

FINAL MONTHLY REPORT FOR FISCAL YEAR 2024-2025

April 22, 2025

I. Observations and Contacts

I have spent a majority of my time over the last 14 months in Nye County, primarily in Pahrump but also including Beatty and Tonopah. This was required due to the caseload and staffing issues that persist in Nye County. Esmeralda, Lincoln and Eureka Counties continue to be low volume caseload and present no major issues at this time. Some concerns for these counties are described below. White Pine County seems to have settled into a workable program with the Nevada State Public Defender being augmented by Jane Eberhardy and hourly appointments as needed.

As a result of the amount of time spent on Nye County, I developed a working relationship with the contract public defenders. I have thereby, on occasion, been privy to attorney-client privileged information, and have often brain stormed ideas and theories of defense strategies with the attorneys. To my knowledge, I have not discussed or revealed any of this information in my Court Observation Reports or Onsite Visit Reports. I have been keenly aware of this issue as my reports were made available to the Board and the Monitor and posted on the DIDS webpage under documents submitted for scheduled meetings and thus converted into public records.

My reporting opinions, while my own, are often based on information that cannot be shared for public disclosure, and thus perhaps make them subject to second guessing or criticism by those not as fully aware of the underlying information that formed the basis of my reports.

During the month of April, 2025 I observed Nye County courts in person on April 9, 15 and 17. Observations in White Pine County were limited to observation via Zoom on April 14 and 21.

Additionally I attended the DIDS conference in Reno on April 2nd and 3rd and had numerous conversations with attendees that represent my assigned counties.

Finally, phone contact has been maintained with Kelly Brown (Eureka County) and Franklin Katschke (Lincoln County)

II. Assessments

Nye County

Nye County presents the largest challenge to the ***Davis*** mandates and I do not believe the situation has improved in the last 14 months since I began observing. I dare to say that I do not think that it has improved since the ***Davis*** judgment was entered. The problems are systemic and far reaching. There is not going to be a quick fix, and despite earlier opinions I have expressed, throwing more attorneys into the mix is not going to solve the problems for a couple of reasons. First, the issues are so glaring that most experienced attorneys are not willing to enter into contracts to provide public defender services. Second, adding non-experienced attorneys did not help and may have even made the situation worse. Third, the attorneys that are under contract are providing triage level representation in most cases as opposed to zealously litigating legitimate issues of constitutional magnitude and due to caseloads are prone to burn out and walk away. Fourth, the County seems to have no interest in moving into the 21st century with on-line file access. Fifth, the contracts for public defender services includes family court cases which is not contemplated by ***Davis*** and consumes an inordinate amount of time. Sixth, there is no accurate reporting of caseload numbers of appointed cases and a derth of information about the caseload for private practice cases.

My observations and time in Nye County was sufficient to only identify some of the problems and suggest possible solutions. In my opinion there must be a full time position funded and filled by Nye County to monitor, enforce, guide and regulate the public defender contracts. As an example, each of the public defender contracts requires the attorney to file an accounting every July concerning cases opened, closed and pending. This has never been done and each of the attorneys is in violation of their contracts. The Plan for Indigent Defense for Nye County specifically requires that there be a Court Appointed Counsel Coordinator. There is none-has never been one-making Nye County in non compliance with their ***Davis*** plan.

My January 5, 2025 Monthly Report was detailed as to problems plaguing Nye County Indigent Defense with suggestions on ways to address some of the issues, including the additional attorneys. Other than adding three attorneys positions none of the other issues have been addressed. The three positions were added in February and do not seem to have had any effect on the caseloads of the existing public defenders. In the report, I discussed the issues that I noted and these conditions have not improved:

“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 ©;
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.”

I was occupied in a murder trial in Clark County for February and therefore had limited time in Nye County, but filed a report covering January and February dated March 2, 2025. The problems continued as did my recommendation to help the situation.

My March 2, 2025 Monthly Report stated:

“Many of the problems in Nye County concerning public defenders would be resolved if there was a Coordinator in place to address issues as they might arise. This would include insuring even distribution of cases, deciding conflicts of interest, scheduling rotating responsibilities, acting as a liaison with the Court and County Administration, policing caseloads, insuring that experts are timely retained and paid and various other areas. I have been informed that such a position is being created and will be a state funded position independent of Nye County Administration, the District

Court, the Justice Court, the Clerks's office and the Office of District Attorney."

The best efforts of the DIDS staff in Carson City cannot regulate and monitor the daily activity in the Pahrump Courthouse. There has to be coordination between the public defenders, Justice Court, District Court, judiciary and prosecution and the Coordinator position would greatly increase efficiency across the board.

Another concerning issue is the length of time that cases remain open. An example is routine Justice Court plea deals that have 180 days suspended sentence with a one year stay out of trouble order. Perpetual status checks for no reason then keeps the case open longer than reasonably necessary. The Court cannot be the overseer of all defendants with onerous restrictions during the informal probation period. It seems that some cases are never closed. Cases that are in warrant or the client has disappeared before charges are filed should also be removed from the list of open cases.

It has been reported that the Tonopah jail is closing, creating more logistical issues for Tonopah cases. Beatty arrests track into Tonopah so there is a significant number of in custody cases. We can expect to see clients arrested in Beatty or Tonopah, transported to Pahrump and then released in Parhump while their property or residence is way up north with no public transportation available. I have previously documented the same issue in Eureka County.

Esmeralda County

The District Attorney is still indicating the intention to proceed with a capital murder case. He may be having second counsel appointed or utilize the services of the Attorney General's office to assist with the litigation. The preliminary hearing is set for May 9, 2025. A mitigation trip was made to Michigan and plans are underway to view the evidence vault in Reno and the vehicle impound lot view. Mitigation/investigative trips are planned for Oklahoma and Sacramento in the future.

Eureka County

Kelly Brown reports that there is a continued increase in case numbers, somewhat surprisingly out of Crescent Valley. He has been logging hours above his quarterly contract amount and has been receiving hourly payment for the excess hours with no issues on receiving payment. There is a need for mental health services in Crescent Valley and a social worker would be helpful in resolving some of those issues. It appears that cases may be overcharged in order to deal with minor crimes related to mental health, for instance, stealing cigarettes is being charged as felony burglary and not petty larceny

and/or trespass. Eureka still does not have jail facilities and in custody defendants are held in either White Pine County or Lander County. Per Brown, the White Pine jail has made improvement for accessibility to clients.

Lincoln County

Lincoln County DA Dylan Frehner was appointed to the vacant 7th Judicial District Court position and applications are pending for a new Lincoln County DA. An interim DA has been handling current cases. As Judge Frehner will have numerous conflicts in Lincoln County it can be expected that Judge Dobrescu will be handling Lincoln County cases for some time. This will impact the prosecution in the John Chapman capital murder case. Judge Dobrescu may have a conflict on the case and, if so, a visiting or senior judge may be required. There has been no change with regard to the transport of the defendant to be present for a preliminary hearing so the case remains in a holding pattern. Contract public defenders Franklin Katschke and Shain Manuele continue to effectively handle the Lincoln County indigent cases. One case, the Amazon truck theft case, is set for trial in June, 2025 and bears watching due to the number of Lincoln County residents affected by the case.

An onsite visit was conducted on January 24, 2024. Indigent defense appears to proceeding on an even keel in Lincoln County. Both Franklin Katschke and Shain Manuele are consistent in their efforts. With regard to the pending Chapman capital trial, things seem to have stalled in a bureaucratic maze at the Federal Department of Corrections. No preliminary hearing date has been set and the client has been moved to yet another federal detention facility, necessitating new paperwork to secure his transport to Lincoln County.

White Pine County

I was able to converse with State Public Defender Coates at the DIDS Reno conference. White Pine County seems to have settled into a routine with Jane Eberhardy picking up a full caseload and hourly appointments filling any gaps. My observation of newly appointed Judge Frehner is that he has comfortably transitioned from DA to Judge and is reflective of his courtroom experience.

The multi-defendant prison murder case will not be a capital case and it has been discussed that the case will be taken to a grand jury as opposed to multiple preliminary hearings. It also appears that a number of defendants will be accepting negotiations in the case.

III. Suggestions

Work with Nye County to add more public defenders to bring caseload numbers into compliance, and fill the Coordinator position deal with all of the issues discussed herein and in previous reports.

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

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

Monitor and update on the White Pine County massive prison murder case.

IV. Schedule of Oversight Visits and Stakeholder Meetings

This is the last report for fiscal year 2024-2025. I will be out of Nevada traveling for the next several months and if a new or extended contract for Oversight and Compliance Analyst is available look forward to being able to continue with DIDS upon my return to Nevada in late summer 2025.