

## **MONTHLY REPORT**

**January 6, 2025**

### **I. Observations and Contacts**

December was a slow month for the courts with both the 5<sup>th</sup> and 7<sup>th</sup> Judicial Districts off for most of the last two weeks. I traveled and observed White Pine District Court on December 9, 2024 and Nye County District Court as well as Pahrump Justice Court on December 12, 2024. I expect to resume more regular Court Observations and Onsite Visit Reports in January, 2025. I am scheduled for trial in a murder case beginning February 10, 2025 in Clark County. Alexis Duecker will be sitting second chair in the jury trial.

### **II. Assessments**

#### **Nye County**

At the continued urging of DIDS based on caseload numbers, Nye County has posted to add contract public defenders at the same rate as the current contracts. The generic listing announcement does not reference any of the suggestions from my meeting with the attorneys detailed in the December Report. I am not aware of the number of additional contracts that will be added, but the recommendation was for six (6) more attorneys.

Caseload continues to be an issue across the board in southern Nye County. Over the course of the last ten months my observations lead me to believe that the Performance Standards adopted by the **Davis** judgement are routinely not being met in several areas. When I met with the attorneys in December, I brought up the need to have substantial compliance with the performance standards, and that strict compliance is not expected. Areas of concern are:

1. Having a meaningful Initial Interview within 72 hours of appointment in a confidential setting and obtaining the information described in Standard 4-4 (b) and (c);
2. Conducting Case Preparation and Investigation prior to trial or entry of plea as described in Standard 4-7 (a) and (b);
3. Filing of Pretrial Motions under Standard 4-8;
4. Entering into plea negotiations in contravention of Standard 4-9 (a) which states in

relevant part “under no circumstances should defense counsel recommend to a client acceptance of a plea offer unless the investigation and study of the case has been completed, including an analysis of controlling law and evidence likely to be introduced at trial”.

The sheer volume of cases being assigned to each of the contract public defenders makes it impossible to comply with the above standards of performance. My observations convince me that the attorneys are attempting to provide the best defense possible and any shortfalls are not due to lack of effort as opposed to lack of time to devote to each client. Hopefully the new contracts will ease this caseload problem and the inherent problems caused by the number of cases.

Nye County has selected three judge pro tems to fill in for Judge Fiore’s position in Department A of Pahrump Justice Court. I believe that a full time replacement is going to be selected and appointed in the near future. This will increase the efficiency of the justice court in processing cases and end the long days caused by a single Justice of the Peace hearing all matters.

### **Esmeralda County**

The District Attorney is still indicating the intention to proceed with a capital murder case. The defendant has been returned to competence and is set for preliminary hearing in February. Clark Patrick has been approved for capital cases in Esmeralda and will be on the case with Jason Earnest.

No other developments in Esmeralda County.

### **Eureka County**

I was unable to visit Eureka this last month and no matters were on calendar in District Court. I hope to follow up with Kelly Brown and make another trip to Eureka by the end of March.

### **Lincoln County**

I have no update on Lincoln County from December and will be conducting an Onsite visit before my February 10, 2025 jury trial commences.

### **White Pine County**

During my Onsite Visit on December 9, 2024 matters were moving smoothly with no issues. Derrick Penney continues to be the assigned Assistant State Public Defender and

has become accustomed and acclimated to the working of White Pine District Court. Jim Hoffman is handling fewer cases but is a regular presence. The addition of the Jane Eberhardy contract is working well.

I will be in Ely on February 3, 2025 and will update in the next monthly report.

### **III. Suggestions**

Work with Nye County to add as many new public defenders as are needed to bring caseload number into compliance.

Determine the most efficient way to have accurate entries into LegalServer for caseload and time from the Nye County Public Defenders.

Coordinate with Nye County management on the new contracts currently being advertised and develop a plan to integrate the new attorneys into the rotation with the least amount of disruption to current representation.

Continue to monitor the status of capital cases in Esmeralda and Lincoln Counties.

### **IV. Schedule of Oversight Visits and Stakeholder Meetings**

The current plan is to make a trip through northern Nye County in January, 2025 and possibly in conjunction with the capital case preliminary hearing in Goldfield.

Another trip through Eureka to visit the Justice Court in Crescent Valley by the end of March, 2025.

An onsite visit to White Pine and Lincoln Counties on February 3-4, 2025.

Dated: January 6, 2025

*David Schieck*