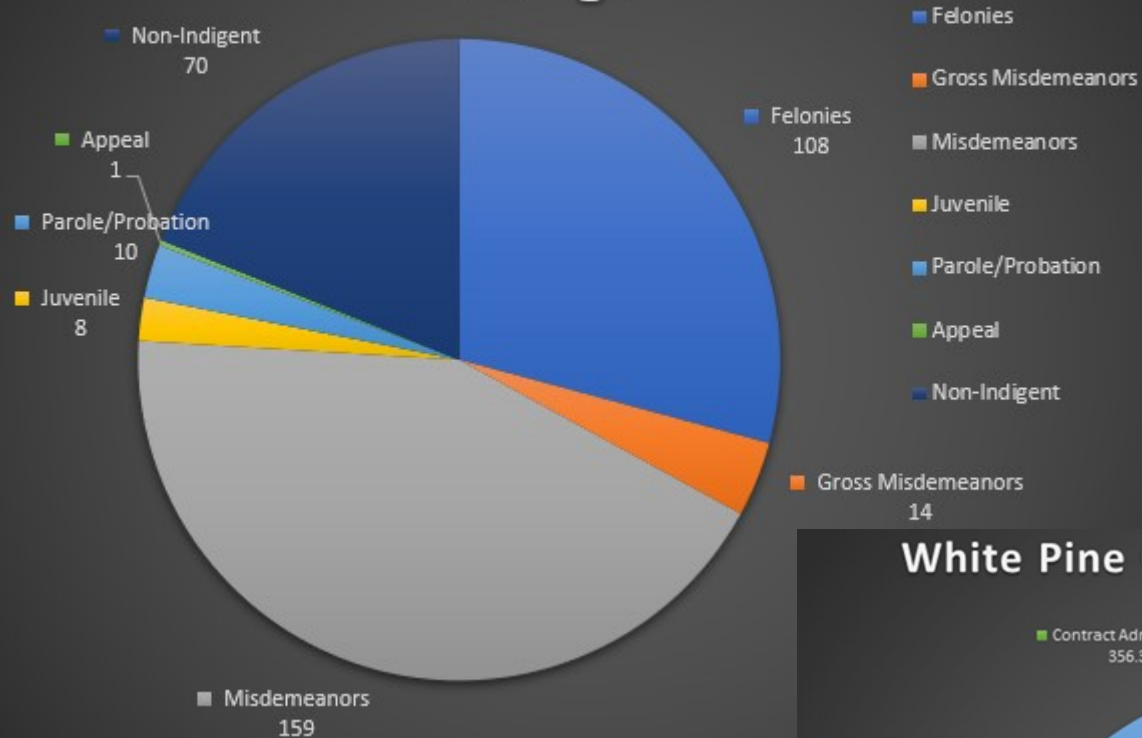
**Motions to Suppress:** Not Tracked

*raph indicates total number of new cases reported for FY2020 by case type, as reported.*

## Mineral County FY2020 # of Cases Assigned



## Nye County FY2020 # of Cases Assigned



## White Pine County

Type: Contract for Service  
 Number of Attorneys: 3  
 Investigators: 0  
 Social Workers: 0  
 Mitigation Specialist: 0  
 Support Staff: 4  
 Jury Trials: Not Tracked  
 Motions to Suppress: Not Tracked

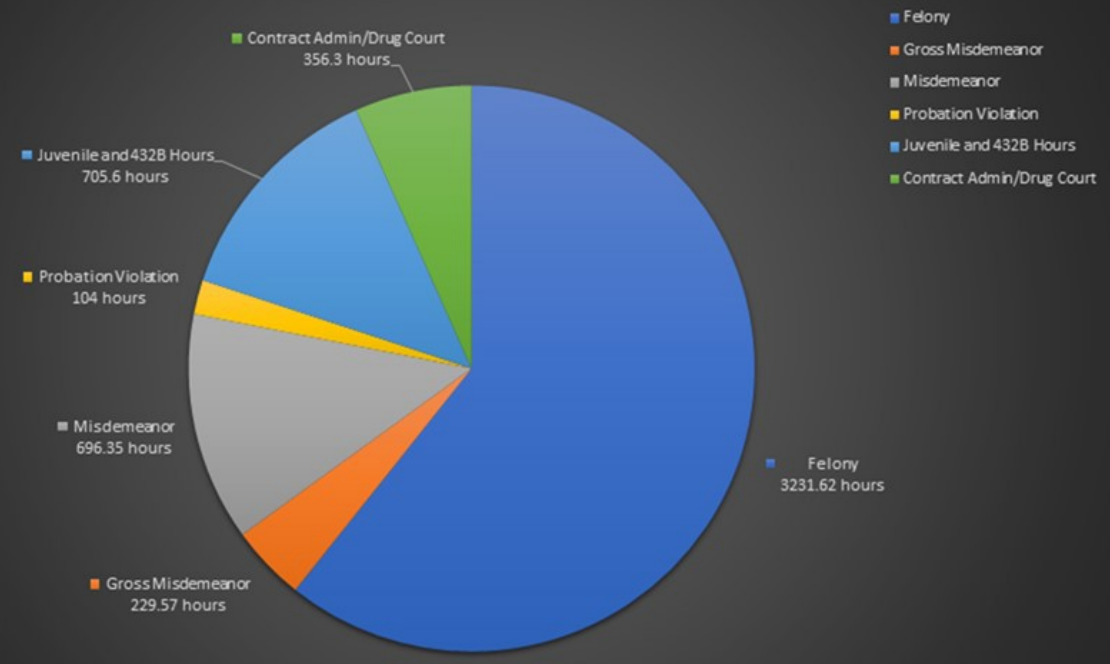
raph indicates FY2020 case hours by case type.

## Nye County

Type: Contract for Service  
 Number of Attorneys: 5  
 Investigators: 0  
 Mitigation Specialist: 0  
 Social Workers: 0  
 Jury Trials: Not Tracked  
 Motions to Suppress: Not Tracked

raph indicates FY2020 number of new cases assigned by case type, as reported.

## White Pine County FY2020 Case Hours



# Goals for FY22

In the Department's first full year of existence, we have worked tirelessly to make forward progress for indigent defense in Nevada. Although the pandemic provided an additional challenge, we worked to build relationships using technology. As travel restrictions have loosened, we have finally had the opportunity to go out and meet the stakeholders in person.

Over the next year, the Department looks forward to finalizing the following:

- ◇ **Plans for the Provision of Indigent Defense Services:** For the first half of the year, the Department has been working with the counties to ensure their plans are finalized prior to September 3, 2021. The Plans are scheduled to be reviewed at the Board on Indigent Defense Services September Board Meeting.
- ◇ **Hold in Person Board Meeting:** The Board has planned to meet together, in-person, for the September Board Meeting in Tonopah, Nevada.
- ◇ **Fiscal Reporting and Reimbursement Requests:** The Department will continue to work with counties on fiscal reporting to ensure that the counties understand the maximum contribution formula and request reimbursement, if appropriate. If requests for reimbursement are submitted, the Department will request funding from the Interim Finance Committee on behalf of the counties.
- ◇ **Continued Training and Resources:** The Department will continue to provide an annual training conference. The Department strives to provide the training conference as an in-person training for indigent defense providers at the UNLV Boyd School of Law. The Department will continue to provide monthly trainings, at no cost to the provider or county, as well as monthly brainstorming opportunities for attorneys.
- ◇ **LegalServer:** The Department will train indigent defense providers on the use of LegalServer. The goal is that indigent defense providers will be proficient in LegalServer by the time the plans are in place. LegalServer will allow for uniform data collection across the rural counties, as well as providing an effective case management system for indigent defense offices.
- ◇ **Finalize NCSC Study:** The Department will continue to work with NCSC to finalize the study. With the study's recommendations, the Board will establish guidelines to determine the maximum caseloads for attorneys who provide indigent defense services.
- ◇ **Permanent Regulations of the Board on Indigent Defense Services:** The Board will create Permanent Regulations on Indigent Defense Services.
- ◇ **Observation and Review of Indigent Defense:** In the upcoming year, the Department will focus on four areas for observation: attorney client communication; use of experts and investigators; attorneys at first appearances; and preparedness and knowledge of the cases.

## **THE DEPARTMENT OF INDIGENT DEFENSE WOULD LIKE TO THANK THE FOLLOWING FOR THEIR CONTRIBUTIONS TO THE DEPARTMENT.**

Chairwoman Anne Traum, Professor at UNLV Boyd School of Law, for providing her Letter from the Chair, but most importantly, for always being there to help.

Maria Pence, John Arrascada, Mario Walther, Julia Murray, Dr. Melissa Piasecki; and Larry Pozner for making the First Annual (but Virtual) Conference a smashing success.

J. Chip Seigel, Joel Mann, Gianna Verness, the Honorable Jim Shirley, Dr. Johanna O'Flaherty, Sharon Dickinson, and Richard Cornell for providing excellent CLE presentations.

Additionally, the Department would like to thank the following students: Dallas Anselmo, J. Gregory Cloward, Efrain Espinoza, Brianna Galasso, Ashely Sutherland, and Grace Warburton for their excellent research and written work for attorney resources.

John G. Williams from EITS and Michael Hofrichter from LegalServer for assistance in customizing LegalServer to Nevada's needs.

Professor Eve Hanon, monitor in the *Davis v. Nevada* Case, for providing a letter for this report, and her oversight.

John Lambrose, an adjunct professor at the William S. Boyd School of Law, and remarkable advocate for improving indigent defense throughout Nevada. A 35-year practitioner in indigent defense, John is a fantastic resource, sounding board, and champion for the Department.

John McCormick of the Administrative Office of the Courts for being quick and responsive and always willing to assist our Department.

Kendra Bertschy, John Piro, and Alex Ortiz for helping our Department navigate the process in the legislature.

NSCS and the rural indigent defense providers and staff for participating in the weighted caseload study.

Dr. Mitch Herian for his assistance as a data analyst over the past year.

Finally, a special thank you to the indigent defense attorneys, county managers, assistant county managers, and county commissioners throughout the State in providing information vital to completion of this report and for their tireless commitment to improve indigent defense through the creation of the plans for their county.





## Nevada Department of

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