

**From:** [Jim Wells](#)  
**To:** [Melanie A. LaChapelle](#); [Peter P. Handy](#); [Budd Milazzo](#); [Patricia D. Cafferata](#)  
**Cc:** [Donald Carlson](#)  
**Subject:** RE: Parole Board Hearings  
**Date:** Friday, September 13, 2024 4:47:17 PM  
**Attachments:** [image001.png](#)

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In looking at the history, what is now NRS 180.110 was passed when all local counties were required to pay in even if they opted out of services from the NSPD. I think billing the counties for services provided is appropriate if they have not opted into services from the NSPD.

Thanks,

Jim

**From:** Melanie A. LaChapelle <malachapelle@nspd.nv.gov>  
**Sent:** Wednesday, September 11, 2024 4:07 PM  
**To:** Peter P. Handy <P.Handy@dids.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>; Patricia D. Cafferata <pdcafferata@nspd.nv.gov>; Jim Wells <jimwells@gov.nv.gov>  
**Cc:** Donald Carlson <d.carlson@admin.nv.gov>  
**Subject:** Re: Parole Board Hearings

Good Afternoon,

I have attached a spreadsheet of all of Patty's parole cases which includes the attorney time, from July 1, 2023 to current. (To clarify each line is an "attorney time" entry so each case has multiple entries.)

You are able to filter by County, I have it sorted to only show the counties that have not signed the voluntary transfer of services, Nye, Clark and Elko. However, all the counties are there, if you would like to look at that data as well.

Please let me know if I can be of any further assistance or if I have the authority to send a bill to these counties for services.

*Melanie LaChapelle*  
**Legal Office Manager**  
**Nevada State Public Defender**  
*phone 775-684-1080*  
*fax 775-687-4993*

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**From:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>  
**Sent:** Wednesday, September 11, 2024 9:45 AM  
**To:** Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>  
**Cc:** Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>  
**Subject:** RE: Parole Board Hearings

Thanks, Budd - that's very helpful for any collection for those counties, especially for reviewing White Pine's payments for services for this fiscal year.

I think the principal counties we would be seeking to collect from for this particular purpose are Elko and Clark, so I'm not sure if the same still applies, as they aren't named at all in SB 504. We don't have an extant contract with either county for this purpose and NRS 180.110 requires an estimate on or before May 1<sup>st</sup> (or within 2 weeks after approved by the legislature). I'm less worried about the maximum contribution amounts right now (as Clark doesn't ask for reimbursement and Elko hasn't yet met theirs for the fiscal year).

I imagine we could just send bills, see if they get paid, and then take or not take any action based on the response to the bills - but I don't want either Patty or the Department being accused of improperly billing a County.

Best,



**Peter P. Handy (he/him)**  
Deputy Director  
(775) 687-8495 (direct)  
[p.handy@dids.nv.gov](mailto:p.handy@dids.nv.gov)

**From:** Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>  
**Sent:** Tuesday, September 10, 2024 5:02 PM  
**To:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>  
**Cc:** Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>  
**Subject:** RE: Parole Board Hearings

Howdy,

Per a previous discussion with Jim Wells, counsel advised Jim that AB518, which codified (NRS 180.006) the maximum amount that counties may be required to pay for indigent defense services and has annual escalators takes precedence over SB504, Sec 9 which previously provided an estimate of the maximum contribution that a county may be required to pay plus the cost of COLA's. In FY24 and FY25, Carson, Storey and White Pine's maximum contribution was determined based on AB518, not SB504. AB518's amounts are higher than SB504's amounts. In the future SB504 Sec 9 type language will not be included

in the Biennial Expenditure Bill.

Thank You

Budd Milazzo  
775-684-0271 work  
775-443-8924 cell

On or before October 15<sup>th</sup>, the Agency Request (A01) budget will become a public document and may be discussed with the public as appropriate. However, the Governor's Recommended budget request remains confidential per statute until published in mid to late January 2025. Communications regarding the G01 Adjusted Base budget (B000, M100, M150 and M151) may be shared among appropriate agency staff, the Executive Budget Office, and the Legislative Counsel Bureau. However, G01 enhancement decision units are not part of the Adjusted Base budget and any changes to enhancements made in G01, and/or any questions concerning those enhancement, are to remain confidential within the Executive Branch until published in January. Please handle this email and all communications about the budget with the appropriate level of confidentiality and discretion.

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**From:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>  
**Sent:** Tuesday, September 10, 2024 3:48 PM  
**To:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>  
**Cc:** Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>; Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>  
**Subject:** RE: Parole Board Hearings

Patty,

That's a great start - it will be really helpful to know what kind of amounts we are talking about. I'm looping in ASD and GFO - we may need to get a work program together to create the revenue lines in the budget.

Looking at the notices of voluntary transfer that you provided me last week, it looks like the form provides that parole violations hearings, parole board hearings, and pardons board hearings are under the heading "Costs fully covered by the State". I don't think we will be able to send those counties a bill based on their understandings at the time they completed that document - so we should limit billing (and Melanie's research) to only those counties who did not opt-in for those services (e.g., Elko County).

I do see a statute that raises a flag for collecting on any bills - NRS 180.110 - indicating that the NSPD may collect amounts which do not exceed those authorized by the legislature, and also includes a process for providing an estimate for costs of services to the affected counties. If I recall correctly, the only counties listed in the legislative authorization for this biennium were Carson City, Storey County, and White Pine County. I think it's probably best to loop Jim Wells into this discussion at this point to ensure that that provision doesn't act as a bar to billing for services outside of the legislative authorization and without a contract between the NSPD and the relevant counties - while I certainly want to generate more revenue to avoid budget shortfall in the Office, I also don't want to run afoul of the proper process. He would also be able to tell us whether we need a

legal opinion regarding the same before billing the counties, if appropriate.

Best,



**Peter P. Handy (he/him)**  
Deputy Director  
(775) 687-8495 (direct)  
[p.handy@dids.nv.gov](mailto:p.handy@dids.nv.gov)

**From:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>  
**Sent:** Tuesday, September 10, 2024 3:06 PM  
**To:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>  
**Cc:** Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>  
**Subject:** RE: Parole Board Hearings

Peter,

Melanie will run a report on all my parole board appearances for each county. She can prepare and send a bill... she just needs directions from you.

Then we would have a little more money to offset the deficit.

Please advise.

Patty

**From:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>  
**Sent:** Tuesday, September 10, 2024 2:44 PM  
**To:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>  
**Subject:** RE: Parole Board Hearings

Hi Patty,

We haven't historically, to my knowledge. Though, I do think it would be appropriate to do so, since the service seems to me to fall under NRS 180.060(5), unless/until the County has reached its maximum contribution amount for the year.

Best regards,



**Peter P. Handy (he/him)**  
Deputy Director  
(775) 687-8495 (direct)  
[p.handy@dids.nv.gov](mailto:p.handy@dids.nv.gov)

**From:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>

**Sent:** Tuesday, September 10, 2024 2:08 PM

**To:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>

**Subject:** Parole Board Hearings

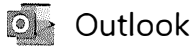
Peter,

Do we bill the counties for my Parole Board Hearings?

Thanks,

Patty





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**Fw: Follow up on Post Conviction Duplicates**

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From Laura FitzSimmons <Laura@fitzlamblaw.com>

Date Fri 9/6/2024 5:19 AM

To f.forsman@cox.net <f.forsman@cox.net>

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**From:** Laura FitzSimmons <Laura@fitzlamblaw.com>

**Sent:** Friday, September 6, 2024 5:16 AM

**To:** Ryan Cherry <rcherry@gov.nv.gov>

**Subject:** Re: Follow up on Post Conviction Duplicates

Ryan:

At our meeting you provided three justifications for terminating our Executive Director. The first was the problem about payment of post-conviction bills. The second was allegations of [REDACTED] from Patty Cafferata. And the third was Marci's failing to return calls you made to her official cell phone on either Wednesday or Thursday before you met with her on Friday to provide the termination agreement.

Thank you for providing me with the emails between you and Marci concerning the payment of post-conviction bills. As I mentioned, it would have been helpful if you had brought this to my attention at the time. But now that you have, I am looking into it. These emails are helpful.

You also indicated that you would provide the emails between you and Ms. Cafferata, as well as emails between Ms. Cafferata and Marci concerning the issue of whether it is the obligation of the State Public Defender to pay the post-conviction bills. I look forward to receiving those. If you have any other emails between Marci and Ms. Cafferata which indicate a "[REDACTED]", those would be helpful to review too.

Our emergency Board meeting is set for 9/12 @ 1:00 p.m.. You are of course quite welcome to attend. If you intend to, please let us know and we will put you up first because we understand you may have other commitments. I understand that the Board cannot even advertise for an Executive Director until 21 days from your proffer of the termination agreement to Marci have passed. But please let me know if there is some impediment to the Board's discussing Marci's termination, steps we need to take to advertise her position on that 21<sup>st</sup> day, timeline for receipt of applications and interviews, and specific assurances we can make to prospective applicants about the respective roles and authority of the Board and the Governor's office should they become Executive Director.

Thanks,  
Laura

**From:** Ryan Cherry <rcherry@gov.nv.gov>  
**Sent:** Thursday, September 5, 2024 12:50 PM  
**To:** Laura FitzSimmons <Laura@fitzlamblaw.com>  
**Subject:** FW: Follow up on Post Conviction Duplicates

Laura,

Here is the email chain between Marcie, Budd and myself on the June invoices.

**Ryan Cherry**  
**Chief of Staff**  
**Governor Joe Lombardo**  
101 North Carson Street  
Carson City, NV 89701  
[rcherry@gov.nv.gov](mailto:rcherry@gov.nv.gov)

**From:** Ryan Cherry <rcherry@gov.nv.gov>  
**Sent:** Friday, June 21, 2024 3:10 AM  
**To:** Marcie Ryba <mryba@dids.nv.gov>  
**Cc:** Budd Milazzo <bmilazzo@finance.nv.gov>  
**Subject:** Re: Follow up on Post Conviction Duplicates

Marcie,

Sitting here with a bit of insomnia and going through emails. The response you sent yesterday afternoon doesn't quite align with the spreadsheets that were provided from your office last week regarding outstanding post-conviction payments and the final list that was approved one reviewed by GFO.

I have attached both of those versions to this email. You can see a difference of more than \$66k between those two sheets. These discrepancies were caught in the review process, but the fact that such a margin of error existed in the original excel sheet DIDS used for tracking invoices could be problematic in the future.

I encourage you to review these docs and develop an understanding of how the issue occurred. If we can prevent these errors on the front end it would prevent any additional delays reconciling invoices in the future.

Thanks,

**Ryan Cherry**  
**Chief of Staff**  
**Governor Joe Lombardo**  
101 North Carson Street  
Carson City, NV 89701  
[rcherry@gov.nv.gov](mailto:rcherry@gov.nv.gov)

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**From:** Ryan Cherry  
**Sent:** Thursday, June 20, 2024 5:12 PM  
**To:** Marcie Ryba <mryba@dids.nv.gov>  
**Cc:** Budd Milazzo <bmilazzo@finance.nv.gov>  
**Subject:** Re: Follow up on Post Conviction Duplicates



## Laura FitzSimmons

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**From:** Ryan Cherry <rcherry@gov.nv.gov>  
**Sent:** Thursday, September 5, 2024 12:39 PM  
**To:** Laura FitzSimmons  
**Subject:** Follow-up 9/5/24 meeting

Laura,

Thanks again for coming in this morning. Below is a copy of the email from Peter to Jim recapping their conversation on Friday, August 30<sup>th</sup>.

Per your request, we're working on the summary outlining our understanding of the governor's office's oversight of DIDS. Pending our anticipated production of that summary to you in the near future, I want to make clear that we're confident the scope of the issues addressed by Jim with Peter last Friday fall within the areas that will be outlined in the summary of the governor's office's oversight in that those issues are related to finance and the *Davis* decision.

**Ryan Cherry**  
**Chief of Staff**  
**Governor Joe Lombardo**  
101 North Carson Street  
Carson City, NV 89701  
[rcherry@gov.nv.gov](mailto:rcherry@gov.nv.gov)

**From:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>  
**Sent:** Tuesday, September 3, 2024 12:39 PM  
**To:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>  
**Cc:** Nathan Hastings <[hastings@gov.nv.gov](mailto:hastings@gov.nv.gov)>; Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>; Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>  
**Subject:** Friday Meeting Recap

Hi Jim,

I just wanted to send an email confirming our (the Department's) action following our Friday meeting.

With Marcie on admin leave, the board may not solicit or interview for her position's replacement until after such time as the position becomes vacant. I'll keep the board within its limitations on the scope of agenda items regarding that issue until appropriate.

As you requested, I'll get to work immediately on ensuring that each county has an Indigent Defense plan that comports with the workload requirements; that the post-conviction approval/payment process is revised to conform to appropriate roles for the NSPD/DIDS, including ensuring the forms accurately reflect the types of

requests being made; and I'll have our team review the FY24 county fiscal reporting for errors and develop some best practices/guidelines for review to ensure that appropriate amounts are being collected by the NSPD and paid by/to the Counties, as appropriate.

As requested, we will also conduct a review of the AB518 Section 7.3 funding to determine the accuracy of reported weekend bail hearings and days attorneys reported as being on "stand-by" for hearings. The counties are required to provide their annual reports of the funding to LCB and us on October 1, so we will be using that information, along with our reported data, to conduct this review.

We will proceed with the contract for a part time attorney to cover the remaining workload in White Pine County.

Please let me know if there's anything I've left out or if you have any questions or concerns about the above (or anything else).

If I need any assistance, I'll reach out to Andrew and Dylan.

I very much appreciate the information and direction provided - I'll be in contact with you/your office as needed.

Best regards,



**Peter P. Handy (he/him)**

Deputy Director

Acting Executive Director

Department of Indigent Defense Services

896 W. Nye Ln, Suite 202

Carson City, NV 89703

(775) 687-8490 (office)

(775) 687-8495 (direct)

[p.handy@dids.nv.gov](mailto:p.handy@dids.nv.gov)

## Marcie Ryba

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**From:** Patricia D. Cafferata  
**Sent:** Thursday, August 29, 2024 3:18 PM  
**To:** Marcie Ryba  
**Cc:** Brenda Roberts; Peter P. Handy; Derrick S. Penney; Jim Hoffmann; William Simpson; Melanie A. LaChapelle; Kristi Valencia  
**Subject:** RE: transition

Marcie,

I don't believe I asked you to reassign my cases. I merely sent you a list of appearance dates in the next couple of weeks for your information.

I sent my resignation letter to the Governor on Saturday and as I understand it, he received it on Monday morning. I was advised on Monday that the Governor was not accepting my resignation.

I met with Jim Wells in his office yesterday afternoon. He told me he would let me know the Governor's decision sometime this afternoon. As of this moment, I have not heard from Jim.

I will let you know when I know more.

Patty

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
Office: 775-684-1080  
Fax: 775-687-4993  
[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)

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**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Thursday, August 29, 2024 11:11 AM  
**To:** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>  
**Cc:** Brenda Roberts <B.Roberts@dids.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>  
**Subject:** RE: transition

Hello, Patty,

In the email below you are request direction on how your cases will be handled once you retire on September 6, 2024. In talking with you staff, it appears that you may not be retiring and your staff does not feel comfortable moving cases at this time.

I have not received direction from you other than to reassign the cases.

Please advise whether this is still the course or if you are intending not to retire? As requested, we are actively working to reassign the cases.

Thank you,  
Marcie

**From:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>  
**Sent:** Monday, August 26, 2024 1:52 PM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Cc:** Derrick S. Penney <[DerrickPenney@nspd.nv.gov](mailto:DerrickPenney@nspd.nv.gov)>; Jim Hoffman <[jhoffman@nspd.nv.gov](mailto:jhoffman@nspd.nv.gov)>; William Simpson <[WilliamSimpson@nspd.nv.gov](mailto:WilliamSimpson@nspd.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>; Krisi Taylor <[krisi.taylor@doe.nv.gov](mailto:krisi.taylor@doe.nv.gov)>  
**Subject:** transition

Marcie,

When I retire on September 6, 2024, the office needs direction on how to proceed. Who will be the acting Nevada State Public Defender and in charge of the office?

My 40+ cases cannot be divided up between Derrick Penney and Jim Hofman. Their case loads are high enough, so they cannot take on any new cases.

FYI,

I have an Order to Show Case Hearing in Justice Court on September 9, 2024 at 1:30 pm.

On September 23, 2024, I have three cases in district court on the Law and Motion calendar, two sentencings and one arraignment.

Of course, I have other cases, including some jury trials. The details are available in Legal Server.

Included in my cases is a murder case, Devontay Ayeock, who requires a lawyer qualified to represent him. Neither Jim nor Derrick are so qualified. Ayeock's jury trial is set in June 2025, and motions are due in May 2025.

Moreover, my Parole Board cases in Carson City need to be assigned to another lawyer. Neither Derrick nor Jim are located in Carson City. The process is quite short in receiving a case. My hearings are set on the second Wednesday of the month at 8:30 am., and the Board sends us the agenda and case files on the first Wednesday of the month.

My next Parole Board Hearing is set for Wednesday, September 11, 2024. We will receive the agenda and case files on Wednesday, September 4, 2024. Melanie will set up the phone calls to each client in the days before the Hearing (September 9-10) for the lawyer who will be replacing me. Please let her know as soon as you have hired/appointed a lawyer, so she can coordinate the appointment for the phone calls.

Everyone in the office is looking forward to hearing your directions and plans.

Patty

**Marcie Ryba**

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**From:** Patricia D. Cafferata  
**Sent:** Tuesday, August 27, 2024 9:59 AM  
**To:** Marcie Ryba  
**Cc:** Derrick S. Penney, Jim Hoffman, William Simpson, Melanie A. LaChapelle  
**Subject:** RE: transition

I have no intension to keep any cases or perform any private legal work.

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Monday, August 26, 2024 3:38 PM  
**To:** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>  
**Cc:** Derrick S. Penney <DerrickPenney@nspd.nv.gov>; Jim Hoffman <jhoffman@nspd.nv.gov>; William Simpson <WilliamSimpson@nspd.nv.gov>; Melanie A. LaChapelle <malachapelle@nspd.nv.gov>  
**Subject:** RE: transition

Hi, Patty,

You appear to have two post conviction cases:

Nevada State Public Defender	24-0104751	Griffin, Michael Otis		Open	04/01/2024
Nevada State Public Defender	23-0100006	Martin, Vernon	PC-24-02-WCD CR19-2924	Open	10/23/2023

Do you intend to keep these cases privately? If not, can you file a motion to withdraw on the basis that you are retiring?

It appears you have an evidentiary hearing on Vernon Martin on Thursday?

Thank you,  
Marcie

**From:** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>  
**Sent:** Monday, August 26, 2024 1:52 PM  
**To:** Marcie Ryba <mryba@dids.nv.gov>  
**Cc:** Derrick S. Penney <DerrickPenney@nspd.nv.gov>; Jim Hoffman <jhoffman@nspd.nv.gov>; William Simpson <WilliamSimpson@nspd.nv.gov>; Melanie A. LaChapelle <malachapelle@nspd.nv.gov>; Krisi Taylor <krisi.taylor@doe.nv.gov>  
**Subject:** transition

Marcie,

When I retire on September 6~~o~~ 2024, the office needs direction on how to proceed. Who will be the acting Nevada State Public Defender and in charge of the office?



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**FW: claims under NRS 7.145**

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**From** Marcie Ryba <mryba@dids.nv.gov>

**Date** Fri 8/23/2024 3:10 PM

**To** Cynthia Atanzio <catanzio@dids.nv.gov>; Laura FitzSimmons <Laura@fitzlamblaw.com>

Hello, Laura,

Patty has sent her resignation effective September 6. Please see below.

Thanks,  
Marcie

**From:** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>

**Sent:** Friday, August 23, 2024 2:56 PM

**To:** Marcie Ryba <mryba@dids.nv.gov>; Melanie A. LaChapelle <malachapelle@nspd.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>; Cynthia Atanzio <catanzio@dids.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>

**Subject:** RE: claims under NRS 7.145

Marcie,

Thanks for sending the description of the Legal Office Manager's duties. Melanie has been the office manager for some time now.

A couple of weeks ago your office sent Melanie some claims to be processed that your staff had been handling. She didn't receive a lot of training on the procedures.

Anytime I am responsible for approving claims against the state, I need to know what the procedure is. I have sent inquires and read the relevant NRS on these claims.

As I have tried to determine the correct procedure to make sure the state's treasury is protected, we have exchanged numerous emails on this process. You are the boss. I have no desire to "fight" about the process.

I think you need someone else to be responsible for this office, who will follow your requests without question.

I will be sending Governor Lombardo my resignation, effective September 6, 2024.

Patty Cafferata

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
Office: 775-684-1080  
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pdcafferata@nspd.nv.gov

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Marcie Ryba

**From:** Patricia D. Cafferata  
**Sent:** Friday, August 23, 2024 2:56 PM  
**To:** Marcie Ryba, Melanie A. LaChapelle, Peter P. Handy, Cynthia Atanzio, Brenda Roberts  
**Subject:** RE: claims under NRS 7.145

Marcie,

Thanks for sending the description of the Legal Office Manager's duties. Melanie has been the office manager for some time now.

A couple of weeks ago your office sent Melanie some claims to be processed that your staff had been handling. She didn't receive a lot of training on the procedures.

Anytime I am responsible for approving claims against the state, I need to know what the procedure is. I have sent inquires and read the relevant NRS on these claims.

As I have tried to determine the correct procedure to make sure the state's treasury is protected, we have exchanged numerous emails on this process. You are the boss. I have no desire to "fight" about the process.

I think you need someone else to be responsible for this office, who will follow your requests without question.

I will be sending Governor Lombardo my resignation, effective September 6, 2024.

Patty Cafferata

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
Office: 775-684-1080  
Fax: 775-687-4993  
pdcafferata@nspd.nv.gov

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**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Friday, August 23, 2024 1:50 PM  
**To:** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>, Melanie A. LaChapelle <malachapelle@nspd.nv.gov>, Peter P. Handy <P.Handy@dids.nv.gov>; Cynthia Atanzio <catanzio@dids.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>  
**Subject:** RE: claims under NRS 7.145

Hello,

Processing these bills was a duty of the Legal Office Manager.

Here is the general explanation of those duties: **Legal Office Manager.** Under direction, incumbents are responsible for all office services of a legal office. Assignments vary considerably and require the selection of different and often unrelated processes or procedures, depending upon highly variable circumstances of individual cases or situations. The incumbent must interpret and apply information to specific situations and problems for which there may be no clear-cut procedures, guidelines or precedent. Solutions to problems frequently require independent research, factual comparisons, and the examination of detailed information. Oversee the overall operation of one or more legal offices; manage support staff which must include a Supervising Legal Secretary; manage and perform budget and accounts maintenance activities including accounts payable and receivable, budget preparation and monitoring; develop and implement standard operational procedures; and purchase office equipment and supplies. Provide administrative support to professional staff including acting as an executive assistant; overseeing special projects; gathering information and preparing program related reports and statistics, and performing legal secretarial duties as assigned.

The information on checking the cases was to assist you. It is not a requirement for processing. You questioned whether they were actually habeas appeals that Clark and Washoe were sending to you. I was merely showing you a way to find whether they were in fact habeas appeals when you were questioning them.

Thank you,  
Marcie

**From:** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>  
**Sent:** Friday, August 23, 2024 12:21 PM  
**To:** Marcie Ryba <mryba@dids.nv.gov>; Melanie A. LaChapelle <malachapelle@nspd.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>; Cynthia Atanzio <catanzio@dids.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>  
**Subject:** RE: claims under NRS 7.145

Marcie,

When you asked us to process claims, this procedure of checking the cases on the NSC website was not explained to us as a requirement for processing, nor were we told about the 5-day deadline. Although we were given claims to process on August 13 and before that we just learned of these procedures today.

If we are expected to process claims in the future, we will need a description of the approval process in writing. Obviously, the informal discussion that occurred between our staffs was incomplete.

However, the four claims in dispute are moot because as I understand it Cindy following your procedures processed these claims.

As previously mentioned, until we have additional staff, we cannot process these claims.

Patty

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
Office: 775-684-1080  
Fax: 775-687-4993  
pdcafferata@nspdmv.gov

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**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Friday, August 23, 2024 11:16 AM  
**To:** Patricia D. Cafferata <pdcafferata@nspgd.nv.gov>; Melanie A. LaChapelle <malachapelle@nspd.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>; Cynthia Atanzio <catanzio@dids.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>  
**Subject:** RE: claims under NRS 7.145

Did you look at the Supreme Court website to see if they were in fact Habeas Appeals or not before bringing this to our attention?

**From:** Patricia D. Cafferata <pdcafferata@nspgd.nv.gov>  
**Sent:** Friday, August 23, 2024 11:14 AM  
**To:** Marcie Ryba <mryba@dids.nv.gov>; Melanie A. LaChapelle <malachapelle@nspd.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>; Cynthia Atanzio <catanzio@dids.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>  
**Subject:** RE: claims under NRS 7.145

Marcie,

I expected the claims to be limited to those to be paid by the state, and not to include claims that are the county's responsibility.

**NRS 7.155 Payment of compensation and expenses from county treasury or money appropriated to State Public Defender.** Except as otherwise provided in NRS 180.008, the compensation and expenses of an attorney appointed to represent a defendant must be paid from the county treasury *unless the proceedings are based upon a postconviction petition for habeas corpus challenging a judgment of conviction or sentence*, in which case the compensation and expenses must be paid from money appropriated to the Office of State Public Defender, but after the appropriation for such expenses is exhausted, money must be allocated to the Office of

State Public Defender from the reserve for statutory contingency account for the payment of such compensation and expenses.

The last four claims you sent us included claims for appeals and the form was marked for full payment by the State and approved by Susan Bush.

I am questioning whether the State is being asked to approve to pay legal expenses that are properly the counties' responsibilities.

Patty

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
Office: 775-684-1080  
Fax: 775-687-4993  
[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)

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**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Friday, August 23, 2024 10:22 AM  
**To:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>; Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Cynthia Atanzio <[catanzio@dids.nv.gov](mailto:catanzio@dids.nv.gov)>; Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>  
**Subject:** RE: claims under NRS 7.145

Hi, Patty,

I don't know how much clearer the information could be. What is missing? You are questioning whether the bills are validly being sent from the counties?

**From:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>  
**Sent:** Friday, August 23, 2024 9:58 AM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>; Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Cynthia Atanzio <[catanzio@dids.nv.gov](mailto:catanzio@dids.nv.gov)>; Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>  
**Subject:** RE: claims under NRS 7.145

Marcie,

Melanie just told me she already returned these claims to Cindy. Apparently, Cindy approved and sent the claims to ASD.

Please hold off sending us any new claims until we have more staff and a clearer understanding of whether the State or county is responsible for paying these claims under NRS 7.155.

Patty

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
Office: 775-684-1080  
Fax: 775-687-4993  
[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)

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**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Friday, August 23, 2024 8:39 AM  
**To:** Patricia D. Cafferata <[pdcafferata@nspdmv.gov](mailto:pdcafferata@nspdmv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>; Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Cynthia Atanzio <[catanzio@dids.nv.gov](mailto:catanzio@dids.nv.gov)>; Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>  
**Subject:** RE: claims under NRS 7.145  
**Importance:** High

Again, I need to emphasis that if it is a bill for a post-conviction writ of habeas corpus or a bill for an appeal of a post-conviction writ of habeas corpus, they are appropriate to be processed.

As you are aware, we have a goal to process these completely within 30 days of receipt. But remember, after it is process by NSPD, it still needs to go to ASD.

Please let us know if you have bills that you will be unable to process within 5 business days.

Marcie

**From:** Marcie Ryba  
**Sent:** Friday, August 23, 2024 8:26 AM  
**To:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>; Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Cynthia Atanzio <[catanzio@dids.nv.gov](mailto:catanzio@dids.nv.gov)>; Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>  
**Subject:** RE: claims under NRS 7.145

Have you received claims for appeals of the trial case or are you receiving appeals of the habeas claim?

Please advise

**From:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>  
**Sent:** Thursday, August 22, 2024 5:01 PM

To: Marcie Ryba <mryba@dids.nv.gov>, Melanie A. LaChapelle <malachapelle@nspd.nv.gov>  
Subject: RE: claims under NRS 7.145

Marcie,

When we have direction from DIDS on how to process the mixed appeal/habeas claims we will process them.

Patty

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
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Fax: 775-687-4993  
[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)

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**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Wednesday, August 21, 2024 10:56 AM  
**To:** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>; Melanie A. LaChapelle <malachapelle@nspd.nv.gov>  
**Subject:** RE: claims under NRS 7.145

What time next Wednesday?

**From:** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>  
**Sent:** Wednesday, August 21, 2024 10:49 AM  
**To:** Marcie Ryba <mryba@dids.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>; Cynthia Atanzio <catanzio@dids.nv.gov>; Jaime Hamtak <jhamtak@dids.nv.gov>; Amy L. Stephenson <astephenson@finance.nv.gov>; Daniel Marlow <dmarlow@admin.nv.gov>; Jim Wells <jimwells@gov.nv.gov>  
**Cc:** Melanie A. LaChapelle <malachapelle@nspd.nv.gov>  
**Subject:** RE: claims under NRS 7.145

Tomorrow morning we can talk or next Wednesday.

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
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**From:** Marcie Ryba <mryba@dids.nv.gov>

**Sent:** Wednesday, August 21, 2024 10:37 AM

**To:** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>; Cynthia Atanzio <catanzio@dids.nv.gov>; Jaime Hamtak <jhamtak@dids.nv.gov>; Amy L. Stephenson <astephenson@finance.nv.gov>; Daniel Marlow <dmarlow@admin.nv.gov>; Jim Wells <jimwells@gov.nv.gov>

**Cc:** Melanie A. LaChapelle <malachapelle@nspd.nv.gov>

**Subject:** RE: claims under NRS 7.145

Hi, Patty,

It seems like we need to have a meeting to discuss this issue. Our concern is that these are processed within the 30 days of receipt.

When do you have availability to meet?

Thank you,  
Marcie

**From:** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>

**Sent:** Wednesday, August 21, 2024 10:20 AM

**To:** Marcie Ryba <mryba@dids.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>; Cynthia Atanzio <catanzio@dids.nv.gov>; Jaime Hamtak <jhamtak@dids.nv.gov>; Amy L. Stephenson <astephenson@finance.nv.gov>; Daniel Marlow <dmarlow@admin.nv.gov>; Jim Wells <jimwells@gov.nv.gov>

**Cc:** Melanie A. LaChapelle <malachapelle@nspd.nv.gov>

**Subject:** claims under NRS 7.145

Marcie,

I am trying to understand the process of approving appointed attorney's compensation and expenses. You recommended I read the legislative history of NRS 7.145. I am glad I finally did, so I am clear on NSPD's role in processing these claims.

NRS 7.145.I(a) contains two procedures for submitting claims. In counties with a population under 100,000, a claim is submitted to the Department (DIDS) or its designee. I have not received a document designating NSPD as the entity to approve claims. I understand there was some sort of informal discussion between your staff and Melanie that we would be approving/processing these claims. Please send us a formal appointing document.

NRS 7.145.1(a) also includes a requirement that the claim must comply with the plan of county for provision of indigent defense services. If we are to process these claims, we will need a copy of the relevant county plan before we can process a claim.

NRS 7.145.1(b) covers counties with a population over 100,000. DIDS is not mentioned in this subsection, the statute merely states the process must comply with the county's plan for the provision of indigent defense services.

NRS 7.145.2(b) provides that claims must be reviewed . . . and paid in compliance with the county's plan for indigent services.

According to NRS 7.155, appointed defenders are paid from their respective county's treasury except for postconviction petitions for habeas corpus challenging a judgment of conviction. In only these cases, the compensation is paid from the money appropriated to the office of NSPD for these services. If these appropriations are exhausted, the claim is paid from the state reserve statutory contingency account.

Recently Melaine was asked by your staff to process four claims, three were from Clark County and one from Washoe County. According to NRS 7.145.1(b) those claims should have been approved by their respective counties, not by DIDS or NSPD. One of these claims was a mixture of postconviction and an appeal. If I understand NRS 7.155 correctly the legal services for an appeal are paid by county funds and only the postconviction services are paid for from NSPD budget.

If NSPD is designated by DIDS to process the claims for counties with populations under 100,000, please send us a written appointment. When DIDS sends us a claim from a rural county, please send us a copy of their plan for indigent services, so we can make sure the claim complies with the county's plan.

Clark and Washoe counties should be approving their claims. I suspect that if Clark and Washoe processed their claims, claims will be paid from their county treasuries and in a more timely manner than they have been. I don't know how DIDS approved and paid these claims. The state budget will be less impacted, if DIDS paid these claims from state funds.

If you disagree with my analysis, please let me know.

Again, sorry this took me so long to review the relevant statutes.

Patty

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1



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**Cc:** Melanie A. LaChapelle <malachapelle@nspd.nv.gov>  
**Subject:** RE: claims under NRS 7.145

Hi, Patty,

It seems like we need to have a meeting to discuss this issue. Our concern is that these are processed within the 30 days of receipt.

When do you have availability to meet?

Thank you,  
Marcie

**From:** Patricia D. Caffemata <pdcafferata@nspd.nv.gov>  
**Sent:** Wednesday, August 21, 2024 10:20 AM  
**To:** Marcie Ryba <mryba@dids.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>; Cynthia Atanzio <catanzio@dids.nv.gov>; Jaime Hamtak <jhamtak@dids.nv.gov>; Amy L. Stephenson <astephenon@finance.nv.gov>; Daniel Marlow <dmarlow@admin.nv.gov>; Jim Wells <jimwells@gov.nv.gov>  
**Cc:** Melanie A. LaChapelle <malachapelle@nspd.nv.gov>  
**Subject:** claims under NRS 7.145

Marcie,

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... requirement that the claim must comply with the plan of county  
... provision of indigent defense services. If we are to process these claims, we will need a copy  
of the relevant county plan before we can process a claim.

NRS 7.145.1(b) covers counties with a population over 100,000. DIDS is not mentioned in this  
subsection, the statute merely states the process must comply with the county's plan for the  
provision of indigent defense services.

NRS 7.145.2(b) provides that claims must be reviewed ... and paid in compliance with the  
county's plan for indigent services.

According to NRS 7.155, appointed defenders are paid from their respective county's treasury,  
except for postconviction petitions for habeas corpus challenging a judgment of conviction. In  
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Clark and Washoe counties should be approving their claims. I suspect that if Clark and  
Washoe processed their claims, claims will be paid from their county treasuries and in a more  
timely manner than they have been. I don't know how DIDS approved and paid these claims.  
The state budget will be less impacted, if DIDS paid these claims from state funds.

If you disagree with my analysis, please let me know.

Again, sorry this took me so long to review the relevant statutes.

Patty

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1

**Marcie Ryba**

---

**From:** Patricia D. Cafferata  
**Sent:** Wednesday, August 21, 2024 11:43 AM  
**To:** Marcie Ryba; Melanie A. LaChapelle  
**Subject:** RE: claims under NRS 7.145

10 am on Wednesday, August 28.

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
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Carson City, Nevada 89701  
Office: 775-684-1080  
Fax: 775-687-4993  
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**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Wednesday, August 21, 2024 10:56 AM  
**To:** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>; Melanie A. LaChapelle <malachapelle@nspd.nv.gov>  
**Subject:** RE: claims under NRS 7.145

What time next Wednesday?

**From:** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>  
**Sent:** Wednesday, August 21, 2024 10:49 AM  
**To:** Marcie Ryba <mryba@dids.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>; Cynthia Atanzio <catanzio@dids.nv.gov>; Jaime Hamtak <jhamtak@dids.nv.gov>; Amy L. Stephenson <astephenson@finance.nv.gov>; Daniel Marlow <dmarlow@admin.nv.gov>; Jim Wells <jimwells@gov.nv.gov>  
**Cc:** Melanie A. LaChapelle <malachapelle@nspd.nv.gov>  
**Subject:** RE: claims under NRS 7.145

Tomorrow morning we can talk or next Wednesday.

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Marcie Ryba

From: Patricia D. Cafferata  
Sent: Thursday, August 22, 2024 5:57 PM  
To: Marcie Ryba, Melanie A. LaChapelle, Jaime Hamtak  
Cc: Peter P. Handy  
Subject: RE: Vacant Positions

Marcie,

I am responding to your emails in the order they were received.

Tomorrow we are interviewing candidates for legal secretary in Carson. Hopefully, we will be able to offer one of the candidates a position beginning the first or second week of September. Please confirm we have the money to make this offer.

If we have funding to hire an Elko lawyer to handle the juvenile cases, please extend the offer to him, and let me know when he can start. Once you have the contract in place, please have David Loreman send his resume to me.

I repeat I am not interested in Kirsty Pickering. Since I have been going there, she has never personally appeared in court in Ely. All her appearances are via zoom. Since the NSPD staff must appear in person on most hearings, I don't believe it is fair to hire a lawyer who isn't required to appear in person.

Next email:

One more item,

The monitor observed a dependency action where the NSPD was appointed in white pine. Is the NSPD still accepting civil cases? If so, please stop. Your current staff has too many indigent defense cases to take on this workload.

Please let me know your plan.

I believe Jim Wells, in one of his past emails, stated we should not take civil cases. We have a few of them. As you know, petitions for writs of habeas corpus are civil, not criminal matters. These petitions are one of the legal procedures a client has to appeal their decision in his/her case. Since these petitions are one of our statutory duties, I don't think we should withdraw or decline appointment on these cases. However, if you decide we shouldn't take these cases or withdraw from the ones we have, please let me know.

As to NRS432B cases, we have a couple of cases, I believe. They are related to our clients' criminal cases. In these situations, our client is charged with a crime and also is in a custody dispute or they are a child/ren are in need of protection case. A few times, the court appointed

one of our lawyer to such a case. The purpose of the appointment is so they are aware of what is happening in the NRS 432B case, but not really to represent our client. The DiA has all the information about the client, their personal/family disputes and notice of any hearing, while our client has little or no information or notice of the proceedings.

Recently, I represented a juvenile in his "criminal" matter. The State was trying to revoke his foster parent's rights. (I believe the allegations were our client was molested by the "father"). I was not aware of the 432B case until his new guardian called me about his case. My client was upset because the foster parents kept appearing in the 432B case and calling him a liar. He didn't want them at his juvenile hearing to do the same. Because I have this new information, I was able to exclude the parents from the juvenile hearing.

If you want us to withdraw from the two 432B cases, please let me know... then, of course, it will be up to the Court to let us withdraw. As you know, the Court has declined to let us withdraw from any case.

Please advise how you wish us to proceed in these civil matters in the future.

Out of time now, I will answer your other emails tomorrow.

Patty

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
Office: 775-684-1080  
Fax: 775-687-4993  
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**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Thursday, August 22, 2024 10:42 AM  
**To:** Malanié A. LaChapelle <malachapelle@nspd.nv.gov>; Jaime Hamtak <jhamtak@dids.nv.gov>; Patricia D. Cafferata <pdcafferata@nspd.nv.gov>  
**Cc:** Peter P. Handy <P.Handy@dids.nv.gov>  
**Subject:** FW: Vacant Positions

Hello,

7  
email from ASD regarding vacant positions. Please see below. They are requesting justification for positions that have been vacant for 12 months if we wish to request the position not be eliminated.

Please take into consideration the email from Jim Wells (attached) where he states:

*I am fine with the proposals to fill positions in the NSPD as follows (total of 9 FTE):*

*1 State Public Defender (filled)*

*2 Supervising Public Defenders (filled)*

*2 Deputy Public Defenders (vacant)*

*1 Investigator (filled)*

*1 Legal Office Manager (filled)*

*2 Legal Secretaries (1 filled, 1 vacant)*

*The remaining FTE in this budget should remain vacant for Fiscal Year 2025.*

It sounds as if the remaining positions should be eliminated. Please let me know if you disagree.

For the positions that are vacant, that Jim Wells has agreed to be open, we need to fill out the justification.

Will the Legal Secretary Position be filled prior to 1 September?

Finally, in the same email, Jim supports the NSPD entering into a contract with an attorney for 800 hours. As he says:

*The second part-time contract attorney not to exceed the 800 hours for \$137,600 can move forward. A work program will likely be necessary to move authority to category 04 to cover these additional costs. There might be time to get this on the October IFC agenda or it can go to December.*

Patty asked a question of whether we have the funding for this. Jim Wells believes the funding is there and has approved it, so lets move forward with the contract. We have prepared a work program to move funds from Category 1 (personnel) to Category 4 (operating) and we expect to be on the October IFC. So we just need to get into that contract. The names i mentioned were David Loreman (he told me he had special training in Juvenile, but he is out of Elko – here is his contact: [dloremianesq@frontiernet.net](mailto:dloremianesq@frontiernet.net) – he does have a plane, so he may be willing to travel to Ely) and Kirsty Pickering.

We could try to get names of individuals from Clark County, if you would like. But do you have the bandwidth to enter this contract and contact the individuals or do you want us to do it? *Please advise ASAP.*

Thank you.

Marcie

**From:** Daniel Marlow <[dmarlow@admin.nv.gov](mailto:dmarlow@admin.nv.gov)>

**Sent:** Wednesday, August 21, 2024 6:21 PM

**To:** Marcie Ryba <[mryba@d.ds.nv.gov](mailto:mryba@d.ds.nv.gov)>

**Cc:** Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>

**Subject:** Vacant Positions

Marcie – I reviewed the HRDW, and it appears you may have a position(s) that has been (or will shortly be) vacant for 12 months on 1 September. NRS 353.210 requires justification for positions that have been vacant for 12 months if you wish to request the position to not be eliminated. Please Prepare the attached documentation and return to @Donald Carlson for inclusion in the budget.

R/A	PCN			
1499	0005	VACANT,	02.153	LEGAL SECRETARY 2
1499	0007	VACANT,	U4005	SPVG PUB DEFENDR-TRIAL
1499	0008	VACANT,	U3907	DEP PUBLIC DEFENDER (EA)
1499	0017	VACANT,	U3922	DEP PUBLIC DEFENDER-APPELL(EA)
1499	0018	VACANT,	U3607	INVESTIGATOR (EA)
1499	0036	VACANT,	U3607	INVESTIGATOR (EA)
1499	0037	VACANT,	U3907	DEP PUBLIC DEFENDER (EA)
1499	0040	VACANT,	02.153	LEGAL SECRETARY 2
1499	0041	VACANT,	U3907	DEP PUBLIC DEFENDER (EA)

Eff Date	Yrs Mth Dys
07/01/2023	01 02 01
07/01/2023	01 02 01
07/01/2023	01 02 01
07/01/2023	01 02 01
07/01/2023	01 02 01
07/01/2023	01 02 01
07/01/2023	01 02 01
07/01/2023	01 02 01
07/01/2023	01 02 01

Daniel Marlow | Administrator  
 (775) 531-3150 |  Chat or Call me in Teams  
[View my calendar](#)



Marcie Ryba

---

**From:** Patricia D. Cafferata  
**Sent:** Wednesday, August 21, 2024 5:15 PM  
**To:** Marcie Ryba, Melanie A. LaChapelle  
**Cc:** David Schieck; Peter P. Handy; eve.hanan  
**Subject:** RE: Davis v. State 170C02271B: 13th Report of the Monitor

Marcie,

I am trying to catch up on administrative matters.

I read the 13<sup>th</sup> Report of the Monitor, Davis v. State, Case No. 170C002271B, August 19, 2024.

You asked for my feedback and about the contract with an attorney for 800 hours in White Pine. I have no information on this, except that you told me you were talking with a lawyer from Elko who specializes in juvenile law, who was interested in the contract. I said I was interested if there was money to pay for the attorney's services. If you mentioned a lawyer's name, I don't remember it.

As to the Report: I see the deadline for compliance with *Davis* is November 2, 2024.

On page 6, there is a comment the Department (DIDS) should document remote practices of the courts and set standards for which hearings require a defendant to appear in person. The Nevada Supreme Court issued an Order/s on remote and in person appearances before and after COVID.

There are numerous references to providing Westlaw free to rural public defenders. I hope that applies to our office in White Pine, so we don't have to budget for it.

My comments are focused on White Pine, except for the Douglas and Lyon county contracts.

On page 17, social workers are mentioned. We were contacted by one, but have not met with her.

White Pine does have a Muni Court and we bill the City separately for our services.

On page 20, the paragraphs on White Pine are mostly accurate. However, the comment that the recent resignation of a lawyer left only occasional assistance from Jim Hoffman and me to assist is not accurate. The attorney who resigned had worked of NSPD less than two months and had a light caseload (maybe 20 cases). Jim and I regularly appeared not occasionally for our clients. After Jane Eberhardy began taking cases, Jim and I no longer take new cases. Currently, we regularly appear in person and remotely with our clients.

On page 20 in the footnote, the statement is "NSPD contracts with private attorneys, both for complex litigation and, now for first-line representation in White Pine County." I am aware of only one contract (with Eberhardy) and nowhere in the contract does it mention complex litigation.

In Appendix A, Revised Memorandum for Work Program #C067456, the memo and attachments are a little confusing. Appendix B, the Douglas County contract has a term listed - July 1, 2024, to June 30, 2025. Appendix C is the Lyon County contract with a start date of July 1, 2024 with no end date. Appendix D, the Oversight Protocol refers to Exhibit B and C. Are these the same as Appendix B and C? The final attachments are Appendix E and F. I may have missed the reference to these attachments in the memo, but I didn't see them.

My comments. Sorry it took me so long to get back to you.

Patty

Patricia D. Cafferata, Esq.  
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514 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
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**From:** Patricia D. Cafferata  
**Sent:** Tuesday, August 20, 2024 11:54 AM  
**To:** Marcie Ryba <mryba@dids.nv.gov>; Melanie A. LaChapelle <malachapelle@nspd.nv.gov>  
**Cc:** David Schieck <dkschieck@dids.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>  
**Subject:** RE: Davis v. State 170C02271B: 13th Report of the Monitor

Marcie,

I apologize I don't have time to immediately reply to all your emails. I have a couple of legal deadlines I must comply with this week.

When I have time, I will respond to you.

Patty

Patricia D. Cafferata, Esq.  
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511 E. Robinson Street, Suite 1  
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Fax 775 687-4993  
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**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Tuesday, August 20, 2024 11:29 AM  
**To:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>  
**Cc:** David Schieck <[dvschieck@dids.nv.gov](mailto:dvschieck@dids.nv.gov)>; Peter P. Handy <[P\\_Handy@dids.nv.gov](mailto:P_Handy@dids.nv.gov)>  
**Subject:** FW: Davis v. State 170C02271B: 13th Report of the Monitor

Hi, Patty,

Wanted to share the most recent monitor report. She does discuss White Pine County concerns. I would love your feedback.

Also, any movement on the contract with an attorney for 800 hours in White Pine? I am hoping to update the Board that there is forward movement on that. Our next meeting is Thursday at 1 pm.

Thanks,  
Marcie

**From:** Eve Hanan <[eve.hanan@unlv.edu](mailto:eve.hanan@unlv.edu)>  
**Sent:** Monday, August 19, 2024 8:39 PM  
**To:** FRANNY FORSMAN <[f.forsman@cox.net](mailto:f.forsman@cox.net)>; Cowan, Matt <[mcowan@omm.com](mailto:mcowan@omm.com)>; Emma Andersson <[eandersson@aclu.org](mailto:eandersson@aclu.org)>; Jeffrey M. Conner <[JConner@az.nv.gov](mailto:JConner@az.nv.gov)>; Craig A. Newby <[CNewby@az.nv.gov](mailto:CNewby@az.nv.gov)>  
**Cc:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>; Laura FitzSimmons <[laura@fitzlaw.com](mailto:laura@fitzlaw.com)>; Tania Gonzalez Contreras <[tgonzalezcontreras@carson.org](mailto:tgonzalezcontreras@carson.org)>; johnsc32 <[johnsc32@unlv.nevada.edu](mailto:johnsc32@unlv.nevada.edu)>  
**Subject:** Davis v. State 170C02271B: 13th Report of the Monitor

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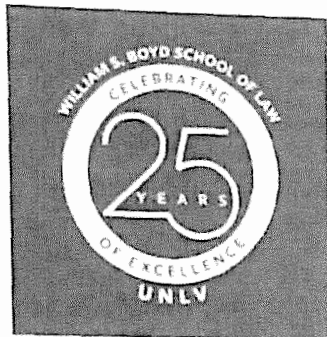
Dear All,

Attached please find my 13th Report and accompanying request for submission, both of which will be sent to the clerk's office via First Class Mail tomorrow morning

Please let me know if you have any questions.

Thanks for your patience

Eve



**M. Eve Hanan**

Associate Dean of Faculty Development and Research

**William S. Boyd School of Law**

University of Nevada, Las Vegas

[eve.hanan@unlv.edu](mailto:eve.hanan@unlv.edu)

Office 702-895-2368

[law.unlv.edu](http://law.unlv.edu)

To learn more about my scholarship, click [here](#).

To learn more about the Misdemeanor Clinic, click [here](#)

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**From:** [Patricia D. Cafferata](#)  
**To:** [Marcie Ryba](#); [Budd Milazzo](#); [Cynthia Atanazio](#); [Jaime Hamtak](#); [Amy L. Stephenson](#); [Daniel Marlow](#); [Jim Wells](#)  
**Cc:** [Melanie A. LaChapelle](#)  
**Subject:** RE: claims under NRS 7.145  
**Date:** Wednesday, August 21, 2024 11:42:08 AM

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Marcie,

To confirm the NSPD budget pays all the counties for legal services for postconviction habeas corpus petitions, correct? It appears that is NSPD's only role in these claims. Therefore, we don't need a copy of any county's indigent defense plans.

Currently, Melanie has 4 claims from Clark County. All have been approved by Susan Bush and none indicate if their representation has been terminated. They are as follows:

1. Thomas Ericsson. His claim contains hours for an appeal and time on a habeas petition. The form is marked to be paid by the state.
2. Karne Connolly. Claim is for expert fees. There is no place on the form that indicates the nature of the underlying case, so we don't know if this claim is for a habeas case. There is no indication of what funds are to be used.
3. Lucas Gaffney. Jerry Howard case. Almost all the entries on the claim are for an Appeal with a couple of references to Petitioner's Supplemental Petition. The form is marked to be paid by the state.
4. Lucas Gaffney. Seong Lee case. Almost all of the entries on the claim are for an Appeal with a couple of references to Petitioner's Supplemental Petition. The form is marked to be paid by the state.

How is Melanie to process these claims? Just approved the habeas claims? Is that how DIDS has been processing these mixed claims?

It would be helpful if the form was revised to include a place for the county's approval/signature and for NSPD's approval/signature. The expert form should contain what information on what kind of case it is, so we know if it is a habeas case or an appeal, and who is responsible to pay what part of the claim.

We look forward your directions on how to proceed.

Thanks,

Patty

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
Office: 775-684-1080  
Fax: 775-687-4993  
[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)

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---

**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Wednesday, August 21, 2024 10:31 AM  
**To:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Cynthia Atanazio <[catanazio@dids.nv.gov](mailto:catanazio@dids.nv.gov)>; Jaime Hamtak <[jhamtak@dids.nv.gov](mailto:jhamtak@dids.nv.gov)>; Amy L. Stephenson <[astephenson@finance.nv.gov](mailto:astephenson@finance.nv.gov)>; Daniel Marlow <[dmarlow@admin.nv.gov](mailto:dmarlow@admin.nv.gov)>; Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>  
**Cc:** Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>  
**Subject:** RE: claims under NRS 7.145

Clark and Washoe are approving their own claims. That is why there is a signature line for them.

What you are provided are post conviction. This includes post conviction appeals. All of these, including Clark and Washoe, are paid out of the account.

So I disagree with your analysis.

**From:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>  
**Sent:** Wednesday, August 21, 2024 10:20 AM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>; Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Cynthia Atanazio <[catanazio@dids.nv.gov](mailto:catanazio@dids.nv.gov)>; Jaime Hamtak <[jhamtak@dids.nv.gov](mailto:jhamtak@dids.nv.gov)>; Amy L. Stephenson <[astephenson@finance.nv.gov](mailto:astephenson@finance.nv.gov)>; Daniel Marlow <[dmarlow@admin.nv.gov](mailto:dmarlow@admin.nv.gov)>; Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>  
**Cc:** Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>  
**Subject:** claims under NRS 7.145

**From:** [Patricia D. Cafferata](#)  
**To:** [Marcie Ryba](#); [Budd Milazzo](#); [Cynthia Atanzio](#); [Jaime Hamtak](#); [Amy L. Stephenson](#); [Daniel Marlow](#); [Jim Wells](#)  
**Cc:** [Melanie A. LaChapelle](#)  
**Subject:** RE: claims under NRS 7.145  
**Date:** Wednesday, August 21, 2024 10:48:36 AM

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Tomorrow morning we can talk or next Wednesday.

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
Office: 775-684-1080  
Fax: 775-687-4993  
[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)

**NEVADA STATE PUBLIC DEFENDER COMMUNICATION**

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**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Wednesday, August 21, 2024 10:37 AM  
**To:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Cynthia Atanzio <[catanzio@dids.nv.gov](mailto:catanzio@dids.nv.gov)>; Jaime Hamtak <[jhamtak@dids.nv.gov](mailto:jhamtak@dids.nv.gov)>; Amy L. Stephenson <[astephenon@finance.nv.gov](mailto:astephenon@finance.nv.gov)>; Daniel Marlow <[dmarlow@admin.nv.gov](mailto:dmarlow@admin.nv.gov)>; Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>  
**Cc:** Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>  
**Subject:** RE: claims under NRS 7.145

Hi, Patty,

It seems like we need to have a meeting to discuss this issue. Our concern is that these are processed within the 30 days of receipt.

When do you have availability to meet?

Thank you,  
Marcie

**From:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>

**Sent:** Wednesday, August 21, 2024 10:20 AM

**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>; Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Cynthia Atanzio <[catanzio@dids.nv.gov](mailto:catanzio@dids.nv.gov)>; Jaime Hamtak <[jhamtak@dids.nv.gov](mailto:jhamtak@dids.nv.gov)>; Amy L. Stephenson <[astephenson@finance.nv.gov](mailto:astephenson@finance.nv.gov)>; Daniel Marlow <[dmarlow@admin.nv.gov](mailto:dmarlow@admin.nv.gov)>; Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>

**Cc:** Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>

**Subject:** claims under NRS 7.145

Marcie,

I am trying to understand the process of approving appointed attorney's compensation and expenses. You recommended I read the legislative history of NRS 7.145. I am glad I finally did, so I am clear on NSPD's role in processing these claims.

NRS 7.145.1(a) contains two procedures for submitting claims. In counties with a population under 100,000, a claim is submitted to the Department (DIDS) or its designee. I have not received a document designating NSPD as the entity to approve claims. I understand there was some sort of informal discussion between your staff and Melanie that we would be approving/processing these claims. Please send us a formal appointing document.

NRS 7.145.1(a) also includes a requirement that the claim must comply with the plan of county for provision of indigent defense services. If we are to process these claims, we will need a copy of the relevant county plan before we can process a claim.

NRS 7.145.1(b) covers counties with a population over 100,000. DIDS is not mentioned in this subsection, the statute merely states the process must comply with the county's plan for the provision of indigent defense services.

NRS 7.145.2(b) provides that claims must be reviewed . . . and paid in compliance with the county's plan for indigent services.

According to NRS 7.155, appointed defenders are paid from their respective county's treasury, except for postconviction petitions for habeas corpus challenging a judgment of conviction. In only those cases, the compensation is paid from the money appropriated to the office of NSPD for these services. If these appropriations are exhausted, the claim is paid from the state reserve



statutory contingency account.

Recently, Melaine was asked by your staff to process four claims, three were from Clark County and one from Washoe County. According to NRS 7.145.1(b) those claims should have been approved by their respective counties, not by DIDS or NSPD. One of these claims was a mixture of postconviction and an appeal. If I understand NRS 7.155 correctly, the legal services for an appeal are paid by county funds and only the postconviction services are paid for from NSPD budget.

If NSPD is designated by DIDS to process the claims for counties with populations under 100,000, please send us a written appointment. When DIDS sends us a claim from a rural county, please send us a copy of their plan for indigent services, so we can make sure the claim complies with the county's plan.

Clark and Washoe counties should be approving their claims. I suspect that if Clark and Washoe processed their claims, claims will be paid from their county treasuries and in a more timely manner than they have been. I don't know how DIDS approved and paid these claims.

The state budget will be less impacted, if DIDS paid these claims from state funds.

If you disagree with my analysis, please let me know.

Again, sorry this took me so long to review the relevant statutes.

Patty

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
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Carson City, Nevada 89701  
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Fax: 775-687-4993  
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**Laura FitzSimmons**

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**From:** Marcie Ryba  
**Sent:** Wednesday, August 28, 2024 11:00 AM  
**To:** Jim Wells  
**Cc:** Dylan K. Tedford;Andrew Coates;Budd Milazzo;Peter P. Handy;Donald Carlson  
**Subject:** RE: Request for Guidance (Davis Consent Judgment)  
**Attachments:** Monitor Report No. 13 Davis v. State 170C002271B.pdf

Hello, Mr. Wells,

I submitted the question below to Mr. Hastings, but he has directed it should be sent to you.

First, as you are aware, the consent judgment requires compliance with the workload study by November 2. The *Davis* court monitor has expressed concern that the State of Nevada will not comply with the workload by the timeline set forth in the consent judgment. The Department is hopeful that the counties will comply with the workload requirement by the deadline. We are working with the counties that are open to working with us. But the reality is that ultimately the state is responsible if the counties are not in compliance with the workload by the deadline.

As a backup plan, DIDS would propose a request to the IFC restricted reserve contingency funds that are set aside by AB518, Section 7 (2023) for workload compliance so that DIDS can enter into contracts with contract attorneys to cover our county workload shortages. The proposal would be to request funding for 10 contract attorneys to provide up to 1,393 hours of representation as needed throughout rural Nevada. The rate of pay would be \$172 an hour. Therefore, each contract is expected to be: \$239,596 (1392 x \$172). The total for 10 contracts would be: \$2,395,960.

ASD has started the work program and the GFO has allowed an extension. We are hoping to make the October IFC to bring the state into compliance (if the counties are unable to). DIDS would enter into up to 10 contracts to be set for BOE on October 2, that would be contingent on IFC approving the funding. DIDS would appear at IFC on October 20 for the request. If this were to fall into place, if counties are unable to fill the number of public defender positions required by the workload study, the state could step in with these 10 contract attorneys to provide coverage. In the end, the desire is to comply with the workload, as required by the consent judgment so that we can close *Davis*.

On an alternate note, the Nevada State Public Defender, Patricia Cafferata, has resigned effective September 6. The NSPD (via DIDS) is taking steps to enter into a contract with an attorney in Northern Nevada to cover the parole violation hearings that occur at the Parole Board in Carson City that Patty was historically covering. The expected cost will be not to exceed \$27,500 (\$172 x 160 hours). I hope that you are supportive of this contract.

I look forward to hearing from you on these issues. Let me know if you need additional information.

Thank you,

Marcie

**From:** Nathan Hastings <hastings@gov.nv.gov>  
**Sent:** Thursday, August 22, 2024 2:43 PM  
**To:** Marcie Ryba <mryba@dids.nv.gov>  
**Cc:** Dylan K. Tedford <dktedford@gov.nv.gov>; Andrew Coates <acoates@gov.nv.gov>; Jim Wells <jimwells@gov.nv.gov>  
**Subject:** RE: Request for Guidance (Davis Consent Judgment)

Marcie,  
As I believe you're aware, Jim is out of the office this week. Independent of the legal interpretation of Sec. 7(1)(b) of the bill, the decision of whether to proceed with your proposal is a budgetary decision that will fall under Jim's direction. I apologize for not getting to your email earlier, but a Monday proposal with a potential Wednesday deadline is almost always going to be quite challenging to process effectively. We will circle back with Jim early next week.  
Best,

**Nathan Hastings**  
**General Counsel**  
**Governor Joe Lombardo**  
101 North Carson Street  
Carson City, NV 89701  
775-684-5637  
[hastings@gov.nv.gov](mailto:hastings@gov.nv.gov)

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Tuesday, August 20, 2024 11:01 AM  
**To:** Nathan Hastings <hastings@gov.nv.gov>  
**Cc:** Budd Milazzo <bmilazzo@finance.nv.gov>; Jim Wells <jimwells@gov.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>; Dylan K. Tedford <dktedford@gov.nv.gov>; Andrew Coates <acoates@gov.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>  
**Subject:** RE: Request for Guidance (Davis Consent Judgment)

Good morning,

As a follow-up to yesterday's email, I wanted to include a copy of the most recent Monitor report (which was received last night at 8:39 pm).

On Page 16 of the Report, the Monitor discusses her concerns for workload compliance in Douglas, Churchill, Lyon, Nye and White Pine. Her concerns are that the counties may be contributing to the shortages of attorneys by being unwilling to set terms and compensation that will attract new attorneys, but it is the state, not the counties, that run the risk of violating both the Judgment and the Sixth Amendment. See p. 20.

Thank you,  
Marcie



**Marcie Ryba | Director**  
State of Nevada  
Department of Indigent Defense Services  
896 W Nye Ln, Suite 202  
Carson City NV 89703  
(775) 687-8493 (o)  
(775) 431-0527 (c)



Outlook

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**RE: claims under NRS 7.145**

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From Marcie Ryba </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F5B58839B2B045438BE54BF239A778C3-MARCIE RYBA>

Date Wed 8/21/2024 10:37 AM

To Patricia D. Cafferata <pdcafferata@nspd.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>; Cynthia Atanzio <catanzio@dids.nv.gov>; Jaime Hamtak <jhamtak@dids.nv.gov>; Amy L. Stephenson <astephenon@finance.nv.gov>; Daniel Marlow <dmarlow@admin.nv.gov>; Jim Wells <jimwells@gov.nv.gov>

Cc Melanie A. LaChapelle <malachapelle@nspd.nv.gov>

Hi, Patty,

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**Sent:** Wednesday, August 21, 2024 10:20 AM

**To:** Marcie Ryba <mryba@dids.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>; Cynthia Atanzio <catanzio@dids.nv.gov>; Jaime Hamtak <jhamtak@dids.nv.gov>; Amy L. Stephenson <astephenon@finance.nv.gov>; Daniel Marlow <dmarlow@admin.nv.gov>; Jim Wells <jimwells@gov.nv.gov>

**Cc:** Melanie A. LaChapelle <malachapelle@nspd.nv.gov>

**Subject:** claims under NRS 7.145

Marcie,

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The state budget will be less impacted, if DIDS paid these claims from state funds.

If you disagree with my analysis, please let me know.

Again, sorry this took me so long to review the relevant statutes.

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Fax: 775-687-4993



Outlook

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**RE: claims under NRS 7.145**

---

**From** Marcie Ryba </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F5B58839B2B045438BE54BF239A778C3-MARCIE RYBA>  
**Date** Wed 8/21/2024 10:30 AM  
**To** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>; Cynthia Atanzio <catanzio@dids.nv.gov>; Jaime Hamtak <jhamtak@dids.nv.gov>; Amy L. Stephenson <astephenon@finance.nv.gov>; Daniel Marlow <dmarlow@admin.nv.gov>; Jim Wells <jimwells@gov.nv.gov>  
**Cc** Melanie A. LaChapelle <malachapelle@nspd.nv.gov>

Clark and Washoe are approving their own claims. That is why there is a signature line for them.

What you are provided are post conviction. This includes post conviction appeals. All of these, including Clark and Washoe, are paid out of the account.

So I disagree with your analysis.

**From:** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>  
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Patty

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[dids.nv.gov](http://dids.nv.gov)

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**From:** Marcie Ryba

**Sent:** Monday, August 19, 2024 4:45 PM

**To:** Nathan Hastings <[hastings@gov.nv.gov](mailto:hastings@gov.nv.gov)>

**Cc:** Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>; Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>; Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>; Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>; Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>

**Subject:** Request for Guidance (Davis Consent Judgment)

Hello, Mr. Hastings,

I am hoping that I could schedule a meeting with you to discuss the *Davis* Stipulated Consent Judgment and a funding request I would like to submit.

As you are aware, the consent judgment requires compliance with the workload study by November 2. The *Davis* court monitor has expressed concern that the State of Nevada will not comply with the workload by the timeline set forth in the consent judgment. The Department is hopeful that the counties will comply with the workload requirement by the deadline. We are working with the counties that are open to working with us. But the reality is that ultimately the state is responsible if the counties are not in compliance with the workload by the deadline.

As a backup plan, DIDS would propose a request to the IFC restricted reserve contingency funds that are set aside by AB518, Section 7 (2023) for workload compliance so that the Nevada State Public Defender can enter into contracts with contract attorneys to cover our county workload shortages. The proposal would be to request funding for 10 contract attorneys to provide up to 1,393 hours of representation as needed throughout rural Nevada. The rate of pay would be \$172 an hour. Therefore, each contract is expected to be: \$239,596 (1392 x \$172). The total for 10 contracts would be: \$2,395,960. Attached is an email from LCB with the opinion that such contract funding can be requested by the Nevada State Public Defender from AB518, Section 7 funds.

If this funding proposal were to be approved, DIDS would take steps to prepare a work program for the October IFC. As a side note, the work program due date for the October IFC is August 21 (Wednesday). The NSPD would enter into up to 10 contracts to be set for BOE on October 2, that would be contingent on IFC approving the funding. DIDS would appear at IFC on October 20 for the request. If this were to fall into place, if counties are unable to fill the number of public defender positions required by the workload study, the state could step in with these 10 contract attorneys to provide coverage. In the end, the desire is to comply with the workload, as required by the consent judgment so that we can close *Davis*.

I am aware that GFO and ASD staff is very busy with budget duties and I was hoping to get your support before submitting the request, as ultimately this is a policy decision of which way to go.

I look forward to hearing from you. Let me know if you need additional information.

Marcie



**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

896 W Nye Ln, Suite 202

Carson City NV 89703

(775) 687-8493 (o)

(775) 431-0527 (c)

[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)

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## Laura FitzSimmons

---

**From:** Jim Wells  
**Sent:** Friday, August 16, 2024 8:40 AM  
**To:** Marcie Ryba  
**Cc:** Peter P. Handy;Brenda Roberts;Budd Milazzo;Donald Carlson;Nathan Hastings;Andrew Coates;Dylan K. Tedford;Patricia D. Cafferata;Melanie A. LaChapelle;Amy L. Stephenson  
**Subject:** RE: Follow up from White Pine

Hi Marcie,

I am fine with the proposals to fill positions in the NSPD as follows (total of 9 FTE):

- 1 State Public Defender (filled)
- 2 Supervising Public Defenders (filled)
- 2 Deputy Public Defenders (vacant)
- 1 Investigator (filled)
- 1 Legal Office Manager (filled)
- 2 Legal Secretaries (1 filled, 1 vacant)

The remaining FTE in this budget should remain vacant for Fiscal Year 2025.

The second part-time contract attorney not to exceed the 800 hours for \$137,600 can move forward. A work program will likely be necessary to move authority to category 04 to cover these additional costs. There might be time to get this on the October IFC agenda or it can go to December.

I am also okay with the requested travel reimbursements for staff of mileage at the personal convenience rate of 0.335 per mile and hotels with the employee responsible for their own meals. If possible, the NSPD should look at the use of Fleet Services for vehicles instead of reimbursing employees for the use of their cars. If NSPD can get a monthly assigned compact car, the cost would be about the same as mileage reimbursements for traveling every other week with less wear and tear on employees' cars. When possible, it would be appropriate for employees to carpool to Ely.

I did have one question on whether the NSPD, contractors or local public defenders are performing civil work. Recommendation 1 of the caseload study discussed reducing or eliminating civil work as an option to reduce caseloads. It appears to me from the report that civil work is outside the scope of necessary services being performed by the public defenders.

Based on the caseload study, there are 3.3 attorneys needed for White Pine County. Should you be able to fill the vacant public defender positions, the contract attorneys would no longer be needed. Even with the work programs moving personnel category 01 authority to the operations category 04 for the contracts, there should be sufficient authorization to cover the costs regardless of whether employees or contractors are used to fulfill the need for White Pine County.

Based on the current vacancies and some other calculations I shared with Budd regarding revenues, I don't see a current budget shortfall, so the request for \$684,863 is not approved at this time. I also do not agree that AB 518 section 7(b) funds can be used to cover a shortfall should one exist. There may need to be a supplemental appropriation included in the budget request for the NSPD to the 2025 legislature. We will need to monitor the budget as we move through the fiscal year.

Please keep me updated on the proposal to use different rates based on the severity of the crime being defended and the qualifications needed to provide defense.

Thanks,  
Jim

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Wednesday, August 7, 2024 5:10 PM  
**To:** Jim Wells <jimwells@gov.nv.gov>  
**Cc:** Peter P. Handy <P.Handy@dids.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>; Nathan Hastings <hastings@gov.nv.gov>; Andrew Coates <acoates@gov.nv.gov>; Dylan K. Tedford <dktedford@gov.nv.gov>; Patricia D. Cafferata <pdcafferata@nspd.nv.gov>; Melanie A. LaChapelle <malachapelle@nspd.nv.gov>  
**Subject:** FW: Follow up from White Pine  
**Importance:** High

Hello, Jim,

Thank you for your patience with me getting back to you. I wanted to ensure that we had all of the information you requested.

To prepare the projections, we began by working with the NSPD in realistically determining how many positions would be filled this fiscal year. The NEBS 130 reflects the expected personnel expenses for fiscal year 2025.

NSPD positions:

- There are 19 budgeted positions, 13 positions are vacant. Out of the 13 vacant positions, the NSPD plans to hire a Legal Secretary. And believes it can be filled quickly.
  - State Public Defender: budgeted for 1. This is filled.
  - Investigators: the NSPD is budgeted for 3 investigators, but only 1 is filled. The NSPD intends to keep the 2 investigator positions vacant.
  - Public Defender Deputy positions: budgeted for 6 public defender positions. All 6 are vacant. The NSPD desires to fill these positions, but has received 0 qualified applicants. The NSPD intends to have 4 of these positions remain vacant, but still intends to advertise for these 2 positions to attempt to fill them.
  - Supervising Public Defender Positions: budgeted for 4 positions. Two of these are filled. And two of these are vacant. The NSPD desires to fill these positions, but has received 0 qualified applicants. Therefore, the NSPD intends to keep these positions vacant for the rest of the year.
  - Legal Secretary 2: We are budgeted for four legal secretary 2. We have one filled. And we intend to hire a second shortly. The NSPD intends to leave 2 vacant.
  - Legal Office Manager: budgeted for 1. This is filled.

The NSPD has actively advertised for the Deputy Public Defender, Supervising Public Defender, and a Legal Secretary. It is expected the Legal Secretary will be filled shortly. The Public Defender positions will likely remain unfilled as the positions have been advertised for over a year with zero qualified applicants. These position projections are reflected in the NEBS130.

With the information from the NEBS 130, we have been able to create projections which are reflected in the NEBS 210. The NEBS 210 shows an expected shortfall of \$684,863. This shortfall includes:

- Funding for one Legal Secretary 2 position that is currently vacant, but is expected to be filled quickly.
- Funding for two public defender positions that are currently vacant that the NSPD is attempting to fill, but has been unable to fill because there are no applicants.

- This shortfall does not include the personnel expenses for the 10 vacant positions (4 deputy public defenders, 2 investigators, 2 legal secretaries, and 2 supervising public defenders) because the NSPD does not believe these will be filled this year.
- An additional \$25,203 to be added to Category 03 for in state travel. Please see the attached “projected travel expenses.” This estimate was prepared by the NSPD to allow for travel reimbursement for representation in indigent defense cases as discussed below.
- An additional \$447,000 in contracts:
  - As already approved by you, a contract for an attorney to cover 1,800 of the White Pine County workload, for a total expected cost of \$309,600.
  - A proposed second contract for up to \$137,600 (800 hours x \$172) based upon hours worked. As discussed below, the NSPD has a workload coverage shortfall of about 800 hours. The proposed contract would be for an attorney to cover juvenile cases which are currently scheduled for Friday and are creating a hardship with the NSPD in providing coverage.

To cover this expected shortfall of \$684,863, the Department proposes requesting such funds for workload compliance under AB518(2023). As you can see from the attachment “RE: AB 518,” LCB has confirmed that it appears allowable that BA 1499 (the Nevada State Public Defender) can request funding from AB 518 Sec. 7. (b) “The costs of the Department related to compliance with the Davis v. State (Nev. First Jud. Dist. Ct. Case No. 170C002271B (Aug. 11, 2020)) consent judgment;” for costs related to that budget account for compliance, such as the contract for the attorney requested in work program C67455.

We hope that we have your support to prepare a work program to request an appropriation of \$684,863 from the AB518, Section 7 funding for BA 1499 (NSPD) so that the Nevada State Public Defender can bring White Pine County into compliance with the workload. As a reminder, time is of the essence as White Pine County is a *Davis* county and workload compliance is required by November 1, 2024.

Onto the next issue where you recommend a pay rate commensurate with the attorney’s qualifications. This is a great idea and I will share it with our Board on Indigent Defense Services for further discussion. Thank you!

Finally, thank you for the time in reviewing this email. I look forward to your response.

Marcie



**Marcie Ryba | Director**  
 State of Nevada  
 Department of Indigent Defense Services  
 896 W Nye Ln, Suite 202  
 Carson City NV 89703  
 (775) 687-8493 (o)  
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**From:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>  
**Sent:** Tuesday, July 23, 2024 4:55 PM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>; Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>; Nathan Hastings <[hastings@gov.nv.gov](mailto:hastings@gov.nv.gov)>; Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>; Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>  
**Subject:** RE: Follow up from White Pine

Hi Marcie,

Unfortunately, I was not on a vacation, but the trip has put me a little behind so I apologize for not getting back sooner.

It looks from the first email that if we could find an attorney to cover juvenile cases (approximately 676 hours) it would essentially fulfill the requirements of the caseload study for White Pine (703 hours). I would need to see budget projections for revenues and expenses related to the in-house NSPD staff and the contractors before we move additional contract authorization that we may not have revenues to cover. But having a local attorney to cover juvenile cases on Fridays and reduce travel costs seems reasonable.

The same goes for any travel reimbursements. I need to see the projections and whether the budget has the ability to pay for them. If we do reimburse travel, I don't know that we should move to every week. I understand the judges prefer in person, but it appears from your email that requirement is currently creating delays on their calendars. They need to be willing to work with us on some of this, especially if we find a way to cover the juveniles on Fridays.

Lastly, the consent decree includes different attorney qualifications for misdemeanors and gross misdemeanors, category c-e felonies, non-capital a-b felonies and capital. However, we only have two rates – capital and non-capital. Has there been any discussion to set rates based on the qualifications of the attorneys needed for a given case? It seems to me that if an attorney is qualified to provide defense for a lower level case we could pay them commensurate with their qualifications.

Please get back to me with some of the projections needed to move forward on your other requests.

Thanks,  
Jim

**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Monday, July 8, 2024 2:33 PM  
**To:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>  
**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>; Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>; Nathan Hastings <[hastings@gov.nv.gov](mailto:hastings@gov.nv.gov)>; Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>; Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>  
**Subject:** RE: Follow up from White Pine

Hi, Jim

Happy Monday. I hope that you had a great Fourth of July!

I just wanted to circle back on the outstanding issues below.

First, I see that the transfer of \$309,600 from Personnel Services to the Operations category in the Public Defender budget has been scheduled for IFC on August 15. This is very exciting!

Second, it appears that we will still need coverage for about 800 hours of attorney work (according to the workload). Seeking approval for the NSPD to contract with a second attorney at an hourly rate of \$172 for up to 800 hours.

Finally, hoping you had an opportunity to ponder the request to reimburse the NSPD staff that is living in Las Vegas, Nevada for their travel to Ely, NV. I think that would be of great assistance to the NSPD until we can find attorneys that live in Ely, Nevada to take the workload.

Thanks again!  
Marcie



**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

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Carson City NV 89703

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**From:** Marcie Ryba

**Sent:** Thursday, June 27, 2024 6:56 PM

**To:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>

**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>; Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>; Nathan Hastings <[hastings@gov.nv.gov](mailto:hastings@gov.nv.gov)>; Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>; Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>

**Subject:** Follow up from White Pine

Hello, Jim,

I hope that you had a restful vacation!

I wanted to update you on my travels to White Pine County. This week, I had a scheduled meeting with Judge Dobrescu and Judge Fairman to discuss several issues in relation to the NSPD.

First, we discussed that the NSPD would be entering into a contract with Jane Eberhardy to support the workload of the NSPD. The contract is scheduled to begin July 1 wherein Jane Eberhardy agrees to perform 1,800 attorney hours or the equivalent of 1.3 Full-time equivalent attorneys. The judges are very supportive of

this contract and will work with the NSPD and DIDS to transfer a workload of cases to Jane on July 1 so that she can begin working immediately.

We have prepared a work program to move funding from BA1499, Category 01 to 04 to cover the cost of the contract. As a reminder it will be \$172 an hour for up to 1800 hours at not to exceed \$309,600. We thank you for this idea and the NSPD is very grateful for the assistance with workload coverage.

Second, I inquired whether the judges could condense their court calendar so that an attorney could come up for just the beginning of the week. As you likely recall, the issue was that Friday is juvenile court. I learned that the judiciary sets juvenile court on Friday because there is no school in White Pine County on that day. During the summer the court is willing to set juvenile cases on different days, but once summer ends, they will return to the Friday calendar for juvenile court cases.

One possible solution is to enter into a contract with an individual to cover the juvenile cases. The expected workload is White Pine County has on average 26 juvenile cases a year. Each case should take approximately 26 hours to cover. This would result in a coverage need of approximately 676 attorney hours.

Another interesting note is that with Derrick (the NSPD deputy) covering 1,392.6 hours and Jane (the new contractor) covering 1,800 hours, the White Pine County full-time equivalent attorney need decreases to 1,363.4 hours. There is an estimated allocation of appellate hours at 660.1 hours per year, which is covered by Jim and Patty at the NSPD and reduces the remaining need to 703.3 hours - roughly a half-time contract.

If we could enter into a contract with a private attorney to not exceed 800 hours, at an expected cost of \$137,600 (\$172 x 800 hours), we could primarily assign that attorney to the juvenile (Friday workload) and also have coverage for conflict cases. Of course these contracts are not a guarantee of 800 hours of workload assigned, but rather that they attorney will agree to provide up to 800 hours of work for the NSPD. If an attorney is covering Friday court, the NSPD employee would be able to reduce his travel expenses by returning home earlier in the week.

Please let me know if you would be agreeable to allowing an additional transfer from Category 01 to Category 04 in BA1499 to allow a second contract for up to 800 hours. These two contracts would bring the NSPD into compliance with the FTE attorney requirements of the weighted caseload study. Again, to comply with the consent judgment, we need to bring White Pine County into compliance with the workload study by November 1, 2024.

Finally, I discussed virtual appearances with the court. The court made it clear that they prefer to have attorneys physically present in court. As the NSPD has an attorney physically present every other week, it is creating a delay on the judicial calendar.

I met with NSPD staff and discussed travel expenses. On average the NSPD staff spends \$150 on fuel for a round trip from their home to Ely. If we paid mileage at the state rate, it would be at least \$300. They also must stay in a hotel room while they are in Ely. The GSA hotel rate for Ely is \$107 per night and the Per Diem daily rate is \$59. Would it be acceptable to reimburse the NSPD staff for their travel to Ely of: \$150 in fuel costs + GSA Hotel Rates and not pay the daily Per Diem rate?

If travel were reimbursed, the NSPD staff would be agreeable to being in Ely every week (as opposed to every other), as desired by the judiciary. Also, White Pine County is a legal desert and does not have sufficient attorneys locally to comply with the NSPD staffing needs, thus we are reliant on staff from outside White Pine county.

I look forward to your response on these issues.

Thank you,  
Marcie

**Marcie Ryba | Director**



**Marcie Ryba**

---

**From:** Patricia D. Cafferata  
**Sent:** Thursday, August 15, 2024 11:24 AM  
**To:** Marcie Ryba, Jim Hoffman, Melanie A. LaChapelle  
**Cc:** Brenda Roberts, Peter P. Handy  
**Subject:** RE: Nye county

Marcie,

I have no idea who Lorina is or her contact information.

The completed copies of the Transfer to Indigent Defense Services agreements we have are marked DIDS NOTSPD 06302022. We don't have a copy of the blank DIDS contract form as required in the *Davis* decision.

According to our records, Nye, Mineral, and Douglas counties are covered by the *Davis* decision, but they have not executed agreements with DIDS for the State PD's services.

Patty

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
Office: 775-684-1080  
Fax: 775-687-4993  
pdcafferata@nspd.nv.gov

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**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Thursday, August 15, 2024 10:59 AM  
**To:** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>; Jim Hoffman <jhoffman@nspd.nv.gov>; Melanie A. LaChapelle <malachapelle@nspd.nv.gov>  
**Cc:** Brenda Roberts <B.Roberts@dids.nv.gov>  
**Subject:** RE: Nye county

Agreed. Did you want to reach out to Lorina?

From: Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>  
Sent: Tuesday, August 13, 2024 5:35 PM  
To: Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>, Jim Hoffman <[jhoffman@nspd.nv.gov](mailto:jhoffman@nspd.nv.gov)>, Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>  
Cc: Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>  
Subject: RE: Nye county

If we are taking this on, Nye County needs to complete the DIDS form/contract for the services they expect us to take on. Please send us a copy of their agreement.

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
Office: 775-684-1080  
Fax: 775-687-4993  
[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)

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From: Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
Sent: Wednesday, August 7, 2024 9:07 AM  
To: Jim Hoffman <[jhoffman@nspd.nv.gov](mailto:jhoffman@nspd.nv.gov)>, Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>, Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>  
Cc: Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>  
Subject: RE: Nye county

So, Patty,

Would you like me to inform Nye that you believe you can start to take some of the appeals after 11/1?

Thanks,  
Marcie

From: Jim Hoffman <[jhoffman@nspd.nv.gov](mailto:jhoffman@nspd.nv.gov)>  
Sent: Tuesday, August 06, 2024 4:31 PM  
To: Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>; Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>  
Cc: Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>  
Subject: RE: Nye county

If it starts 11/1 that should actually be fine with me – I have almost finished up all of the White Pine trial-level stuff that I have, with just a few trials set in August and September and then not much of that afterwards. So if I don't start getting appeals until 11/1 that will slot in nicely as far as my personal schedule.

Sent: Friday, August 2, 2024 9:55 AM  
To: Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>  
Cc: Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>; Jim Hoffman <[jhoffman@nspd.nv.gov](mailto:jhoffman@nspd.nv.gov)>  
Subject: RE: Nye county

Thanks, Patty. I think that will be their request – for the Carson City hearings only.

Jim – do you have the bandwidth to take on appeals – I am assuming it will be a substantial amount of work. So I would guess no... until the new biennium?

From: Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>  
Sent: Friday, August 02, 2024 9:42 AM  
To: Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>  
Cc: Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>; Jim Hoffman <[jhoffman@nspd.nv.gov](mailto:jhoffman@nspd.nv.gov)>  
Subject: RE: Nye county

Marcie,

We can handle the Parole violations for Nye County, if the hearings are in Carson City, not Las Vegas.

I copied Jim, so he can respond to the appeal question.

Patty

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
Office: 775-684-1080  
Fax: 775-687-4993  
[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)

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From: Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
Sent: Thursday, August 1, 2024 2:18 PM  
To: Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>  
Cc: Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>  
Subject: Nye county

Nye County is requesting to transfer the parole violations that take place in Carson City from Nye County to your office, effective November 1, 2024. Do you have the bandwidth, with your current staff to take that on?

They are also seeking to transfer appeals – on 11/1. I do not believe you have the bandwidth to take this on, but thought I would check.

Please let me know. I believe they intend to transfer these in the next biennium to you – but it looks like they are requesting for it to start in November.

Marcie



**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

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## Laura FitzSimmons

---

**From:** Marcie Ryba  
**Sent:** Wednesday, August 7, 2024 5:10 PM  
**To:** Jim Wells  
**Cc:** Peter P. Handy;Brenda Roberts;Budd Milazzo;Donald Carlson;Nathan Hastings;Andrew Coates;Dylan K. Tedford;Patricia D. Cafferata;Melanie A. LaChapelle  
**Subject:** FW: Follow up from White Pine  
**Attachments:** REPORT\_NEBS210 - WV30 - E230 - FY25 Projections.pdf; REPORT\_NEBS130 - WV30 - E230 - FY25 Projections Including Inactive Positions.pdf; Projected Travel Expenses.xlsx; RE: AB 518

Hello, Jim,

Thank you for your patience with me getting back to you. I wanted to ensure that we had all of the information you requested.

To prepare the projections, we began by working with the NSPD in realistically determining how many positions would be filled this fiscal year. The NEBS 130 reflects the expected personnel expenses for fiscal year 2025.

NSPD positions:

- There are 19 budgeted positions, 13 positions are vacant. Out of the 13 vacant positions, the NSPD plans to hire a Legal Secretary. And believes it can be filled quickly.
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  - Investigators: the NSPD is budgeted for 3 investigators, but only 1 is filled. The NSPD intends to keep the 2 investigator positions vacant.
  - Public Defender Deputy positions: budgeted for 6 public defender positions. All 6 are vacant. The NSPD desires to fill these positions, but has received 0 qualified applicants. The NSPD intends to have 4 of these positions remain vacant, but still intends to advertise for these positions to attempt to fill them.
  - Supervising Public Defender Positions: budgeted for 4 positions. Two of these are filled. And two of these are vacant. The NSPD desires to fill these positions, but has received 0 qualified applicants. Therefore, the NSPD intends to keep these positions vacant for the rest of the year.
  - Legal Secretary 2: We are budgeted for four legal secretary 2. We have one filled. And we intend to hire a second shortly. The NSPD intends to leave 2 vacant.
  - Legal Office Manager: budgeted for 1. This is filled.

The NSPD has actively advertised for the Deputy Public Defender, Supervising Public Defender, and a Legal Secretary. It is expected the Legal Secretary will be filled shortly. The Public Defender positions will likely remain unfilled as the positions have been advertised for over a year with zero qualified applicants. These position projections are reflected in the NEBS130.

With the information from the NEBS 130, we have been able to create projections which are reflected in the NEBS 210. The NEBS 210 shows an expected shortfall of \$684,863. This shortfall includes:

- Funding for one Legal Secretary 2 position that is currently vacant, but is expected to be filled quickly.
- Funding for two public defender positions that are currently vacant that the NSPD is attempting to fill, but has been unable to fill because there are no applicants.
- This shortfall does not include the personnel expenses for the 10 vacant positions (4 deputy public defenders, 2 investigators, 2 legal secretaries, and 2 supervising public defenders) because the NSPD does not believe these will be filled this year.

**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>; Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>; Nathan Hastings <[hastings@gov.nv.gov](mailto:hastings@gov.nv.gov)>; Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>; Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>  
**Subject:** RE: Follow up from White Pine

Hi Marcie,

Unfortunately, I was not on a vacation, but the trip has put me a little behind so I apologize for not getting back sooner.

It looks from the first email that if we could find an attorney to cover juvenile cases (approximately 676 hours) it would essentially fulfill the requirements of the caseload study for White Pine (703 hours). I would need to see budget projections for revenues and expenses related to the in-house NSPD staff and the contractors before we move additional contract authorization that we may not have revenues to cover. But having a local attorney to cover juvenile cases on Fridays and reduce travel costs seems reasonable.

The same goes for any travel reimbursements. I need to see the projections and whether the budget has the ability to pay for them. If we do reimburse travel, I don't know that we should move to every week. I understand the judges prefer in person, but it appears from your email that requirement is currently creating delays on their calendars. They need to be willing to work with us on some of this, especially if we find a way to cover the juveniles on Fridays.

Lastly, the consent decree includes different attorney qualifications for misdemeanors and gross misdemeanors, category c-e felonies, non-capital a-b felonies and capital. However, we only have two rates – capital and non-capital. Has there been any discussion to set rates based on the qualifications of the attorneys needed for a given case? It seems to me that if an attorney is qualified to provide defense for a lower level case we could pay them commensurate with their qualifications.

Please get back to me with some of the projections needed to move forward on your other requests.

Thanks,  
Jim

---

**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Monday, July 8, 2024 2:33 PM  
**To:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>  
**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>; Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>; Nathan Hastings <[hastings@gov.nv.gov](mailto:hastings@gov.nv.gov)>; Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>; Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>  
**Subject:** RE: Follow up from White Pine

Hi, Jim

Happy Monday. I hope that you had a great Fourth of July!

I just wanted to circle back on the outstanding issues below.

First, I see that the transfer of \$309,600 from Personnel Services to the Operations category in the Public Defender budget has been scheduled for IFC on August 15. This is very exciting!

Second, it appears that we will still need coverage for about 800 hours of attorney work (according to the workload). Seeking approval for the NSPD to contract with a second attorney at an hourly rate of \$172 for up to 800 hours.

Finally, hoping you had an opportunity to ponder the request to reimburse the NSPD staff that is living in Las Vegas, Nevada for their travel to Ely, NV. I think that would be of great assistance to the NSPD until we can find attorneys that live in Ely, Nevada to take the workload.

Thanks again!  
Marcie



**Marcie Ryba | Director**

State of Nevada

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**From:** Marcie Ryba

**Sent:** Thursday, June 27, 2024 6:56 PM

**To:** Jim Wells <[jjimwells@gov.nv.gov](mailto:jjimwells@gov.nv.gov)>

**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>; Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>; Nathan Hastings <[hastings@gov.nv.gov](mailto:hastings@gov.nv.gov)>; Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>; Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>

**Subject:** Follow up from White Pine

Hello, Jim,

I hope that you had a restful vacation!

I wanted to update you on my travels to White Pine County. This week, I had a scheduled meeting with Judge Dobrescu and Judge Fairman to discuss several issues in relation to the NSPD.

First, we discussed that the NSPD would be entering into a contract with Jane Eberhardy to support the workload of the NSPD. The contract is scheduled to begin July 1 wherein Jane Eberhardy agrees to perform 1,800 attorney hours or the equivalent of 1.3 Full-time equivalent attorneys. The judges are very supportive of this contract and will work with the NSPD and DIDS to transfer a workload of cases to Jane on July 1 so that she can begin working immediately.

We have prepared a work program to move funding from BA1499, Category 01 to 04 to cover the cost of the contract. As a reminder it will be \$172 an hour for up to 1800 hours at not to exceed \$309,600. We thank you for this idea and the NSPD is very grateful for the assistance with workload coverage.

Second, I inquired whether the judges could condense their court calendar so that an attorney could come up for just the beginning of the week. As you likely recall, the issue was that Friday is juvenile court. I learned that the judiciary sets juvenile court on Friday because there is no school in White Pine County on that day. During the summer the court is willing to set juvenile cases on different days, but once summer ends, they will return to the Friday calendar for juvenile court cases.

One possible solution is to enter into a contract with an individual to cover the juvenile cases. The expected workload is White Pine County has on average 26 juvenile cases a year. Each case should take approximately 26 hours to cover. This would result in a coverage need of approximately 676 attorney hours.

Another interesting note is that with Derrick (the NSPD deputy) covering 1,392.6 hours and Jane (the new contractor) covering 1,800 hours, the White Pine County full-time equivalent attorney need decreases to 1,363.4 hours. There is an estimated allocation of appellate hours at 660.1 hours per year, which is covered by Jim and Patty at the NSPD and reduces the remaining need to 703.3 hours - roughly a half-time contract.

If we could enter into a contract with a private attorney to not exceed 800 hours, at an expected cost of \$137,600 (\$172 x 800 hours), we could primarily assign that attorney to the juvenile (Friday workload) and also have coverage for conflict cases. Of course these contracts are not a guarantee of 800 hours of workload assigned, but rather that they attorney will agree to provide up to 800 hours of work for the NSPD. If an attorney is covering Friday court, the NSPD employee would be able to reduce his travel expenses by returning home earlier in the week.

Please let me know if you would be agreeable to allowing an additional transfer from Category 01 to Category 04 in BA1499 to allow a second contract for up to 800 hours. These two contracts would bring the NSPD into compliance with the FTE attorney requirements of the weighted caseload study. Again, to comply with the consent judgment, we need to bring White Pine County into compliance with the workload study by November 1, 2024.

Finally, I discussed virtual appearances with the court. The court made it clear that they prefer to have attorneys physically present in court. As the NSPD has an attorney physically present every other week, it is creating a delay on the judicial calendar.

I met with NSPD staff and discussed travel expenses. On average the NSPD staff spends \$150 on fuel for a round trip from their home to Ely. If we paid mileage at the state rate, it would be at least \$300. They also must stay in a hotel room while they are in Ely. The GSA hotel rate for Ely is \$107 per night and the Per Diem daily rate is \$59. Would it be acceptable to reimburse the NSPD staff for their travel to Ely of: \$150 in fuel costset+ GSA Hotel Rates and not pay the daily Per Diem rate?

If travel were reimbursed, the NSPD staff would be agreeable to being in Ely every week (as opposed to every other), as desired by the judiciary. Also, White Pine County is a legal desert and does not have sufficient attorneys locally to comply with the NPSD staffing needs, thus we are reliant on staff from outside White Pine county.

I look forward to your response on these issues.

Thank you,  
Marcie

**Marcie Ryba | Director**  
State of Nevada





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## Laura FitzSimmons

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**From:** Patricia D. Cafferata  
**Sent:** Monday, August 5, 2024 5:52 PM  
**To:** Budd Milazzo;Melanie A. LaChapelle;Marcie Ryba  
**Cc:** Cynthia Atanzio;Jaime Hamtak;Amy L. Stephenson;Daniel Marlow;Jim Wells  
**Subject:** RE: payment of invoices

Absolutely. Valid claims must be paid within 30 days of receipt.

Patty

Patricia D. Cafferata, Esq.  
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**From:** Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>  
**Sent:** Monday, August 5, 2024 5:34 PM  
**To:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>; Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Cc:** Cynthia Atanzio <[catanzio@dids.nv.gov](mailto:catanzio@dids.nv.gov)>; Jaime Hamtak <[jhamtak@dids.nv.gov](mailto:jhamtak@dids.nv.gov)>; Amy L. Stephenson <[astephenon@finance.nv.gov](mailto:astephenon@finance.nv.gov)>; Daniel Marlow <[dmarlow@admin.nv.gov](mailto:dmarlow@admin.nv.gov)>; Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>  
**Subject:** RE: payment of invoices  
**Importance:** High

Howdy,

I greatly appreciate your looking into all of this but we just need to make certain that all valid claims are paid within 30 days, so no one calls the newspaper or the legislature. If there is going to be a delay in payments I need to notify Amy so she can make the governor's office aware before that happens.

Thank You 😊

Budd Milazzo  
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**From:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>

**Sent:** Monday, August 5, 2024 5:17 PM

**To:** Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>; Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>

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**Subject:** RE: payment of invoices

Howdy back!

Thanks for the prompt reply and explanation.

For better understanding, Marcie suggested I read the legislative history on NRS 7.145. I will do that before I comment further.

My concern is we were recently asked by DIDS to take over the processing of these invoices. I want to be clear about the standards/rules so that I don't find out 6 months from now we authorized payment of claims we should not have approved.

I am on vacation the rest of this week , so I will follow up next week.

Thanks again,

Patty

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**From:** Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>

**Sent:** Monday, August 5, 2024 5:05 PM

**To:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>; Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>

**Cc:** Cynthia Atanzio <[catanzio@dids.nv.gov](mailto:catanzio@dids.nv.gov)>; Jaime Hamtak <[jhamtak@dids.nv.gov](mailto:jhamtak@dids.nv.gov)>; Amy L. Stephenson <[astephenon@finance.nv.gov](mailto:astephenon@finance.nv.gov)>; Daniel Marlow <[dmarlow@admin.nv.gov](mailto:dmarlow@admin.nv.gov)>; Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>

**Subject:** RE: payment of invoices

Howdy Patty,

As a normal course of business, the GFO approves stale claims that go back several years. Lost copier or lost electrical bills are the most frequent. While I feel that if an agency is projecting properly that they would know a bill was missed, if they don't, they find out when the vendor says a bill was missed. And with large companies, Ricoh or NV Energy, they are not the quickest to notice a missed bill. At the July BOE, they approved an item that went included 2020, 2021, 2022 and 2023. It was on the BOE agenda not because of the dates but because of the amount, ~\$337,334. My reading of SAM 2622 is "Payment of stale claims from the State Claims Account for an agency may not exceed the amount reverted by that agency for **the fiscal year during which the claims were incurred**. If the stale claims of an agency exceed the amount reverted for the fiscal year in which the obligations represented by the stale claims were incurred. This doesn't seem to refer to just the previous fiscal but the year that the claim was incurred.

Recently I have reviewed way too many DIDS claims, and I don't recall seeing any that were submitted too long after a termination date, but some just don't bill until the case is over and with small amounts, they just bill all at once. From what I surmised is that someone interpreted NRS 7.145 1., to mean that claims cannot be submitted except during the 60 days after representation is terminated. I don't read anything into that which doesn't allow claims to be submitted during the time of representation. But I am not the legal expert, just a commonsense theory. I have only heard about the 60 days when reading the statute, but I am not aware if it is anywhere else or just a rule. I know ASD had asked DIDS to get claims submitted more frequently to make the process smoother for everyone. Otherwise, I don't know. If you deem a claim not to be valid or payable, that is DIDS decision and it would never reach the GFO or ASD.

Thank You 😊

Budd Milazzo

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**From:** Patricia D. Cafferata <[pdcafferata@nspdenv.gov](mailto:pdcafferata@nspdenv.gov)>

**Sent:** Monday, August 5, 2024 4:17 PM

**To:** Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>; Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>

**Cc:** Cynthia Atanazio <[catanazio@dids.nv.gov](mailto:catanazio@dids.nv.gov)>; Jaime Hamtak <[jhamtak@dids.nv.gov](mailto:jhamtak@dids.nv.gov)>; Amy L. Stephenson <[astephenson@finance.nv.gov](mailto:astephenson@finance.nv.gov)>; Daniel Marlow <[dmarlow@admin.nv.gov](mailto:dmarlow@admin.nv.gov)>; Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>

**Subject:** RE: payment of invoices

Budd,

Thanks for your prompt response to my email about stale claims. According to the law and regulation, I want to make sure we are processing the attorneys' claims that some appear to be years old.

I read the NRS and SAM citations you referred to. Most of the NRS and SAM references I read referred to are stale claims are mostly from the previous year, not for several years.

I am asking Melanie to resend you the sample invoice that DIDS recently paid for legal services dating back to 2021. She was instructed that was the format to follow for processing claims.

NRS 7.145(1) states compensation and expenses must not be paid unless it is submitted within 60 days after representation is terminated.

**As you stated, attorneys at one time were told they could only submit a claim once the representation is terminated.** Is that requirement somewhere in writing (in an attorney's contract for service), or just a "rule" informally past on.

Since we have recently been asked to take over the processing of these claims, I want to make sure we are complying with the law before we make any mistakes.

Again, I appreciate your time and help on this.

Patty

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**From:** Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>  
**Sent:** Friday, August 2, 2024 6:07 PM  
**To:** Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>; Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Cc:** Cynthia Atanazio <[catanazio@dids.nv.gov](mailto:catanazio@dids.nv.gov)>; Jaime Hamtak <[jhamtak@dids.nv.gov](mailto:jhamtak@dids.nv.gov)>; Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Amy L. Stephenson <[astephen@finance.nv.gov](mailto:astephen@finance.nv.gov)>; Daniel Marlow <[dmarlow@admin.nv.gov](mailto:dmarlow@admin.nv.gov)>  
**Subject:** RE: payment of invoices

Howdy,

There are several reasons that is change was put in place, as several other agencies also have this process where needed. In no particular order.

First, is that attorneys at one time were told they could only submit a claim once the representation is terminated, as interpreted in NRS 7.145. Then when a claim was submitted, it was broken down by fiscal year for stale claim purposes, sometimes 2 or 3 fiscal years, causing confusion and delays for payments for the attorneys as they would receive payment for the current year within 30 days but then the stale claim could take several months to get processed separately. Additionally, since the claim was paid out of different budget

accounts, it was difficult to budget for the Public Defender as claims paid out of the Stale Claim account were not included in Public Defender budgeted expenses.

Next the Stale Claim Budget Account is funded with General Fund appropriations. For agencies that reverted General Funds in previous years, this funding and budget account would make the payments, up to the amount that they reverted in that particular year. Again, since the claim was paid out of a different budget account, it was difficult to budget for the Public Defender as claims paid out of the Stale Claim account were not included in Public Defender budgeted expenses.

Third, NRS 7.155 and NRS 34.750 state that when the appropriation to the Public Defenders budget account for these claims is exhausted, that the Public Defender must receive an allocation from the Reserve for Statutory Contingency (SCF) account to pay the claims. There is no Stale Claim account for the SCF claims therefore all claims are paid out of the current fiscal year.

Fourth, SAM 2622 and 2624 delegates the authority to approve stale claims to the BOE, Clerk of the Board. It also allows the agency to pay with current year funds if the claims exceed the amount of general funds reverted at the end of the fiscal year. So, while the claim may be stale dated, it is being paid from current year funds in the budget account and category that it was appropriated for.

So while there seem to be some overlapping language as to how to proceed, the Clerk of the Board agreed that this was the most efficient method for paying attorneys and also tracking Public defender expenditures. This will also allow the Public Defender to more accurately budget each year for actual expenditures paid yearly to properly budget going forward.

As long as your staff attaches a copy of the memo to payments falling into this category, there will not be any issues for your employees as you are following the direction of the Clerk of the Board.

Thank You 😊

Budd Milazzo  
775-684-0271 work  
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**From:** Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>  
**Sent:** Friday, August 2, 2024 4:31 PM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>; Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>  
**Cc:** Cynthia Atanazio <[catanazio@dids.nv.gov](mailto:catanazio@dids.nv.gov)>; Jaime Hamtak <[jhamtak@dids.nv.gov](mailto:jhamtak@dids.nv.gov)>; Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>  
**Subject:** Re: payment of invoices

Good Afternoon,

To clear up some confusion:

Patty wanted to know why one (1) bill is encompassing multiple years, and those years are not being broken out and being paid as a stale claim, with only the current charges being billed as current. I have attached an example that I was provided that has already been processed, approved and paid where the charges begin in 2021.

Both Jaime and Cindy explained this is not something that happens frequently, and that the attorney's were previously told not to submit bills till the Habeas Petitions were completed and that we have been provided a memo to allow for processing of these types of claims in this fiscal year. After reading the Memo provided, she (Patty) doesn't feel this memo is sufficient to cover as far back as 2021/2022 or further.

I added Budd from the GFO's Office and attached the memo I was given, so hopefully Mr. Milazzo can explain to Patty why the stale claim procedure has changed.

As Patty was the Nevada State Treasurer she is familiar with the State fiscal processes, and has some concern that this is not the correct procedure and does not want this to cause an issue for any of our employees.

Thanks,



*Melanie LaChapelle*

**Legal Office Manager**

***Nevada State Public Defender***

*phone 775-684-1080*

*fax 775-687-4993*

**NEVADA STATE PUBLIC DEFENDER COMMUNICATION**

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**From:** Cynthia Atanazio <[catanazio@dids.nv.gov](mailto:catanazio@dids.nv.gov)>

**Sent:** Friday, August 2, 2024 1:55 PM

**To:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>

**Cc:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>; Jaime Hamtak <[jhamtak@dids.nv.gov](mailto:jhamtak@dids.nv.gov)>

**Subject:** FW: payment of invoices

Hi Patty,

Marcie asked me to clarify the information regarding invoices. These are not typical invoices. These are post-conviction claims and may go back several years (they are very few).

I believe Jaime sent Melanie some claims that I prepared yesterday. They are already processed and just examples for her review.

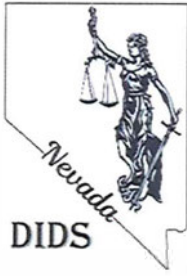
GFO/ASD have instructed us if the invoice date is in the current fiscal year we are to process as current.

If it is prior a fiscal year, then we must prepare a stale claim form before processing.

Melanie can always refer questions or problems to me or Jaime.

Please feel free to reach out if you need any additional information.

*Cindy*  
Best Regards,



DIDS

*Cindy Atanazio*

*Executive Assistant*

State of Nevada

Department of Indigent Defense Services

896 W. Nye Lane, Suite 202

Carson City, NV 89703

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18 U.S.C. 2510-2521. If you are not the intended recipient, please contact the sender by reply email, delete and destroy all copies of the original message.

**From:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>

**Sent:** Friday, August 02, 2024 1:36 PM

**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>

**Cc:** Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>

**Subject:** payment of invoices

Marcie,

You asked us (Melanie) to take over the processing of certain invoices.

I understand some of the invoices include claims for payment for legal services dating back to 2021.

Seems to me these claims are not within this fiscal year.

Please advise us on how Melanie is to handle these claims. If you don't know, please tell us who we should contact to make sure these claims can be paid now.



Thanks,

Patty

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
Office: 775-684-1080  
Fax: 775-687-4993  
[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)

**NEVADA STATE PUBLIC DEFENDER COMMUNICATION**

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## Laura FitzSimmons

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**From:** Marcie Ryba  
**Sent:** Monday, July 29, 2024 3:41 PM  
**To:** Michawn Nastro  
**Cc:** Andrew Coates;Dylan K. Tedford  
**Subject:** RE: DIDS BDR proposals

Thank you! I look forward to it.

Marcie

**From:** Michawn Nastro <[mnastro@gov.nv.gov](mailto:mnastro@gov.nv.gov)>  
**Sent:** Monday, July 29, 2024 3:39 PM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Cc:** Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>  
**Subject:** RE: DIDS BDR proposals

Hi Marcie – we are still waiting on that one and will report back hopefully today or tomorrow.

**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Monday, July 29, 2024 9:29 AM  
**To:** Michawn Nastro <[mnastro@gov.nv.gov](mailto:mnastro@gov.nv.gov)>  
**Cc:** Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>  
**Subject:** RE: DIDS BDR proposals

Thank you, Michawn.

We had one additional bill that would provide student loan repayment for public defenders that committed to provide indigent defense services in a rural community for a period of two years.

Chief Cherry had approached me that more information may be needed on this one, but I do not see it mentioned below. Will that one be coming separately or has it been denied?

Thank you so much for these updates! We appreciate your hard work.

Marcie

**From:** Michawn Nastro <[mnastro@gov.nv.gov](mailto:mnastro@gov.nv.gov)>  
**Sent:** Monday, July 29, 2024 8:50 AM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Cc:** Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>  
**Subject:** DIDS BDR proposals

Hi Director –

Below are the DIDS BDR concepts that the Governor agreed to move forwards for further consideration in the budget. These are not receiving a commitment to be fully approved just yet. Agencies should reflect those

requests and budget enhancement in their budget proposals. We will consider them as we build out the budget and have a better idea of what funds will be available to allocate in the next biennium.

Please let me know if you have any questions.

Thanks,  
Michawn

#	Department	Purpose	BDR#	Notes	Senior Staff recommendation
35	DIDS	<b>Corrective:</b> Ensure prompt payment of indigent defense counsel		Combined w/36	combined with 36
36	DIDS	<b>Corrective:</b> Provide a state agency that can contract for conflict public defender services and a separate state agency that can represent in post-conviction habeas matters		Post Conviction Solicitor w/ budget BDR	Yes - Budget BDR
38	DIDS	<b>Corrective:</b> Comply with the Davis Consent Judgment requiring pay parity between the prosecution and defense		State w/b in Class & Comp study; balance not in statute	Considering as Budget BDR.

*Michawn Nastro*  
Governor Joe Lombardo  
Policy Director  
775-240-8539

## Laura FitzSimmons

---

**From:** Jim Wells  
**Sent:** Tuesday, July 23, 2024 4:55 PM  
**To:** Marcie Ryba  
**Cc:** Peter P. Handy;Brenda Roberts;Budd Milazzo;Donald Carlson;Nathan Hastings;Andrew Coates;Dylan K. Tedford;Patricia D. Cafferata  
**Subject:** RE: Follow up from White Pine

Hi Marcie,

Unfortunately, I was not on a vacation, but the trip has put me a little behind so I apologize for not getting back sooner.

It looks from the first email that if we could find an attorney to cover juvenile cases (approximately 676 hours) it would essentially fulfill the requirements of the caseload study for White Pine (703 hours). I would need to see budget projections for revenues and expenses related to the in-house NSPD staff and the contractors before we move additional contract authorization that we may not have revenues to cover. But having a local attorney to cover juvenile cases on Fridays and reduce travel costs seems reasonable.

The same goes for any travel reimbursements. I need to see the projections and whether the budget has the ability to pay for them. If we do reimburse travel, I don't know that we should move to every week. I understand the judges prefer in person, but it appears from your email that requirement is currently creating delays on their calendars. They need to be willing to work with us on some of this, especially if we find a way to cover the juveniles on Fridays.

Lastly, the consent decree includes different attorney qualifications for misdemeanors and gross misdemeanors, category c-e felonies, non-capital a-b felonies and capital. However, we only have two rates – capital and non-capital. Has there been any discussion to set rates based on the qualifications of the attorneys needed for a given case? It seems to me that if an attorney is qualified to provide defense for a lower level case we could pay them commensurate with their qualifications.

Please get back to me with some of the projections needed to move forward on your other requests.

Thanks,  
Jim

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Monday, July 8, 2024 2:33 PM  
**To:** Jim Wells <jimwells@gov.nv.gov>  
**Cc:** Peter P. Handy <P.Handy@dids.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>; Nathan Hastings <hastings@gov.nv.gov>; Andrew Coates <acoates@gov.nv.gov>; Dylan K. Tedford <dktedford@gov.nv.gov>; Patricia D. Cafferata <pdcafferata@nspd.nv.gov>  
**Subject:** RE: Follow up from White Pine

Hi, Jim

Happy Monday. I hope that you had a great Fourth of July!

I just wanted to circle back on the outstanding issues below.

First, I see that the transfer of \$309,600 from Personnel Services to the Operations category in the Public Defender budget has been scheduled for IFC on August 15. This is very exciting!

Second, it appears that we will still need coverage for about 800 hours of attorney work (according to the workload). Seeking approval for the NSPD to contract with a second attorney at an hourly rate of \$172 for up to 800 hours.

Finally, hoping you had an opportunity to ponder the request to reimburse the NSPD staff that is living in Las Vegas, Nevada for their travel to Ely, NV. I think that would be of great assistance to the NSPD until we can find attorneys that live in Ely, Nevada to take the workload.

Thanks again!  
Marcie



**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

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**From:** Marcie Ryba

**Sent:** Thursday, June 27, 2024 6:56 PM

**To:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>

**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>; Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>; Nathan Hastings <[hastings@gov.nv.gov](mailto:hastings@gov.nv.gov)>; Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>; Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>

**Subject:** Follow up from White Pine

Hello, Jim,

I hope that you had a restful vacation!

I wanted to update you on my travels to White Pine County. This week, I had a scheduled meeting with Judge Dobrescu and Judge Fairman to discuss several issues in relation to the NSPD.

First, we discussed that the NSPD would be entering into a contract with Jane Eberhardy to support the workload of the NSPD. The contract is scheduled to begin July 1 wherein Jane Eberhardy agrees to perform 1,800 attorney hours or the equivalent of 1.3 Full-time equivalent attorneys. The judges are very supportive of this contract and will work with the NSPD and DIDS to transfer a workload of cases to Jane on July 1 so that she can begin working immediately.

We have prepared a work program to move funding from BA1499, Category 01 to 04 to cover the cost of the contract. As a reminder it will be \$172 an hour for up to 1800 hours at not to exceed \$309,600. We thank you for this idea and the NSPD is very grateful for the assistance with workload coverage.

Second, I inquired whether the judges could condense their court calendar so that an attorney could come up for just the beginning of the week. As you likely recall, the issue was that Friday is juvenile court. I learned that the judiciary sets juvenile court on Friday because there is no school in White Pine County on that day. During the summer the court is willing to set juvenile cases on different days, but once summer ends, they will return to the Friday calendar for juvenile court cases.

One possible solution is to enter into a contract with an individual to cover the juvenile cases. The expected workload is White Pine County has on average 26 juvenile cases a year. Each case should take approximately 26 hours to cover. This would result in a coverage need of approximately 676 attorney hours.

Another interesting note is that with Derrick (the NSPD deputy) covering 1,392.6 hours and Jane (the new contractor) covering 1,800 hours, the White Pine County full-time equivalent attorney need decreases to 1,363.4 hours. There is an estimated allocation of appellate hours at 660.1 hours per year, which is covered by Jim and Patty at the NSPD and reduces the remaining need to 703.3 hours - roughly a half-time contract.

If we could enter into a contract with a private attorney to not exceed 800 hours, at an expected cost of \$137,600 (\$172 x 800 hours), we could primarily assign that attorney to the juvenile (Friday workload) and also have coverage for conflict cases. Of course these contracts are not a guarantee of 800 hours of workload assigned, but rather that they attorney will agree to provide up to 800 hours of work for the NSPD. If an attorney is covering Friday court, the NSPD employee would be able to reduce his travel expenses by returning home earlier in the week.

Please let me know if you would be agreeable to allowing an additional transfer from Category 01 to Category 04 in BA1499 to allow a second contract for up to 800 hours. These two contracts would bring the NSPD into compliance with the FTE attorney requirements of the weighted caseload study. Again, to comply with the consent judgment, we need to bring White Pine County into compliance with the workload study by November 1, 2024.

Finally, I discussed virtual appearances with the court. The court made it clear that they prefer to have attorneys physically present in court. As the NSPD has an attorney physically present every other week, it is creating a delay on the judicial calendar.

I met with NSPD staff and discussed travel expenses. On average the NSPD staff spends \$150 on fuel for a round trip from their home to Ely. If we paid mileage at the state rate, it would be at least \$300. They also must stay in a hotel room while they are in Ely. The GSA hotel rate for Ely is \$107 per night and the Per Diem daily rate is \$59. Would it be acceptable to reimburse the NSPD staff for their travel to Ely of: \$150 in fuel costs + GSA Hotel Rates and not pay the daily Per Diem rate?

If travel were reimbursed, the NSPD staff would be agreeable to being in Ely every week (as opposed to every other), as desired by the judiciary. Also, White Pine County is a legal desert and does not have sufficient attorneys locally to comply with the NPSD staffing needs, thus we are reliant on staff from outside White Pine county.

I look forward to your response on these issues.

Thank you,

Marcie



**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

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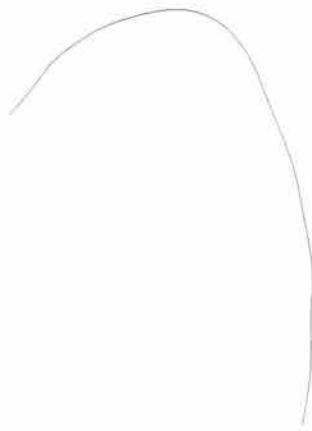
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# Governor's Quarterly Report

Agency: Department of Indigent Defense Services

Quarter ending: June 30, 2024

Agency Head Approval: \_\_\_\_\_

Liaison Approval: \_\_\_\_\_

Comments: \_\_\_\_\_

Chief of Staff: \_\_\_\_\_

Comments: \_\_\_\_\_

Governor: \_\_\_\_\_

Comments:



## QUARTERLY REPORT TO THE GOVERNOR

### 1. AGENCY ASSESSMENT:

#### a. Successes:

##### i. DIDS

1. 4<sup>th</sup> Annual Training for Indigent Defense Attorneys had a very positive response and was well attended.
2. 8 law students are interning in rural public defender offices – this is up from 1 last summer.
3. ADKT0611 and ADKT 0616 approved by the Supreme Court to create pipelines into our rural PD offices.
4. Annual Report for July 1, 2024 has been published.

#### b. Challenges:

##### i. DIDS:

1. *Davis* Stipulated Consent Judgment requires compliance with a workload study by November 1, 2024. The challenges are lack of attorneys practicing in and/or willing to move to rural areas.

##### ii. NSPD

1. Staffing: unable to hire public defenders because of challenge of staffing rural offices + salary disparity with local district attorneys.
2. Post Conviction Billing: Legislative appropriation to NSPD for indigent counsel appointed under NRS 34.750 was exhausted in March creating a backlog of unpaid bills. All such bills have been paid and all future bills will be paid within 30 days.

#### c. Key Hires, Departures, and Vacancies:

- i. DIDS: Deputy Director Thomas Qualls resigned, and Deputy Director Brenda Roberts hired to fill position.
- ii. Nevada State Public Defender: Unable to fill deputy public defender positions but entered an hourly contract for a private attorney to assist with workload in White Pine.

#### d. Audits: DIDS and NSPD: none

#### e. Collaboration activities with State, local, regional, and federal partners:

i. DIDS:

1. Collaboration with DETR to create LASSO (Law Student Supervision Operation) – provides stipends for students or new graduates to train in RURAL public defender offices.
2. Continuing to seek and award student loan repayment assistance through the John R. Justice federal grant program for prosecutors and defense attorneys.

**2. REGULATIONS - UPDATE OR ACTIONS: Board on Indigent Defense Services:** Workshop held 5.2.24 to review qualifications for attorneys to take death penalty cases. The Supreme Court has formed a task force to update the SCR 250 for qualifications. Goal is consistency.

**3. HOW IS THE AGENCY INCORPORATING THE GOVERNOR'S PRIORITIES IN THE BUDGET BUILDING PROCESS**

a. DIDS:

- i. Ensuring compliance with the US and Nevada constitutional requirements of effective assistance of counsel to reduce recidivism and creating more efficient avenues to divert eligible defendants into treatment programs. (4.3, 4.4).
- ii. Ensuring funding is secured to properly and timely pay Nevada small businesses for services rendered, with a focus on rural counties. (2.3)

b. NSPD:

- i. Ensuring an ability to provide efficient and effective services to clients. (5.2)

**4. ANY BUDGET CHALLENGES:** DIDS/NSPD: None at this time.

**5. WORK FROM HOME STATUS:**

- a. **Number of Remote Work Agreements in place:** DIDS: 1 / NSPD: 3
- b. **Were they submitted to the Governor's Office?** Yes.
- c. **Include any temporary employment services staff:** N/A

**6. AGENCY WINS**

- a. Patricia Cafferata is stepping up to the challenges of serving as NSPD. This includes trying to find coverage for the rural offices and driving to Ely, Nevada almost every week to cover cases.

### ***Litigation Update***

- **Davis v. State**, Nev. First Jud. Dist. Ct. Case No. 170C002271B.
  - **Stipulated Consent Judgment** entered Aug. 11, 2020.
  - No known further litigation.

### **Issues:**

- **Workload:** The state must ensure compliance Rural Public Defender Workload by November 1, 2024 (which calls for approximately 30 more full-time attorneys across rural Nevada).
  - **Davis Rural Counties Responsible for Their Indigent Defense:**
    - Churchill, Douglas, Lyon, Mineral, Nye: expressing a challenge to fill the necessary attorney positions. But they are actively seeking attorneys.
    - Esmeralda, Eureka, Lander, Lincoln: appear in compliance with workload.
  - **White Pine Transferred Responsibility to State:**
    - Workload: 3.3 attorneys needed in White Pine (equates to 4,595.6 attorney hours).
    - NSPD currently provides: 2,052.7 atty hours (atty staff) + 1,800 atty hours (contract atty w/ NSPD) = 3,852.7 atty hour coverage
      - Shortfall in coverage of: 742.9 atty hours
      - Possible solution: enter an additional atty contract for up to 800 atty hours to assist with the workload. NSPD is seeking governor's support for this contract.
        - Contract Expected Cost: \$137,600
  - **Possible Solutions to increase attys in rurals:** (1) LASSO; (2) student loan repayment program; and/or (3) rural pay stipends
- **Training and Oversight:** The state has agreed to provide high quality training and intensive oversight. The Department has submitted a work program **C67456** to request funding from AB518(7) to continue providing these services in FY25. We hope to have the governor's support.

**Monitor:** The monitor provides quarterly reporting on compliance. Monitor has expressed concern of lack of staff and pay parity for NSPD in White Pine. She believes it is causing substantial turnover and a possible failure in providing a constitutionally appropriate level of indigent defense services.

## Laura FitzSimmons

---

**From:** Marcie Ryba  
**Sent:** Monday, July 1, 2024 11:51 AM  
**To:** Dylan K. Tedford  
**Cc:** Nathan Hastings;Brenda Roberts;Peter P. Handy  
**Subject:** RE: Potential Local Contract Questions

Hi, Dylan,

Please see below in [blue](#).

Thanks,  
Marcie

**From:** Dylan K. Tedford <dktedford@gov.nv.gov>  
**Sent:** Monday, July 01, 2024 11:36 AM  
**To:** Marcie Ryba <mryba@dids.nv.gov>  
**Cc:** Nathan Hastings <hastings@gov.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>  
**Subject:** RE: Potential Local Contract Questions

Hi Marcie,

I hope you enjoyed your weekend.

Thank you for your thorough answer below. Based on your response, I have a couple minor, clarifying questions.

- Given that DIDS reviews county contracts for indigent defense services in DIDS counties, does DIDS also review other potential engagements for such attorneys in those counties? [No](#)

Or does it only review those contracts regarding the provision of indigent defense services? [Only reviews contracts for indigent defense services.](#)

- For example, would DIDS review the engagement if a DIDS-contracted attorney accepted a role performing civil municipal work in a separate county? [No.](#)

Would that attorney be required to provide any other notice to DIDS that they have taken on such a role? [Yes. the attorney would be required to provide notice if they have taken employment as a prosecutor. See NAC 180, Section 37. Here is a link:](#)

<https://dids.nv.gov/uploadedFiles/didsnvgov/content/Regs/Regulations%20adopted%2012.15.23.pdf>

Thank you,  
Dylan

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Wednesday, June 26, 2024 1:33 PM  
**To:** Dylan K. Tedford <dktedford@gov.nv.gov>  
**Cc:** Nathan Hastings <hastings@gov.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>  
**Subject:** RE: Potential Local Contract Questions

Hi, Dylan,

Thank you for reaching out. The answers are below in [Blue](#).

Please let me know if you need anything else.

Thanks!  
Marcie

**From:** Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>  
**Sent:** Wednesday, June 26, 2024 9:09 AM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Cc:** Nathan Hastings <[hastings@gov.nv.gov](mailto:hastings@gov.nv.gov)>  
**Subject:** Potential Local Contract Questions

Good Morning, Executive Director Ryba,

I hope you're having a nice week so far.

I am reaching out with a few questions regarding the availability of attorneys in certain rural areas and the potential role your office plays in reviewing external work arrangements with contracted local counsel. Cognizant of the attorney scarcity in those rural areas, I was curious about the following issues:

- Does your office currently review all existing or proposed non-DIDS coordinated client/representation engagements for DIDS-supervised contract attorneys?

[Just to clarify, DIDS does not provide “supervision” of any contract attorneys. However we do provide “oversight” of the provision of indigent defense services in counties. See NRS 180.420 and NRS 180.430.](#)

[With these oversight duties, pursuant to NAC 180, Section 40, all county contract forms for indigent defense services must be approved by the Department to ensure that the necessary language is included in the contract. This is also a specific requirement of the \*Davis\* consent judgment. See Consent Judgment \(attached\), p. 12, l. 16-18. \(The updated regulations with the requirement of review of contracts can be found here: <https://dids.nv.gov/uploadedFiles/didsnvgov/content/Regs/Regulations%20adopted%2012.15.23.pdf>](#)

[So, in short, yes. DIDS reviews the form of all new contracts to ensure they comply with the regulations contained in NAC 180.](#)

- If you do, does your office have some kind of approval/disapproval role regarding any potential new client engagements or additional representation roles for those attorneys?
  - If so, under what statutory authority does that review/approval/disapproval role fall?

[DIDS does not have a role in new client engagements of these attorneys.](#)

- Could an attorney who performs some indigent defense work in/for one county also be engaged by a city (in a different county) to do municipal prosecutorial work?

[Yes. Potentially limited, of course, as allowed by the Rules of Professional Conduct.](#)

Or does taking some public defense contract work create an outright ban on any prosecutorial practice, regardless of location or level of court jurisdiction, or offense level?

There is no ban from taking prosecutorial work in a different county. However, an attorney cannot serve as both the prosecutor and the indigent defense attorney in the same county.

Pursuant to Davis, an individual who has served or is serving as a prosecutor cannot take an indigent defense services contract within that county for a period of 18 months from separation. See Davis consent judgment, p. 12, l. 10-12.

The Rules of Professional Conduct also preclude an individual from serving as both a prosecutor and an indigent defense provider as there is a conflict of interest. It is true that, in some circumstances, this conflict could be waived. But this imputed conflict would complicate the prompt appointment of counsel.

- If it is your understanding that there is such a ban, under what legal authority does it arise?
- Could an attorney who performs some indigent defense work also be engaged to do general civil work for municipalities? Even a municipality in the same jurisdiction where they perform indigent defense work?

It is important to note that the contracted county attorneys provide indigent defense services for the entire county including the municipalities. See NRS 171.188.

As discussed above, a person that previously served as a prosecutor in a county cannot enter a contract to perform indigent defense services in the same county until a period of 18 months since they left such employment has lapsed. See Davis consent judgment, p. 12, l. 10-12. However, this limitation can be waived if there are a limited number of attorneys in the area and if there are sufficient protections in place to ensure the Rules of Professional Conduct are complied with. For example, Franklin Katschke has a contract with the municipality of Caliente to perform civil work only and he also provides indigent defense services for Lincoln County. This is allowed because there are a limited number of attorneys in Lincoln County and the Caliente Municipality does not actively file criminal charges.

From an initial overview of the most likely implicated statutes, it does not appear that there is a statutory issue with taking on municipal prosecutorial work or civil work for a municipality.

There is an issue with providing municipal prosecutor work because the contracted indigent defense attorney also provides indigent defense work in the municipal court. See NRS 171.188. So a prosecutor in municipal court, would not be allowed to enter a contract to provide indigent defense services in the same county / municipality as such a contract would not comply with the consent judgment and the Rules of Professional Conduct would likely cause the prosecutor to be unable to represent the indigent person facing criminal charges due to a conflict of interest.

Such roles also don't facially present an obvious conflict issue so long as the subject attorney report if a potential conflict ever does, in fact, arise. But I'd appreciate any additional guidance you can provide.

I think that there is a distinction in how conflicts would work in a criminal case. When representing a criminal client, the indigent defense contract attorney is appointed by the court. See NRS 171.188. If there is a conflict of interest in every case, the attorney would need to seek a waiver from the client of this conflict, as well as from the governmental entity. It is not clear who would advise the client of the conflict and who would discuss whether they would waive the conflict and the governmental entity would also need to waive the conflict. Unless there were sufficient safety measures in place, this could lead to a potential to further challenge any convictions by clients.

As you can see the Rules of Professional Conduct are the force that really limit an attorney taking on prosecutorial work in a municipality and also taking on indigent defense services work (by contract) in that same county. Further the conflicts would really complicate the prompt appointment of an attorney that does not have a conflict to the cases.

Happy to discuss further and let me know if you need any other information. Here is a link to the Rules of Professional Conduct: [Nevada Rules of Professional Conduct \[state.nv.us\]](http://Nevada Rules of Professional Conduct [state.nv.us])

I have added Brenda and Peter to the discussion.

Thanks,  
Dylan

**Sent:** Thursday, June 27, 2024 6:56 PM

**To:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>

**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Brenda Roberts <[B.Roberts@dids.nv.gov](mailto:B.Roberts@dids.nv.gov)>; Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>; Nathan Hastings <[hastings@gov.nv.gov](mailto:hastings@gov.nv.gov)>; Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>; Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>

**Subject:** Follow up from White Pine

Hello, Jim,

I hope that you had a restful vacation!

I wanted to update you on my travels to White Pine County. This week, I had a scheduled meeting with Judge Dobrescu and Judge Fairman to discuss several issues in relation to the NSPD.

First, we discussed that the NSPD would be entering into a contract with Jane Eberhardy to support the workload of the NSPD. The contract is scheduled to begin July 1 wherein Jane Eberhardy agrees to perform 1,800 attorney hours or the equivalent of 1.3 Full-time equivalent attorneys. The judges are very supportive of this contract and will work with the NSPD and DIDS to transfer a workload of cases to Jane on July 1 so that she can begin working immediately.

We have prepared a work program to move funding from BA1499, Category 01 to 04 to cover the cost of the contract. As a reminder it will be \$172 an hour for up to 1800 hours at not to exceed \$309,600. We thank you for this idea and the NSPD is very grateful for the assistance with workload coverage.

Second, I inquired whether the judges could condense their court calendar so that an attorney could come up for just the beginning of the week. As you likely recall, the issue was that Friday is juvenile court. I learned that the judiciary sets juvenile court on Friday because there is no school in White Pine County on that day. During the summer the court is willing to set juvenile cases on different days, but once summer ends, they will return to the Friday calendar for juvenile court cases.

One possible solution is to enter into a contract with an individual to cover the juvenile cases. The expected workload is White Pine County has on average 26 juvenile cases a year. Each case should take approximately 26 hours to cover. This would result in a coverage need of approximately 676 attorney hours.

Another interesting note is that with Derrick (the NSPD deputy) covering 1,392.6 hours and Jane (the new contractor) covering 1,800 hours, the White Pine County full-time equivalent attorney need decreases to 1,363.4 hours. There is an estimated allocation of appellate hours at 660.1 hours per year, which is covered by Jim and Patty at the NSPD and reduces the remaining need to 703.3 hours - roughly a half-time contract.

If we could enter into a contract with a private attorney to not exceed 800 hours, at an expected cost of \$137,600 (\$172 x 800 hours), we could primarily assign that attorney to the juvenile (Friday workload) and also have coverage for conflict cases. Of course these contracts are not a guarantee of 800 hours of workload assigned, but rather that they attorney will agree to provide up to 800 hours of work for the NSPD. If an attorney is covering Friday court, the NSPD employee would be able to reduce his travel expenses by



returning home earlier in the week.

Please let me know if you would be agreeable to allowing an additional transfer from Category 01 to Category 04 in BA1499 to allow a second contract for up to 800 hours. These two contracts would bring the NSPD into compliance with the FTE attorney requirements of the weighted caseload study. Again, to comply with the consent judgment, we need to bring White Pine County into compliance with the workload study by November 1, 2024.

Finally, I discussed virtual appearances with the court. The court made it clear that they prefer to have attorneys physically present in court. As the NSPD has an attorney physically present every other week, it is creating a delay on the judicial calendar.

I met with NSPD staff and discussed travel expenses. On average the NSPD staff spends \$150 on fuel for a round trip from their home to Ely. If we paid mileage at the state rate, it would be at least \$300. They also must stay in a hotel room while they are in Ely. The GSA hotel rate for Ely is \$107 per night and the Per Diem daily rate is \$59. Would it be acceptable to reimburse the NSPD staff for their travel to Ely of: \$150 in fuel costs + GSA Hotel Rates and not pay the daily Per Diem rate?

If travel were reimbursed, the NSPD staff would be agreeable to being in Ely every week (as opposed to every other), as desired by the judiciary. Also, White Pine County is a legal desert and does not have sufficient attorneys locally to comply with the NSPD staffing needs, thus we are reliant on staff from outside White Pine county.

I look forward to your response on these issues.

Thank you,  
Marcie

**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

896 W Nye Ln, Suite 202

Carson City NV 89703

(775) 687-8493 (o)

(775) 431-0527 (c)

[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)

[dids.nv.gov](http://dids.nv.gov)

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**Re: Updated Response**

---

**From** Marcie Ryba <mryba@dids.nv.gov>  
**Date** Fri 6/21/2024 5:49 PM  
**To** Jim Wells <jimwells@gov.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>  
**Cc** Ryan Cherry <rcherry@gov.nv.gov>

Thank you, Jim!

---

**From:** Jim Wells <jimwells@gov.nv.gov>  
**Sent:** Friday, June 21, 2024 5:37 PM  
**To:** Budd Milazzo <bmilazzo@finance.nv.gov>; Marcie Ryba <mryba@dids.nv.gov>  
**Cc:** Ryan Cherry <rcherry@gov.nv.gov>  
**Subject:** RE: Updated Response

I think this is okay. You can send it to Amy for transmission to IFC.

Thanks,  
Jim

**From:** Budd Milazzo <bmilazzo@finance.nv.gov>  
**Sent:** Friday, June 21, 2024 4:27 PM  
**To:** Marcie Ryba <mryba@dids.nv.gov>; Jim Wells <jimwells@gov.nv.gov>  
**Cc:** Ryan Cherry <rcherry@gov.nv.gov>  
**Subject:** RE: Updated Response

I just made a slight revision to section 3. The vendor that had to update his information did so promptly and payment was also issued on 6/20.

Thank You 😊

Budd Milazzo  
775-684-0271 work  
775-443-8924 cell

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Friday, June 21, 2024 4:09 PM  
**To:** Jim Wells <jimwells@gov.nv.gov>  
**Cc:** Ryan Cherry <rcherry@gov.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>  
**Subject:** Updated Response

Hello, Jim,

I hope you are well. I updated our response to reflect the quick action of the governor's team to resolve this issue. I think that should be included in the response.

Could you please let me know if you approve the attached response. Upon your approval, I will send to the LCB.

Thank you!

Marcie

**Marcie Ryba | Director**

State of Nevada



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## Laura FitzSimmons

---

**From:** Jim Wells  
**Sent:** Friday, June 21, 2024 5:42 PM  
**To:** Marcie Ryba  
**Cc:** Peter P. Handy;Brenda Roberts;Donald Carlson;Budd Milazzo;Patricia D. Cafferata;Ryan Herrick  
**Subject:** RE: Update from Meeting and Request

Hi Marcie,

Let's get the first contract through and get me some caseload information and we can discuss the second contract. I will be out of the office next week so I copied Ryan Herrick on this email.

Thanks,  
Jim

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Thursday, June 20, 2024 2:33 PM  
**To:** Jim Wells <jimwells@gov.nv.gov>  
**Cc:** Peter P. Handy <P.Handy@dids.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>; Patricia D. Cafferata <pdcafferata@nspd.nv.gov>  
**Subject:** Update from Meeting and Request

Hello, Jim,

Please find attached a memorandum updating you from our Tuesday discussion. We intend to enter a contract with Jane Eberhardy for up to 1,800 attorney hours. Thank you so much for that idea!

However, as stated in the memo, we still need to contract for approximately the equivalent of 800 attorney hours. Another attorney with an office in Ely has expressed an interest in contracting with us for this second contract, if it meets your approval.

Please let me know. I look forward to your response.

Marcie



**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

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**RE: Follow up on Post Conviction Duplicates**

---

**From** Marcie Ryba </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F5B58839B2B045438BE54BF239A778C3-MARCIE RYBA>

**Date** Fri 6/21/2024 8:26 AM

**To** Ryan Cherry <rcherry@gov.nv.gov>

**Cc** Budd Milazzo <bmilazzo@finance.nv.gov>

Thanks for clarifying the issue, Ryan!

Budd and I have already talked about it this morning and we will remedy the issue moving forward.

Sorry for keeping you up at night!

Marcie

---

**From:** Ryan Cherry <rcherry@gov.nv.gov>  
**Sent:** Friday, June 21, 2024 3:10 AM  
**To:** Marcie Ryba <mryba@dids.nv.gov>  
**Cc:** Budd Milazzo <bmilazzo@finance.nv.gov>  
**Subject:** Re: Follow up on Post Conviction Duplicates

Marcie,

Sitting here with a bit of insomnia and going through emails. The response you sent yesterday afternoon doesn't quite align with the spreadsheets that were provided from your office last week regarding outstanding post-conviction payments and the final list that was approved one reviewed by GFO.

I have attached both of those versions to this email. You can see a difference of more than \$66k between those two sheets. These discrepancies were caught in the review process, but the fact that such a margin of error existed in the original excel sheet DIDS used for tracking invoices could be problematic in the future.

I encourage you to review these docs and develop an understanding of how the issue occurred. If we can prevent these errors on the front end it would prevent any additional delays reconciling invoices in the future.

Thanks,

**Ryan Cherry**  
**Chief of Staff**  
**Governor Joe Lombardo**  
101 North Carson Street  
Carson City, NV 89701  
[rcherry@gov.nv.gov](mailto:rcherry@gov.nv.gov)

---

**From:** Ryan Cherry  
**Sent:** Thursday, June 20, 2024 5:12 PM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>

**Cc:** Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>  
**Subject:** Re: Follow up on Post Conviction Duplicates

Thanks for the clarification, Marcie. Appreciate the follow-up.

**Ryan Cherry**  
**Chief of Staff**  
**Governor Joe Lombardo**  
101 North Carson Street  
Carson City, NV 89701  
[rcherry@gov.nv.gov](mailto:rcherry@gov.nv.gov)

---

**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Thursday, June 20, 2024 5:10 PM  
**To:** Ryan Cherry <[rcherry@gov.nv.gov](mailto:rcherry@gov.nv.gov)>  
**Cc:** Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>  
**Subject:** Follow up on Post Conviction Duplicates

Hi, Chief Cherry,

So nice to meet with you today. I wanted to let you know that when I returned to the office, I inquired with my staff about the concern duplicate bills were being submitted to ASD for payment and processing.

I just wanted to update you that upon checking, no duplicates were submitted by DIDS to ASD for payment. Budd has also confirmed this.

We are aware that there was at least one invoice where ASD used the case number rather than the invoice number – for the payment of a case where there were multiple (not duplicate) bills. These bills each had the same case number, but a distinct invoice number. Using the case number, the bill initially appeared to ASD to be a duplicate because it was under the same case number, but it was in fact a separate and distinct bill.

I am sure this error occurred because there was such a high priority for payment. And the issue has since been resolved.

Thank you,  
Marcie

**Marcie Ryba | Director**  
State of Nevada



Department of Indigent Defense Services

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Carson City NV 89703  
[\(775\) 687-8493](tel:(775)687-8493) (o)  
[\(775\) 431-0527](tel:(775)431-0527) (c)




Outlook

---

**FW: Is this an ok response**

---

**From** Marcie Ryba <mryba@dids.nv.gov>  
**Date** Mon 6/24/2024 5:55 PM  
**To** Laura FitzSimmons <Laura@fitzlamblaw.com>

 1 attachments (128 KB)

Original Reply to Request for Information regarding post-conviction payments.docx;

Discussion on first draft...

**From:** Budd Milazzo <bmilazzo@finance.nv.gov>  
**Sent:** Thursday, June 20, 2024 10:00 AM  
**To:** Marcie Ryba <mryba@dids.nv.gov>  
**Subject:** RE: Is this an ok response

But I read #1 and no chance of that reaching the Legislature

Thank You 😊

Budd Milazzo  
775-684-0271 work  
775-443-8924 cell

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Thursday, June 20, 2024 9:42 AM  
**To:** Peter P. Handy <P.Handy@dids.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>  
**Subject:** RE: Is this an ok response

Added info on when the account was exhausted.

**From:** Marcie Ryba  
**Sent:** Thursday, June 20, 2024 9:38 AM  
**To:** Peter P. Handy <P.Handy@dids.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>  
**Subject:** Is this an ok response

Hi, hAll,

Here is my first try at this request for information. Is there anything I should modify?

Thank you,  
Marcie



**Marcie Ryba | Director**  
State of Nevada



Department of Indigent Defense Services

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**From:** [Marcie Ryba](#)  
**To:** [Jim Wells](#)  
**Cc:** [Peter P. Handy](#); [Brenda Roberts](#); [Donald Carlson](#); [Budd Milazzo](#); [Patricia D. Cafferata](#); [Ryan Herrick](#)  
**Subject:** Re: Update from Meeting and Request  
**Date:** Friday, June 21, 2024 5:51:56 PM  
**Attachments:** [image005.png](#)  
[image006.png](#)

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Thank you, Jim!

I am heading to Ely on Monday to meet with the judges on Tuesday.

We have also taken steps to start entering the contract with Eberhardy.

I will also get you a caseload report for your review.

I hope you have a great week off.

Marcie

---

**From:** Jim Wells <jimwells@gov.nv.gov>  
**Sent:** Friday, June 21, 2024 5:41 PM  
**To:** Marcie Ryba <mryba@dids.nv.gov>  
**Cc:** Peter P. Handy <P.Handy@dids.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>; Patricia D. Cafferata <pdcafferata@nspd.nv.gov>; Ryan Herrick <RyanHerrick@gov.nv.gov>  
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**Cc:** Peter P. Handy <P.Handy@dids.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>; Patricia D. Cafferata <pdcafferata@nspd.nv.gov>  
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**From:** [Jim Wells](#)  
**To:** [Budd Milazzo](#); [Marcie Ryba](#)  
**Cc:** [Ryan Cherry](#)  
**Subject:** RE: Updated Response  
**Date:** Friday, June 21, 2024 5:37:39 PM  
**Attachments:** [image001.png](#)  
[image006.png](#)  
[image002.png](#)  
[image003.png](#)

---

I think this is okay. You can send it to Amy for transmission to IFC.

Thanks,  
Jim

**From:** Budd Milazzo <[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)>  
**Sent:** Friday, June 21, 2024 4:27 PM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>; Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>  
**Cc:** Ryan Cherry <[rcherry@gov.nv.gov](mailto:rcherry@gov.nv.gov)>  
**Subject:** RE: Updated Response

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Thank You

Budd Milazzo  
775-684-0271 work  
775-443-8924 cell

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Thank you!

Marcie

**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

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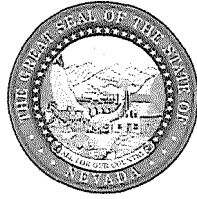
(775) 431-0527 (c)

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**STATE OF NEVADA  
DEPARTMENT OF INDIGENT DEFENSE SERVICES**

896 W. Nye, Suite 202e | Carson City, NV 89703  
(775) 687-8490 | www.dids.nv.gov

**Memorandum**

DATE: June 20, 2024

TO: Colby Nichols, Program Analyst Fiscal Analysis Division

FROM: Marcie Ryba, Executive Director, Department of Indigent Defense Services  
Patricia Cafferata, State Public Defender, State Public Defender's Office

SUBJECT: Reply to Request for Information Regarding Post-Conviction Representation Payments

**1. Why additional funding was not sought to pay these bills when funding for post-conviction legal representation was depleted.**

First, thank you for bringing this issue to the forefront. Sustainable indigent defense systems are of utmost importance to the Department, and it is clear it is very important to the legislature as well.

Pursuant to NRS 34.750, all costs for writ petitions for postconviction relief: must be paid from money appropriated to the office of the State Public Defender for that purpose. After appropriations for that purpose are exhausted, money must be allocated to the office of the State Public Defender from the Reserve for Statutory Contingency Account for the payment of the costs, expenses and compensation.

As a growing and new agency, our office is still in the process of learning procedures and working out the kinks. There were numerous communication issues between all parties involved and additional funding was not requested in a timely manner. No one individual is responsible for the communication issues. However, this is related to human error with procedures not being fully adhered to and this issue has been discussed with all parties.

As soon as this issue came to the attention of Governor Lombardo, the issue was immediately resolved and we appreciate the help of Governor Lombardo and his staff. As a result of the governor's quick action, on June 12, 2024, our Department was advised by our new GFO Budget Analyst that DIDS/ASD was to prepare a Non-IFC work program so that these outstanding claims could be processed.

**2. What actions are being considered to resolve the current payment issues.**

On June 14th, as per NRS 34.750, an allocation of \$397,638.17 was transferred from the Statutory Contingency Account to the Public Defender's account. This amount was for all invoices received by the Public Defender's office through 6/12/24. There were a total of 78 individual invoices.

**3. What actions have been taken to date to resolve these issues.**

Beginning June 14, payments started processing through the Controller's Office for payment. 22 were processed on June 14. 53 were processed on June 17. The last 3 were processed on June 20. As of June 20, all 78 payments have been issued for all invoices received through June 12. All invoices received after June 12 will be processed within 30 days as per normal operating procedures.



Outlook

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## Follow up on Post Conviction Duplicates

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**From** Marcie Ryba </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F5B58839B2B045438BE54BF239A778C3-MARCIE RYBA>  
**Date** Thu 6/20/2024 5:10 PM  
**To** Ryan Cherry <rcherry@gov.nv.gov>  
**Cc** Budd Milazzo <bmilazzo@finance.nv.gov>

Hi, Chief Cherry,

So nice to meet with you today. I wanted to let you know that when I returned to the office, I inquired with my staff about the concern duplicate bills were being submitted to ASD for payment and processing.

I just wanted to update you that upon checking, no duplicates were submitted by DIDS to ASD for payment. Budd has also confirmed this.

We are aware that there was at least one invoice where ASD used the case number rather than the invoice number for the payment of a case where there were multiple (not duplicate) bills. These bills each had the same case number, but a distinct invoice number. Using the case number, the bill initially appeared to ASD to be a duplicate because it was under the same case number, but it was in fact a separate and distinct bill.

I am sure this error occurred because there was such a high priority for payment. And the issue has since been resolved.

Thank you,  
Marcie

**Marcie Ryba | Director**  
State of Nevada



Department of Indigent Defense Services

896 W Nye Ln, Suite 202  
Carson City NV 89703  
(775) 687-8493 (o)  
(775) 431-0527 (c)  
[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)  
[dids.nv.gov](http://dids.nv.gov)

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Outlook

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**Re: Conversation Points**

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**From** Amy L. Stephenson <astephenson@finance.nv.gov>  
**Date** Sun 6/16/2024 3:09 PM  
**To** Marcie Ryba <mryba@dids.nv.gov>; Budd Milazzo <bmilazzo@finance.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>  
**Cc** Brenda Roberts <B.Roberts@dids.nv.gov>; Jaime Hamtak <jhamtak@dids.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>

You are so welcome! He is awesome and amazing! He gave me solutions in half the time and i knew then that he was the right person for your account.

Amy

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**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Saturday, June 15, 2024 11:54 AM  
**To:** Budd Milazzo <bmilazzo@finance.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>; Amy L. Stephenson <astephenson@finance.nv.gov>  
**Cc:** Brenda Roberts <B.Roberts@dids.nv.gov>; Jaime Hamtak <jhamtak@dids.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>  
**Subject:** RE: Conversation Points

Thanks, Budd! You are the greatest! And I don't want a yard – I want a mile!

I should have included my best estimate on the cost...

We cannot fill our staff NSPD positions – so instead we need to contract with 2 full-time equivalent attorneys to provide representation in White Pine County.

- Full time equivalent is defined by our workload as 1392.6 hours.
- The hourly rate that is set by statute and regulation is now \$172 an hour for non-capital and \$220 for capital cases.

Based on this:

$1392.6 \times \$172 = \$239,527.20$  per FTE for a total of at least \$479,054.40 for both of them.

- We also likely need to account for about 10% in extra cost as we are prohibited from creating an economic disincentive to providing indigent defense services and if there is a particularly complex case which causes them to exceed their hourly agreement, we will need to reimburse for that time too. (Again, this is Ely where the maximum security prison is – so there are murder charges which take a substantial amount of time coming from ESP).
- $\$479,054.40 + 10\% = \$526,959.84$

P.S. thank you, Amy for assigning us Budd! He is awesome.

Marcie

Support for what I am talking about above:

7.125. Fees of attorney other than public defender

1. An attorney, other than a public defender, who is selected pursuant to NRS 7.115 to represent or defend a defendant at any stage of the criminal proceedings from the defendant's initial appearance before the magistrate or the district court through the appeal, if any, is entitled to receive a fee for court appearances and other time reasonably spent on the matter to which the appointment is made of:

(a) If the compensation of the attorney is subject to the provisions of subsection 4 of NRS 180.320, the amount set forth in the regulations adopted by the Board on Indigent Defense Services within the Department of Indigent Defense Services pursuant to subsection 4 of NRS 180.320; or

(b) If the compensation of the attorney is not subject to the provisions of subsection 4 of NRS 180.320, \$125 per hour in cases in which the death penalty is sought and \$100 per hour in all other cases.

2. Except for cases in which the most serious crime is a felony punishable by death or by imprisonment for life with or without possibility of parole, this section does not preclude a governmental entity from contracting with a private attorney who agrees to provide such services for a lesser rate of compensation.

The workload summary assessment setting the full time equivalent number and the number of attorneys is attached + a memo on the rate increase.

**NRS 180.320 Duties of Board; adoption of regulations.**

1. The Board on Indigent Defense Services shall:

(a) Receive reports from the Executive Director and provide direction to the Executive Director concerning measures to be taken by the Department to ensure that indigent defense services are provided in an effective manner throughout this State.

(b) Review information from the Department regarding caseloads of attorneys who provide indigent defense services.

(c) Direct the Executive Director to conduct any additional audit, investigation or review the Board deems necessary to determine whether minimum standards in the provision of indigent defense services are being followed and provided in compliance with constitutional requirements.

(d) Work with the Executive Director to develop procedures for the mandatory collection of data concerning the provision of indigent defense services, including the manner in which such services are provided.

(e) Provide direction to the Executive Director concerning annual reports and review drafts of such reports.

(f) Review and approve the budget for the Department.

(g) Review any recommendations of the Executive Director concerning improvements to the criminal justice system and legislation to improve the provision of indigent defense services in this State.

(h) Provide advice and recommendations to the Executive Director on any other matter.

2. In addition to the duties set forth in subsection 1, the Board shall:

(a) Establish minimum standards for the delivery of indigent defense services to ensure that such services meet the constitutional requirements and do not create any type of economic disincentive or impair the ability of the defense attorney to provide effective representation.

(b) Establish a procedure to receive complaints and recommendations concerning the provision of indigent defense services from any interested person including, without limitation, judges, defendants, attorneys and members of the public.

(c) Work with the Department to develop resolutions to complaints or to carry out recommendations.

(d) Adopt regulations establishing standards for the provision of indigent defense services including, without limitation:

(1) Establishing requirements for specific continuing education and experience for attorneys who provide indigent defense services.

(2) Requiring attorneys who provide indigent defense services to track their time and provide reports, and requiring the State Public Defender and counties that employ attorneys or otherwise contract for the provision of indigent defense services to require or include a provision in the employment or other contract requiring compliance with the regulations.

(3) Establishing standards to ensure that attorneys who provide indigent defense services track and report information in a uniform manner.

(4) Establishing guidelines to be used to determine the maximum caseloads for attorneys who provide indigent defense services.

(5) Requiring the Department of Indigent Defense Services and each county that employs or contracts for the provision of indigent defense services to ensure, to the greatest extent possible, consistency in the representation of indigent defendants so that the same attorney represents a defendant through every stage of the case without delegating the representation to others, except that administrative and other tasks which do not affect the rights of the defendant may be delegated. A provision must be included in each employment or other contract of an attorney providing indigent defense services to require compliance with the regulations.

(e) Establish recommendations for the manner in which an attorney who is appointed to provide indigent defense services may request and receive reimbursement for expenses related to trial, including, without limitation, expenses for expert witnesses and investigators.

(f) Work with the Executive Director and the Dean of the William S. Boyd School of Law of the University of Nevada, Las Vegas, or his or her designee, to determine incentives to recommend offering to law students and attorneys to encourage them to provide indigent defense services, especially in rural areas of the State.

(g) Review laws and recommend legislation to ensure indigent defendants are represented in the most effective and constitutional manner.

3. The Board shall adopt regulations to establish a formula for determining the maximum amount that a county may be required to pay for the provision of indigent defense services.

4. The Board shall adopt any additional regulations it deems necessary or convenient to carry out the duties of the Board and the provisions of this chapter.

**From:** Budd Milazzo <bmilazzo@finance.nv.gov>

**Sent:** Saturday, June 15, 2024 11:36 AM

**To:** Marcie Ryba <mryba@dids.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>; Amy L. Stephenson <astephenon@finance.nv.gov>

**Cc:** Brenda Roberts <B.Roberts@dids.nv.gov>; Jaime Hamtak <jhamtak@dids.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>

**Subject:** Re: Conversation Points

Howdy,

Don and I need to learn how not to do good work. Give an inch, they want a yard. I helped Amy find a PCR solution, reward is "Hey Budd, you want DIDS?" lol

I will be in the office this weekend to learn about DIDS and see what options are. I need to better understand the IFC Restricted funding and how it can be accessed. Statutory Contingency and IFC Unrestricted funds are essentially unavailable until February without causing a special session, which I was reminded by the governors office on Friday, is unacceptable.

Then we can chat Monday.

Budd Milazzo  
774-443-8924

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**From:** Marcie Ryba <mryba@dids.nv.gov>

**Sent:** Saturday, June 15, 2024 11:05:44 AM

**To:** Budd Milazzo <bmilazzo@finance.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>

**Cc:** Brenda Roberts <B.Roberts@dids.nv.gov>; Jaime Hamtak <jhamtak@dids.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>

**Subject:** Conversation Points

Hi, Budd and Donald,

Budd and Donald – thank you so much for the movement on these work programs.

I am hoping we can schedule a time to discuss some issues of particular importance for us:

- There is an immediate need for attorneys at NSPD. How can we provide attorneys NOW?
  - The state is constitutionally required to provide zealous representation – (and White Pine county has fully transferred this responsibility to NSPD), but we are unable to staff the NSPD (likely due to lack of pay parity and the remote work locations)
  - One possible solution is: create a special use category in the NSPD which could be used by NSPD to contract with attorneys to provide coverage when the NSPD is unable to do so (see NRS 180.050).

- In our future budget build, we would like to discuss if we could have such a special use category.
  - But in the meantime, we need an immediate solution. As an aside, I can't help but compare to a wildfire – if there is a fire, but not funding, do they stop fighting fires until we get funding? I would assume no, but I don't know. Similarly, courts (by statute NRS 171.188) must appoint the NSPD to represent an individual when the court deems it appropriate.
    - As we have shared before, the NSPD has filed motions to withdraw from cases (based upon insufficient staff) and these have been denied. See attachment.
    - I can reach out to the county to determine if they will enter into contracts with individuals to provide such representation, but how does this balance with NRS 180.008?

I appreciate your willingness to assist with creative solutions.

Thank you for your help!

Marcie

#### **NRS 180.050 Contracts for legal services.**

1. The State Public Defender may contract with attorneys licensed to practice law in the State of Nevada and with county public defenders to provide services required by this chapter if it is impracticable for the State Public Defender or the State Public Defender's deputies to provide such services for any reason.
2. All such contract services shall be performed under the supervision and control of the State Public Defender.

#### **NRS 171.188 Procedure for appointment of attorney for indigent defendant.**

1. Any defendant charged with a public offense who is an indigent may, by oral statement to the district judge, justice of the peace, municipal judge or master, request the appointment of an attorney to represent the defendant. The record in each such case must indicate that the defendant was provided an opportunity to make an oral statement and whether the defendant made such a statement or declined to request the appointment of an attorney. If the defendant declined to request the appointment of an attorney, the record must also indicate that the decision to decline was made knowingly and voluntarily and with an understanding of the consequences.

2. The request must be accompanied by the defendant's affidavit, which must state:

- (a) That the defendant is without means of employing an attorney; and
- (b) Facts with some particularity, definiteness and certainty concerning the defendant's financial disability.

3. The district judge, justice of the peace, municipal judge or master shall forthwith consider the application and shall make such further inquiry as he or she considers necessary. If the district judge, justice of the peace, municipal judge or master:

- (a) Finds that the defendant is without means of employing an attorney; and
- (b) Otherwise determines that representation is required.

the judge, justice or master shall designate the public defender of the county or the State Public Defender, as appropriate, to represent the defendant.

4. If the appropriate public defender is unable to represent the defendant, or other good cause appears, the judge, justice or master shall order the appointment of another attorney and refer the selection of the attorney:

(a) In a county whose population is less than 100,000, to the Department of Indigent Defense Services or its designee in compliance with the plan of the county for the provision of indigent defense services; or

(b) In a county whose population is 100,000 or more, in compliance with the plan of the county for the provision of indigent defense services.

5. The county or State Public Defender must be reimbursed by the city for costs incurred in appearing in municipal court. The county shall reimburse the State Public Defender for costs incurred in appearing in Justice Court, unless the county has transferred the responsibility to provide all indigent defense services for the county to the State Public Defender pursuant to [NRS 180.450](#). If a private attorney is appointed as provided in this section, the private attorney must be reimbursed by the county for appearance in Justice Court or the city for appearance in municipal court.

#### **180.008. Compensation and expenses of attorney appointed to represent defendant: Obligations of county; amounts that are not obligation of county**

1. Except as otherwise provided in paragraph (b) of subsection 6 of [NRS 180.450](#) and subsection 1 of [NRS 212.070](#), the compensation and expenses of an attorney appointed to represent a defendant are an obligation of the county unless that county has:

- (a) Transferred its responsibility for the provision of indigent defense services pursuant to [NRS 180.450](#); or
- (b) Met the maximum amount as determined pursuant to [NRS 180.006](#).

2. Amounts that are not an obligation of the county pursuant to subsection 1 must be paid from money appropriated to the Department. After the appropriation for such compensation and expenses is exhausted, money must be allocated from the Reserve for Statutory Contingency Account for the payment of such compensation and expenses.



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**RE: Tuesday Meeting with Wells**

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**From** Tawny Polito <tpolito@gov.nv.gov>

**Date** Fri 6/14/2024 11:06 AM

**To** Marcie Ryba <mryba@dids.nv.gov>

Hi,

No, the meeting scheduled for the 18<sup>th</sup> stands. Chief Cherry would like to meet with you separately over a cup of coffee – please reach out to him directly via his cell at 775-857-9000 to schedule.

Thank you and happy Friday!

-Tawny

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**From:** Marcie Ryba <mryba@dids.nv.gov>

**Sent:** Friday, June 14, 2024 10:44 AM

**To:** Tawny Polito <tpolito@gov.nv.gov>

**Subject:** RE: Tuesday Meeting with Wells

Hi, Tawny,

I heard that I should be meeting with Ryan Cherry instead of Jim Wells on this issue. Is that correct? If so, can I switch to a meeting with Ryan Cherry?

Thanks!

Marcie

---

**From:** Tawny Polito <tpolito@gov.nv.gov>

**Sent:** Thursday, June 13, 2024 3:04 PM

**To:** Marcie Ryba <mryba@dids.nv.gov>

**Subject:** RE: Tuesday Meeting with Wells

Hello again,

I've checked with Jim, and he is not in favor of this. Apologies.

Thank you,  
Tawny

---

**From:** Marcie Ryba <mryba@dids.nv.gov>

**Sent:** Thursday, June 13, 2024 10:09 AM

**To:** Tawny Polito <tpolito@gov.nv.gov>

**Subject:** RE: Tuesday Meeting with Wells

Thanks!

**From:** Tawny Polito <[tpolito@gov.nv.gov](mailto:tpolito@gov.nv.gov)>  
**Sent:** Thursday, June 13, 2024 10:08 AM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Subject:** RE: Tuesday Meeting with Wells

Thank you – I'll check with Jim as soon as he's available and get back to you.

**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Thursday, June 13, 2024 10:01 AM  
**To:** Tawny Polito <[tpolito@gov.nv.gov](mailto:tpolito@gov.nv.gov)>  
**Subject:** RE: Tuesday Meeting with Wells

Hello,

David Goldwater is with Pinyon Public Affairs. He is lobbying on behalf of the indigent defense attorneys. His website is: [www.pinyonpublicaffairs.com](http://www.pinyonpublicaffairs.com).

Thank you,  
Marcie

**From:** Tawny Polito <[tpolito@gov.nv.gov](mailto:tpolito@gov.nv.gov)>  
**Sent:** Thursday, June 13, 2024 9:49 AM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Subject:** RE: Tuesday Meeting with Wells

Good morning 😊

Prior to asking, and for my educational purposes, can you tell me who Mr. Goldwater is and his involvement?

Thank you,  
Tawny

**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Thursday, June 13, 2024 9:45 AM  
**To:** Tawny Polito <[tpolito@gov.nv.gov](mailto:tpolito@gov.nv.gov)>  
**Subject:** Tuesday Meeting with Wells

Hello,

David Goldwater is very interested in this topic. Would Mr. Wells be agreeable to invite Mr. Goldwater to the meeting?

Thank you!  
Marcie

**Marcie Ryba | Director**  
State of Nevada



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**FW: Meeting between Jim and DIDS**

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**Organizer** Tawny Polito <tpolito@gov.nv.gov>  
**Meeting time** This event occurred 3 months ago (Tue 6/18/2024 1:30 PM - 2:00 PM)  
**Location** 101 N Carson St (101 N Carson St, Carson City, Nevada 89701)  
**My response** Not yet responded  
**Required attendees** Tawny Polito, Laura FitzSimmons, Jim Wells, Marcie Ryba, Patricia D. Cafferata, Nathan Hastings  
**Message sent** Wed 6/12/2024 3:15 PM

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-----Original Appointment-----

**From:** Tawny Polito <tpolito@gov.nv.gov>

**Sent:** Monday, June 10, 2024 11:32 AM

**To:** Tawny Polito; Jim Wells; Marcie Ryba; Patricia D. Cafferata; Nathan Hastings

**Subject:** Meeting between Jim and DIDS

**When:** Tuesday, June 18, 2024 1:30 PM-2:00 PM (UTC-08:00) Pacific Time (US & Canada).

**Where:** 101 N Carson St (101 N Carson St, Carson City, Nevada 89701)

Meeting will take place within DCOS Wells' office.







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**RE: Prior Conviction Relief**

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From Marcie Ryba </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F5B58839B2B045438BE54BF239A778C3-MARCIE RYBA>

Date Thu 6/13/2024 1:06 PM

To Budd Milazzo <bmilazzo@finance.nv.gov>; Nathan Hastings <hastings@gov.nv.gov>; Amy L. Stephenson <astephenon@finance.nv.gov>; Curtis Palmer <PalmerC@finance.nv.gov>

Cc Daniel Marlow <dmarlow@admin.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>

Thank you for all of this hard work!

**From:** Budd Milazzo <bmilazzo@finance.nv.gov>

**Sent:** Thursday, June 13, 2024 1:00 PM

**To:** Nathan Hastings <hastings@gov.nv.gov>; Amy L. Stephenson <astephenon@finance.nv.gov>; Curtis Palmer <PalmerC@finance.nv.gov>

**Cc:** Marcie Ryba <mryba@dids.nv.gov>; Daniel Marlow <dmarlow@admin.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>

**Subject:** Prior Conviction Relief

**Importance:** High

Howdy,

Attached is the final spreadsheet from DIDS reflecting 78 claims totaling \$398,701.32. Subtract the \$6.32 authority remaining in Cat 12 leaves a request of \$398,695.00 from the Statutory Contingency Fund. There are 10 less claims from yesterday's spreadsheet due to duplications being removed. This decreased the request from \$466,356 to the final \$398,695. There are no Payee's on the final list that do not have an active vendor number with the Controller's Office, so there should be no delay there. It is my intent to complete this project by COB tomorrow, which would make payments in payee's accounts on Wednesday. This is tentative and I will update you all at COB today then again tomorrow.

Thank You 😊

**Budd Milazzo**

Executive Branch Budget Officer

Governor's Finance Office, Budget Division

209 E Musser St., Room 200 Carson City, NV 89701

[bmilazzo@finance.nv.gov](mailto:bmilazzo@finance.nv.gov)

775-684-0271 work 775-443-8924 cell





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**FW: payment processing plan for pending PCR invoices**

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**From** Marcie Ryba </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F5B58839B2B045438BE54BF239A778C3-MARCIE RYBA>

**Date** Wed 6/12/2024 3:59 PM

**To** Jaime Hamtak <jhamtak@dids.nv.gov>

1 attachments (21 KB)

FY24 Outstanding Post Conviction 1499-12.xlsx;

**From:** Nathan Hastings <hastings@gov.nv.gov>

**Sent:** Wednesday, June 12, 2024 3:54 PM

**To:** Marcie Ryba <mryba@dids.nv.gov>

**Cc:** Budd Milazzo <bmilazzo@finance.nv.gov>; Amy L. Stephenson <astephenson@finance.nv.gov>

**Subject:** payment processing plan for pending PCR invoices

Marcie,

As we just discussed, a plan is in place for payment of the pending post-conviction representation invoices. Today, you will submit all invoices (and any other supporting documentation as necessary) directly to Budd Milazzo at GFO, consistent with/including those reflected in the attached. Contingent upon Mr. Millazzo receiving all necessary documentation, the next steps will proceed, including processing of a work plan and necessary transfer of statutory contingency funds. He will be your point of contact for specifics or any questions of what is needed to carry those steps forward.

Today, you will also send emails to all vendors with pertinent invoices, informing them that the payment mechanism is arranged as of today (contingent on GFO's receipt of all necessary documents), and that payments will occur within 10 business days. As the subsequent steps proceed for execution of this payment mechanism, I will provide you with additional updates which you will provide to the vendors via email.

Thank you,

**Nathan Hastings**  
**General Counsel**  
**Governor Joe Lombardo**  
101 North Carson Street  
Carson City, NV 89701  
775-684-5637  
[hastings@gov.nv.gov](mailto:hastings@gov.nv.gov)



## Laura FitzSimmons

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**From:** Marcie Ryba  
**Sent:** Friday, June 7, 2024 3:02 PM  
**To:** Andrew Coates  
**Subject:** follow up  
**Attachments:** WPC67456.pdf; Updated Memo IFC AB518 - 2.25.24.pdf; WPC68379.pdf; Amount REvenue Swap BA1008 to BA1499 PH Edits.pdf

Hi, Andrew,

Here are two work programs that are currently pending. We have others, but these are the ones that I talked about...

I am concerned as we are required by the consent judgment to provide oversight, training and data collection. We have 3 contracts in place to provide oversight. The funding will expire on June 30. We provide Westlaw to all attorneys on the indigent defense list. This funding will expire and we will need to cancel Westlaw. We also have a training requirement and we have individuals that want to go to training (the NCDC Trial College Training at the beginning of July) – so having the funding earlier in the year helps us with scheduling and lets us know exactly what we can do.

Let me know if you have any questions.

Marcie

On another note – just a reminder that our LASSO students are from Idaho, Arizona, and Virginia (as well as Boyd). So we are reaching out to other schools.



**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

896 W Nye Ln, Suite 202

Carson City NV 89703

(775) 687-8493 (o)

(775) 431-0527 (c)

[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)

[dids.nv.gov](http://dids.nv.gov)

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**Re: Journalist asking questions about attorneys not getting paid**

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**From** Marcie Ryba <mryba@dids.nv.gov>

**Date** Fri 6/7/2024 6:37 PM

**To** Elizabeth Ray <eray@gov.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>; Daniel Marlow <dmarlow@admin.nv.gov>; Amy L. Stephenson <astephenson@finance.nv.gov>; Andrew Coates <acoates@gov.nv.gov>

Received.

Thank you for your assistance.

Marcie

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**From:** Elizabeth Ray <eray@gov.nv.gov>

**Sent:** Friday, June 7, 2024 5:43 PM

**To:** Donald Carlson <d.carlson@admin.nv.gov>; Daniel Marlow <dmarlow@admin.nv.gov>; Amy L. Stephenson <astephenson@finance.nv.gov>; Marcie Ryba <mryba@dids.nv.gov>; Andrew Coates <acoates@gov.nv.gov>

**Subject:** RE: Journalist asking questions about attorneys not getting paid

Marcie and team,

I have provided the following quote to Dana Gentry. For your response, you can either let it be, respond with my quote, or direct her to me. Either way, she has our official comment now.

*"The Governor's Finance Office is conducting a routine review of the post-conviction claims related to the public defender's budget account. Following sufficient review and approval, the claims will be paid according to the correct operating procedure." -Elizabeth Ray, Spox for Governor Lombardo*

*Following the review process, we can provide you with a dollar amount of outstanding claims.*

Please confirm that you've received this email.

Thanks,  
Elizabeth

**Elizabeth Ray**

Communications Director, Office of Governor Joe Lombardo  
c: 775-634-7598 | eray@gov.nv.gov

**From:** Andrew Coates <acoates@gov.nv.gov>

**Sent:** Friday, June 7, 2024 4:07 PM



**To:** Elizabeth Ray <eray@gov.nv.gov>

**Subject:** Fwd: Journalist asking questions about attorneys not getting paid

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---

**From:** Marcie Ryba <mryba@dids.nv.gov>

**Sent:** Friday, June 7, 2024 3:57:29 PM

**To:** Andrew Coates <acoates@gov.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>; Daniel Marlow <dmarlow@admin.nv.gov>; Amy L. Stephenson <astephenson@finance.nv.gov>

**Subject:** Fw: Journalist asking questions about attorneys not getting paid

Hello,  
Who do we refer them to?

This is in relation to the large outstanding bills for post conviction.

We were awaiting guidance on whether GFO would just process or whether we needed to prepare a work program. Bridgette never got back to us on that.

Outstanding amount is \$450k.

Marcie

---

**From:** Bet-Nimra Torres. Perez <Bet-NimraPerez@dids.nv.gov>

**Sent:** Friday, June 7, 2024 3:53 PM

**To:** Jaime Hamtak <jhamtak@dids.nv.gov>; Cynthia Atanzio <catanzio@dids.nv.gov>; Marcie Ryba <mryba@dids.nv.gov>

**Cc:** Peter P. Handy <P.Handy@dids.nv.gov>; Brenda Roberts <B.Roberts@dids.nv.gov>; Ashley Torres <AshleyTorres@dids.nv.gov>; DEPARTMENT OF INDIGENT DEFENSE SERVICES <didscontact@dids.nv.gov>

**Subject:** Journalist asking questions about attorneys not getting paid

We just received a call from a journalist asking who the best contact would be to answer questions regarding the lack of funds and why attorneys are not getting paid.

Contact info: Ashlyn Gentry  
702-626-2962

I'm not sure who is the best contact is, but I was not comfortable answering those questions myself.

**Bet-Nimra Torres Perez (She/Her)**

Indigent Defense Services

Management Analyst Trainee

775-687-8491

896 W. Nye Lane Suite 202, Carson City, NV, 89703

## Laura FitzSimmons

---

**From:** Marcie Ryba  
**Sent:** Thursday, June 6, 2024 11:14 AM  
**To:** Jim Wells; Patricia D. Cafferata  
**Subject:** RE: Request for a Meeting

Hi, Jim,

Patty and I are available on June 18 at 1 pm. Would that work for you?

I want to make sure you are aware that DIDS may fall out of compliance with the *Davis* stipulated consent judgment if funding to continue certain programs is not continued into fiscal year 2025. We have submitted several work programs that have had no movement with the GFO. In March, we were led to believe that the work program would not be scheduled for the April IFC, but we would have to wait for June. We are hoping that the IFC work programs can be scheduled for the June 13 IFC. The funding request is for BA1008 to continue compliance with the *Davis* consent judgment: with our oversight (this is getting a very positive response from the rural District Attorneys and Judges), Westlaw access (we provide Westlaw to all indigent defense attorneys – again, this has had very positive feedback), and training.

Is it possible to discuss whether the governor supports this BA1008 work program before the 18<sup>th</sup>?

Also, our meeting to discuss the BDRs was initially cancelled, but not rescheduled. Will the DIDS/NSPD BDR meeting be rescheduled?

Thank you,

Marcie

**From:** Jim Wells <jimwells@gov.nv.gov>  
**Sent:** Wednesday, June 05, 2024 4:25 PM  
**To:** Marcie Ryba <mryba@dids.nv.gov>; Patricia D. Cafferata <pdcafferata@nspd.nv.gov>  
**Subject:** RE: Request for a Meeting

Hi Marcie,

We are in the process of reviewing BDRs for the next two weeks. Right now, the earliest I have available is June 14<sup>th</sup> between 9:30 and noon. After that, the afternoons of the 18<sup>th</sup> and 19<sup>th</sup> are open as is most of Friday the 21<sup>st</sup>. Let me know what works for you.

Thanks,  
Jim

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Thursday, May 30, 2024 2:22 PM  
**To:** Jim Wells <jimwells@gov.nv.gov>; Patricia D. Cafferata <pdcafferata@nspd.nv.gov>  
**Subject:** Request for a Meeting

Hi, Jim,

Happy Thursday!

Patty Cafferata, the new Nevada State Public Defender, and I need to meet with you. As you know, Patty is very popular in the rural counties and many of the rural counties are wanting to transfer the responsibility for indigent defense services to her. Of course, to do this, she needs additional staff to meet the workload staffing requirements.

We have submitted some work programs with the Governor's Finance Office, but they have not moved and we have not received any information on why they are not moving.

We would like to meet with you to find out the direction that the Governor would like us to take.

Thank you!

Marcie



**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

896 W Nye Ln, Suite 202

Carson City NV 89703

(775) 687-8493 (o)

(775) 431-0527 (c)

[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)

[dids.nv.gov](http://dids.nv.gov)

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**From:** [Jim Wells](#)  
**To:** [Marcie Ryba](#); [Patricia D. Cafferata](#)  
**Subject:** RE: Request for a Meeting  
**Date:** Wednesday, June 5, 2024 4:25:16 PM  
**Attachments:** [image001.png](#)  
[image003.png](#)  
[image002.png](#)  
[image004.png](#)

---

Hi Marcie,

We are in the process of reviewing BDRs for the next two weeks. Right now, the earliest I have available is June 14<sup>th</sup> between 9:30 and noon. After that, the afternoons of the 18<sup>th</sup> and 19<sup>th</sup> are open as is most of Friday the 21<sup>st</sup>. Let me know what works for you.

Thanks,  
Jim

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Thursday, May 30, 2024 2:22 PM  
**To:** Jim Wells <jimwells@gov.nv.gov>; Patricia D. Cafferata <pdcafferata@nspd.nv.gov>  
**Subject:** Request for a Meeting

Hi, Jim,

Happy Thursday!

Patty Cafferata, the new Nevada State Public Defender, and I need to meet with you. As you know, Patty is very popular in the rural counties and many of the rural counties are wanting to transfer the responsibility for indigent defense services to her. Of course, to do this, she needs additional staff to meet the workload staffing requirements.

We have submitted some work programs with the Governor's Finance Office, but they have not moved and we have not received any information on why they are not moving.

We would like to meet with you to find out the direction that the Governor would like us to take.

Thank you  
Marcie

**Marcie Ryba | Director**  
State of Nevada  
Department of Indigent Defense Services

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Outlook

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**Fw: Payment on PCR bills**

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**From** Marcie Ryba <mryba@dids.nv.gov>**Date** Thu 5/23/2024 7:45 AM**To** Bridgette Mackey-Garrison <bmgarrison@finance.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>; Daniel Marlow <dmarlow@admin.nv.gov>; Curtis Palmer <PalmerC@finance.nv.gov>**Cc** Peter P. Handy <P.Handy@dids.nv.gov>; Amy L. Stephenson <astephenson@finance.nv.gov>**Bcc** Cynthia Atanzio <catanzio@dids.nv.gov>; Jaime Hamtak <jhamtak@dids.nv.gov>

Hello,

Please see the email below regarding payment of post conviction claims. This funding is exhausted and we are awaiting guidance from the gfo as to whether they will be processed by the gfo or if a work program is necessary. Please see NRS 34.750(2).

Can you please advise what we should say to this attorney? This isn't the first request we have received for an update.

Marcie

**NRS 34.750 Appointment of counsel for indigents; pleadings supplemental to petition; response to motion to dismiss.**

1. A petition may allege that the petitioner is unable to pay the costs of the proceedings or to employ counsel. If the court is satisfied that the allegation of indigency is true and the petition is not dismissed summarily, the court may appoint counsel to represent the petitioner. In making its determination, the court may consider, among other things, the severity of the consequences facing the petitioner and whether:

- (a) The issues presented are difficult;
- (b) The petitioner is unable to comprehend the proceedings; or
- (c) Counsel is necessary to proceed with discovery.

2. If the court determines that the petitioner is unable to pay all necessary costs and expenses incident to the proceedings of the trial court and the reviewing court, including court costs, stenographic services, printing and reasonable compensation for legal services, all costs must be paid from money appropriated to the office of the State Public Defender for that purpose. After appropriations for that purpose are exhausted, money must be allocated to the office of the State Public Defender from the Reserve for Statutory Contingency Account for the payment of the costs, expenses and compensation.

-----Original Message-----

**From:** Jean Schwartz <jean.schwartz@gmail.com>**Sent:** Wednesday, May 22, 2024 9:27 PM**To:** Cynthia Atanzio <catanzio@dids.nv.gov>**Subject:** Payment on PCR bills

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Cynthia!

I was wondering if you guys had any idea when the PCR bills would be paid. This is really starting to negatively impact my life. :-/

-Jean

Sent from my iPhone

## Laura FitzSimmons

---

**From:** Ryan Herrick  
**Sent:** Monday, May 20, 2024 8:25 AM  
**To:** Marcie Ryba; Andrew Coates  
**Cc:** Patricia D. Cafferata; Peter P. Handy  
**Subject:** RE: Happy Friday!

Marcie,  
Thank you for this information.

In general, the WP looks fine. The one question that we have is why are the Clark County revenues replacing the White Pine fees? Am I misreading the WP, or is there some reason the Clark County fees are replacing the White Pine fees?

Thanks,  
Ryan



**Ryan Herrick**  
*Deputy Policy Director*  
Office of Governor Joe Lombardo  
[ryanherrick@gov.nv.gov](mailto:ryanherrick@gov.nv.gov)  
(775) 684-5670 (office)  
(775) 376-2912 (mobile)

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Friday, May 17, 2024 1:19 PM  
**To:** Ryan Herrick <RyanHerrick@gov.nv.gov>; Andrew Coates <acoates@gov.nv.gov>  
**Cc:** Patricia D. Cafferata <pdcafferata@nspd.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>  
**Subject:** Happy Friday!

Hello, Ryan and Andrew,

Happy Friday!

I am reaching out to make sure we have your approval before we get too far into the weeds on something. Specifically, the Nevada State Public Defender would like to explore setting up an interlocal agreement where the NSPD covers the Clark County parole violation hearings that take place in the North. Patty's office is covering these, but is not charging Clark County for this time. We would like to correct this to ensure that Clark County is paying their fair share.

If we are able to work out the interlocal, we would submit a work program allowing the NSPD to collect this revenue. See NRS 260.065.

We want to make sure we have the governor's support for this request and that the work program would be approved. Can you let me know if this would be supported and if the NSPD should pursue



this revenue source? We have a similar work program pending to collect fees from Ely Municipal, but it has not been approved yet. See attached Work Program C67797.

If you have any advice regarding this, it would be greatly appreciated!

Thanks!  
Marcie

**NRS 260.065 County may contract for services of State Public Defender.** Any county in which the office of public defender has been created may contract for the services of the State Public Defender in providing representation for indigent persons when the court, for cause, disqualifies the county public defender or when the county public defender is otherwise unable to provide representation.



**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

896 W Nye Ln, Suite 202

Carson City NV 89703

(775) 687-8493 (o)

(775) 431-0527 (c)

[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)

[dids.nv.gov](http://dids.nv.gov)

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**FW: Good Morning**

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**From** Marcie Ryba </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F5B58839B2B045438BE54BF239A778C3-MARCIE RYBA>

**Date** Thu 5/30/2024 2:06 PM

**To** Peter P. Handy <P.Handy@dids.nv.gov>; Marcie Ryba </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F5B58839B2B045438BE54BF239A778C3-MARCIE RYBA>

**From:** Jim Wells <jimwells@gov.nv.gov>

**Sent:** Tuesday, May 16, 2023 2:46 PM

**To:** Marcie Ryba <mryba@dids.nv.gov>

**Cc:** Dylan K. Tedford <dktedford@gov.nv.gov>; Chris Nielsen <cgnielsen@gov.nv.gov>

**Subject:** RE: Good Morning

Hi Marcie,

This email will cover the last couple.

I disagree with the informal opinion you received from the Deputy Attorney General regarding providing assistance to the Public Defender. I also want you to withdraw the formal opinion request from the AG.

My expectation is that you and your two deputies assist the Public Defender's Office with their workload, especially given the upcoming transition to the Carson City Public Defender. As the CCPD gets stood up and take over the cases, the workload on your office as well as the Public Defender will decrease and you will no longer need to assist with the PD workload. We are a lean state when it comes to staffing, and when there are vacancies supervisors and managers, including Deputy Directors and Directors, sometimes need to step in and help complete the work to insure nothing falls through the cracks. Further, given this change, any appointments to the Public Defender's Office need to be approved by the Governor's Office before any official offer is made.

With the vacancies, I expect there to be salary savings in the PD budget. Those savings will need to be used to cover some of the costs being incurred by Carson City due to the lack of representation from the PD. You need to work with the Budget Office to come up with the estimated savings and transfer that to contracts or reduce the revenues you bill to Carson City. Once that funding runs out, we will look at the next steps.

Once Carson City has finalized their plan, we can meet again to discuss total costs for the upcoming year compared with what they budgeted for the current year (and for next year since their budgets have already been submitted). Any shortfall will be part of the funding approved by the legislature.

If the selection of counsel is currently being done by Carson City, why does the Department need to do it? If not, who is currently making those selections.

Please keep us updated on the progress with the corrective action plan with Carson City.

Thanks,  
Jim

**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Friday, May 12, 2023 10:22 AM  
**To:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>  
**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Thomas L. Qualls <[ThomasQualls@dids.nv.gov](mailto:ThomasQualls@dids.nv.gov)>  
**Subject:** Good Morning

Hi, Jim,

Thank you for sitting in the meeting with Carson City on Monday. I thought that it ended on a very good note.

We have a follow up meeting with the Mayor and other representatives from Carson City on Thursday, May 18, 2023. The purpose of the meeting is to discuss the Corrective Action Plan.

At the meeting on Monday, you had made comments that additional funds should be reimbursed to Carson City and that there may be funding available to cover the additional expenses Carson City is facing since the NSPD cannot handle the caseload. Are you willing to talk with me about what funding sources are available? I want to ensure that we are providing correct numbers to Carson City because they will want to know who is paying for this (especially since the state is unable to provide indigent defense services as needed by Carson). Also, pursuant to NRS 180.450(2) if the plan established will cause a county to expend more money than budgeted by the county in a previous budget year plus inflation, DIDS is required to either add that extra funding in its budget or request an allocation from the Contingency Account. The Mayor provided you with the expected cost of this office, so I do not know if the increased costs will cause them to exceed their budgeted amount plus inflation. Any help on this issue would also be appreciated.

I would be happy to discuss the Corrective Action Plan with you, as well. But in short, the State Public Defender is unable to take on any additional cases. We will be proposing that the Department will select counsel for every case (whether it is contract counsel or appointed counsel). As you heard, this will lead to an increased expense as Carson City is paying \$300 per hour for appointed counsel.

I look forward to your response and appreciate your help with this matter.

Marcie

**Marcie Ryba | Director**  
State of Nevada



Department of Indigent Defense Services

896 W Nye Ln, Suite 202  
Carson City NV 89703  
(775) 687-8493 (o)

## Laura FitzSimmons

---

**From:** Sonia Joya  
**Sent:** Friday, April 19, 2024 9:04 AM  
**To:** Marcie Ryba; Ryan Herrick; Patricia D. Cafferata; Andrew Coates  
**Cc:** Peter P. Handy; Thomas L. Qualls; Donald Carlson; Melanie A. LaChapelle; Michawn Rich  
**Subject:** RE: BDR Ideas DIDS/NSPD

Will be sending in 5 minutes, stand by

### Sonia Joya

Southern Nevada Director  
Office of Governor Joe Lombardo  
[sjoya@gov.nv.gov](mailto:sjoya@gov.nv.gov)  
Office: (702) 486-2500  
Desk direct: (702) 486-9656



**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Friday, April 19, 2024 9:02 AM  
**To:** Ryan Herrick <[RyanHerrick@gov.nv.gov](mailto:RyanHerrick@gov.nv.gov)>; Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>  
**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Thomas L. Qualls <[ThomasQualls@dids.nv.gov](mailto:ThomasQualls@dids.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>; Michawn Rich <[mrich@gov.nv.gov](mailto:mrich@gov.nv.gov)>; Sonia Joya <[sjoya@gov.nv.gov](mailto:sjoya@gov.nv.gov)>  
**Subject:** RE: BDR Ideas DIDS/NSPD  
**Importance:** High

Hello,

Our invite for the meeting doesn't have a TEAMS link, it just says TEAMS Meeting.

Can you resend?

Sorry  
Marcie

**From:** Ryan Herrick <[RyanHerrick@gov.nv.gov](mailto:RyanHerrick@gov.nv.gov)>  
**Sent:** Friday, April 19, 2024 7:17 AM  
**To:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>; Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>  
**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Thomas L. Qualls <[ThomasQualls@dids.nv.gov](mailto:ThomasQualls@dids.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>; Melanie A. LaChapelle <[malachapelle@nspd.nv.gov](mailto:malachapelle@nspd.nv.gov)>  
**Subject:** RE: BDR Ideas DIDS/NSPD

Cc: Peter P. Handy <P.Handy@dids.nv.gov>; Thomas L. Qualls <ThomasQualls@dids.nv.gov>; Patricia D. Cafferata <pdcafferata@nspd.nv.gov>; Donald Carlson <d.carlson@admin.nv.gov>

Subject: BDR Ideas DIDS/NSPD

Hi, Ryan and Andrew,

I am very excited for our conversation on BDRs tomorrow morning at 9 am.

Please find attached the DIDS BDR Agency Template. You will see that we have started to focus on five areas which we believe are not only corrective, but support the Governor's Core vision of reducing crime under 4.3 of his plan.

- **Comprehensive Defense** – This will allow the State of Nevada to build a comprehensive system of indigent defense services with the (1) Nevada State Public Defender (to cover front-line cases); (2) Create An Office of Alternate Defense Counsel (where if the NSPD has a conflict, this office could have staff or contract attorneys to provide representation); and (3) and Office of Post Conviction Defense (where we bring post-conviction writs of habeas corpus and their appeals in-house rather than paying an hourly rate of \$172 an hour). This will ensure that if counties transfer the responsibility for indigent defense services to the State of Nevada, we will have the ability to provide comprehensive services. And it will allow the State of Nevada to control these costs.
- **Eliminate Economic Disincentives** – currently appointed counsel in prison cases must submit their bills for payment through the statutory contingency account. This process delays payments in these cases by months and has caused attorneys to refuse to take such cases. This BDR will place funding within the Department to promptly reimburse these claims.
- **Equal Pay BDR** – the *Davis* consent judgment requires pay parity, but the legislature sets the compensation schedule and (as we know) the salaries are not comparable. This BDR will put into statute that the prosecution and defense must be paid in parity.
- **Funding Source for NSPD Shortfall** – this is more a discussion point where we hope to have your input on whether language should be added in the final budget bill – allowing funding to be transferred between the DIDS account and NSPD to help cover shortfalls with maximum contribution funding OR if a BDR should be used to ensure the NSPD has access to statutory contingency funding when they need it. This protects the State of Nevada so that the NSPD will continue to provide fluid indigent defense representation as required by the 6<sup>th</sup> Amendment.
- **Student Loan Forgiveness in the Rurals** – this concept is borrowed from the plan to pay doctors/health care providers to move to the rural communities to provide services. Currently, doctors receive a \$75,000 payment for a 2 year commitment in a rural county. We would like to create a comparable program for indigent defense services providers in the rurals. Either a student loan payment of \$75,000 for a two-year commitment (and allow the attorney to re-up the commitment every 2 years). Or have a payment that increases: \$10k for the first year, \$20k for the second, \$30k for the third; \$40k for the fourth, and \$50k for the fifth (for a total of \$150k). It is believed that average student loan debt is about \$180k when leaving law school. This incentive will likely help our rural communities find indigent defense providers for their counties AND will help us achieve compliance with the workload study that *Davis* requires.

I look forward to seeing you tomorrow!

Marcie



**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

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**From:** Marcie Ryba  
**Sent:** Thursday, April 25, 2024 3:21 PM  
**To:** Ryan Herrick  
**Cc:** Andrew Coates; Amy L. Stephenson  
**Subject:** Follow up + thank you!  
**Attachments:** WPC67455 (1).pdf; AB518 Text.pdf; AB454.pdf; DIDS Weighted Caseload Study Exec Summary 10.19.23 (003).pdf; Just ORDER Davis v Nevada File Stamped Stipulated Settlement Consent Judgment.pdf

Hi, Ryan,

Thank you for reaching out. I am sorry it took me a minute to get back to you.

I had originally reached out about a work program for fiscal year 2024, but it essentially stalled out and there is insufficient time to revive it. However, a similar work program (C67455) is being submitted for fiscal year 2025, and I was hoping to direct your attention to that work program and give you some background.

Work Program C67455 is requesting funding from AB518 for the Nevada State Public Defender to comply with the *Davis* consent judgment workload requirements. The *Davis* stipulated consent judgment required DIDS to perform a weighted caseload study. The state must require counties to comply with the workload requirements recommended by the study within 1 year, November 1, 2024. See consent judgment, p. 9, l. 10-14 and p. 17, l. 4-18. AB518, Section 7 appropriates \$6,613,033 from the State General Fund to the IFC for the purposes of costs related to compliance with the *Davis* consent judgment.

**Request for Funding to Increase Staff to comply with workload**

**1. White Pine County**

In White Pine County, the NSPD is budgeted for 2 full time attorneys, 1 support staff, and 1 investigator in their current budget to cover White Pine.

With the workload study, NCSC determined White Pine County requires:

- 3.3 attorneys were needed to cover the workload
- 0.8 investigators
- 1.6 support staff

... and this was if attorneys actually lived in White Pine County. If the NSPD is unable to hire attorneys in White Pine, the travel from their duty station to court must be taken into consideration in the workload. For example, if the NSPD hires these attorneys in Las Vegas, increases the necessary attorneys to 3.8.

The attached work program is requesting funding to hire 2 more attorneys and 1 more support staff for the White Pine County office so that we comply with the workload study.

**2. Other Counties want to Transfer Partial Indigent Defense Services to NSPD**

As you can guess, as counties are required to add additional attorneys to provide indigent defense services to comply with the workload, counties have an increased interest in partially transferring some of the responsibility to the NSPD. This would require the NSPD to add staff to cover the workload – and, in turn, the counties would get a reduction in how many attorneys they are responsible to add since the NSPD must provide that portion of indigent defense representation.

To cover this new workload of transferred work – the NSPD would need an additional 2 full time attorneys, 1 more support staff and 1 more investigator.

**Establishing a Satellite Office in Clark County**

For several months, the NSPD was unable to find indigent defense services staff to move to White Pine County to provide indigent defense services coverage. As such, the NSPD was required to have attorneys with a Carson City duty station cover cases in White Pine County.

When we talked a couple weeks ago, we discussed that there are only 11 attorneys in total in White Pine County (and none wanted to work for the NSPD), but Clark County has a lot of attorneys. A branch office in Clark County was proposed as a possible solution, as this would allow the NSPD to have attorneys with a duty station in Las Vegas, reimburse them for travel, and have them available for the needs of White Pine County.

This work program also requests funding to (1) pay for rent in Clark County (Director Robb is saving space for us in the new state building in Vegas); (2) get furniture+ computers; and (3) reimburse travel from Las Vegas to White Pine.

### **Conclusion**

The NSPD must provide indigent defense services for counties which transfer that responsibility. To comply with the workload study—the NSPD must add attorneys, support staff and investigators by November 1, 2024. This work program provides the funding for the staff+ a branch office in Las Vegas.

Current salaries in the NSPD remain to not be competitive and are not in parity with prosecuting attorneys in these counties, which may cause an issue in filling these positions by November 1. We still have the issue of how do we provide pay parity of NSPD and DA salaries, but this work program does not address that issue.

Let me know if you need any more information on this. I was trying to keep it short and to the point – I could talk indigent defense all day long and no one has time for that!

Marcie



**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

896 W Nye Ln, Suite 202

Carson City NV 89703

(775) 687-8493 (o)

(775) 431-0527 (c)

[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)

[dids.nv.gov](http://dids.nv.gov)

**Justice. Equity. Support.**



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**From:** Ryan Herrick <[RyanHerrick@gov.nv.gov](mailto:RyanHerrick@gov.nv.gov)>

**Sent:** Tuesday, April 23, 2024 3:30 PM

**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>

**Cc:** Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>; Amy L. Stephenson <[astephenson@finance.nv.gov](mailto:astephenson@finance.nv.gov)>

**Subject:** RE: Request for a Meeting

Marcie,



Can you please provide me with additional detail regarding the purpose of this WP? While I understand it is an attempt to comply with the Davis decision, can you please provide me with additional details regarding the specific purpose of the WP and what the funds are proposed to be used for?

Thanks,  
Ryan



**Ryan Herrick**  
*Deputy Policy Director*  
Office of Governor Joe Lombardo  
[ryanherrick@gov.nv.gov](mailto:ryanherrick@gov.nv.gov)  
(775) 684-5670 (office)  
(775) 376-2912 (mobile)

**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Tuesday, April 9, 2024 2:57 PM  
**To:** Andrew Coates <[acoates@gov.nv.gov](mailto:acoates@gov.nv.gov)>  
**Cc:** Patricia D. Cafferata <[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)>; Ryan Herrick <[RyanHerrick@gov.nv.gov](mailto:RyanHerrick@gov.nv.gov)>; Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Thomas L. Qualls <[ThomasQualls@dids.nv.gov](mailto:ThomasQualls@dids.nv.gov)>  
**Subject:** Request for a Meeting

Hello, Andrew and Ryan,

I hope you are well.

I am reaching out to see if you would be willing to schedule a meeting with us and any representatives from the Governor's Office that you think would be helpful or necessary.

The Nevada State Public Defender's Office had submitted Work Program C67438, the purpose of the work program was to add funding to the Nevada State Public Defender's Office Budget Account to comply with the Rural Nevada Workload Study and the Davis v. State (Nev. First Jud. Dist. Ct. Case No. 170CO02271B) consent judgment. It is our understanding that this work program did not move forward at the request of the Governor's office.

We are hoping that we can build a path forward together. Can we schedule a time to meet to discuss possible solutions?

Thanks!  
Marcie



**Marcie Ryba | Director**  
State of Nevada  
Department of Indigent Defense Services  
896 W Nye Ln, Suite 202  
Carson City NV 89703  
(775) 687-8493 (o)  
(775) 431-0527 (c)

[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)  
[dids.nv.gov](http://dids.nv.gov)

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**From:** [Patricia D. Cafferata](#)  
**To:** [Marcie Ryba](#); [Amy L. Stephenson](#); [Daniel Marlow](#); [Maria Gassaway](#); [Jim Wells](#)  
**Cc:** [Donald Carlson](#); [Peter P. Handy](#); [Aaron Frantz](#); [Curtis Palmer](#); [David Johnson](#); [Bridgette Mackey-Garrison](#); [Melanie A. LaChapelle](#)  
**Subject:** RE: Request to schedule WP C67438 for April IFC  
**Date:** Thursday, April 4, 2024 9:43:28 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)

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Marcie and Bridgette,

For the following reasons, I am concerned about the delay in having our request before IFC until June 2024.

As you know, the Nevada State Public Defender (NSPD) is required to provide legal representation to indigent defendants in Ely, White Pine County. During COVID, our attorneys' appearances were permitted to be via zoom. However, on December 22, 2023, the Nevada Supreme Court entered an Order Adopting Recommendations of the Commission to Study Best Practices for Virtual Advocacy in Nevada Courts. ADKT 058. Rule requires in person appearances for a majority of court hearings.

Currently, NSPD has 190-200 open cases with one lawyer (Derrick Penney) assigned to work in Ely. Our appellate deputy (Jim Hoffman) and I have been alternating weekly (or more often) to provide coverage for the times the Ely deputy is not available. On any cases we are appointed to during our Ely appearances, we represent the client at all future court hearings. Additionally, Jim and I have other active cases outside of Ely.

On April 15, 2024, we expect another lawyer to begin work full-time in Ely.

I have been working with a recent law school graduate who would like to work for NSPD on our Ely cases. We worked to have him certified to practice in our office in a rural area. Recently, the State Bar certified him for such work. He would like to work in Ely and in the (future) Las Vegas office and not remotely from home. We need approval for a Las Vegas office sooner not later, so we can hire this certified lawyer to help cover the Ely cases.

Further, apparently our travel budget will not cover our travel expenses until the end of the fiscal year. .... I believe the reason for the "shortfall" is because of my frequent trips to Ely to represent our clients. It is 300+ miles from Carson to Ely, one way. Some weeks I have made the round trip twice. It is not

a back- and-forth trip I can make in one day, so hotel accommodations are required in addition to mileage. I drive my own car by choice, so I am reimbursed at one-half the customary rate.

I hope the Governor will reconsider and place the DIDS request on the IFC agenda for the April 11, 2024.

Thanks for your time and consideration.

Patty Cafferata

Patricia D. Cafferata, Esq.  
Nevada State Public Defender  
511 E. Robinson Street, Suite 1  
Carson City, Nevada 89701  
Office: 775-684-1080  
Fax: 775-687-4993  
[pdcafferata@nspd.nv.gov](mailto:pdcafferata@nspd.nv.gov)

**NEVADA STATE PUBLIC DEFENDER COMMUNICATION**

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---

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Wednesday, April 3, 2024 5:01 PM  
**To:** Amy L. Stephenson <astephenson@finance.nv.gov>; Daniel Marlow <dmarlow@admin.nv.gov>; Maria Gassaway <mgassaway@admin.nv.gov>  
**Cc:** Donald Carlson <d.carlson@admin.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>; Patricia D. Cafferata <pdcafferata@nspd.nv.gov>; Aaron Frantz <afrantz@finance.nv.gov>; Curtis Palmer <PalmerC@finance.nv.gov>; David Johnson <DavidJohnson@finance.nv.gov>  
**Subject:** Request to schedule WP C67438 for April IFC

Hello, all,

I hope that you are well. I am wondering if anything can be done to move this work program forward to the April IFC?

**From:** [Jim Wells](#)  
**To:** [Marcie Ryba](#); [Dylan K. Tedford](#)  
**Cc:** [Peter P. Handy](#); [Thomas L. Qualls](#); [Chris Nielsen](#)  
**Subject:** RE: Update  
**Date:** Wednesday, April 5, 2023 10:01:24 AM

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Hi Marcie,

We had a meeting with Mr. Arabia and Ms. Cafferata on Monday to meet him and discuss the Public Defender's Office. We discussed what justification is needed to get additional contract staff and meet the requirements for asking for additional work programs or a supplemental appropriation.

If this is truly an emergency, you need to consider whether you or your deputies can offer support to the Public Defender. I don't see anything that prohibits the three licensed attorneys from providing assistance in some manner to the Public Defender to help with the workload. This would only be a temporary fix while recruitments to find permanent staff are ongoing but it would offer some additional resources. In times of short staffing, agency management sometimes needs to step in and help with the workload.

I also do not have a problem asking for an amendment to NRS 180 to allow for some type of underfill where the candidate needs to pass the bar within a specified period of time.

Thanks,  
Jim

**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Sunday, April 2, 2023 1:09 PM  
**To:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>  
**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Thomas L. Qualls <[ThomasQualls@dids.nv.gov](mailto:ThomasQualls@dids.nv.gov)>  
**Subject:** Re: Update

One last thought, NRS 180 is being discussed at the committee on judiciary tomorrow. Can I propose an amendment which allows us to hire individuals that haven't passed the bar?

Marcie

---

**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Sunday, April 2, 2023 1:03 PM  
**To:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>  
**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Thomas L. Qualls <[ThomasQualls@dids.nv.gov](mailto:ThomasQualls@dids.nv.gov)>  
**Subject:** Re: Update

Hello,  
I think I failed to include that the Nevada state public defender has 4 attorneys working right now: the NSPD, the supervising chief deputy, and two deputies.

Thanks  
Marcie

---

**From:** Marcie Ryba  
**Sent:** Sunday, April 2, 2023 12:56 PM  
**To:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>; Dylan K. Tedford <[dktedford@gov.nv.gov](mailto:dktedford@gov.nv.gov)>  
**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Thomas L. Qualls <[ThomasQualls@dids.nv.gov](mailto:ThomasQualls@dids.nv.gov)>  
**Subject:** Update

Hello, Jim and Dylan,

I hope you are both well.

I wanted to update you as to what occurred during our 3/31 meeting with: District Court Judges Wilson and Russell, Justice of the Peace Luis and Armstrong, City Manager Nancy Paulson, a representative from the Carson City District Attorney and our office. The purpose of the meeting was to discuss the high vacancy rate at the Nevada State Public Defender and their concerns.

In short, the Court is very concerned that the high vacancy rate will affect the continuity in services and does not want individuals sitting in jail without representation.

As a little background, the Nevada State Public Defender employs a total of 10 attorneys. These attorneys provide representational services in a total of 7 courts: Carson City (5 courts: District Court 1 and 2; Justice Court 1 and 2; and Juvenile Court) and Storey County (2 Courts: District Court (in Storey County- (this is the same District Court Judges that are in Carson) and Justice Court). The NSPD office does not have sufficient staff to cover each court if they were occurring at the same time. Currently, the vacancy rate at the Nevada State Public Defender is very high and the NSPD has lost all but 2 of its mid-level staff (these are the individuals that have a high level of experience and can carry a high case load). The following positions are open:

- FMLA Leave -- one deputy public defender filled, but he is out on FMLA for an unknown length of time.
- Supervising Trial Deputy (1 position) -- position is vacant Tuesday and the job will be advertised.
- Supervising Appellate Deputy (1 position) -- this position has been advertised since January and no qualified applicants received.
- Deputy Public Defender (3 positions) -- positions have been advertised since January. limited applicants received
  - one deputy PD position may be filled in the future: an offer has been made for an

individual to start in June or July

- one deputy PD position may be filled once an individual passes the bar: we were working on an offer -- for someone that just graduated law school but has not yet passed the bar -- but since the candidate has not passed the bar and DHRM does not believe we can employ an individual until they have passed the bar because "there is no underfill role or title for unclassified positions, they are simply hired directly into their titles.

- Please see the provision of law below justifying why Recruitment felt that the underfill option would not work:

- **NRS 180.030 Employment of deputies and other employees; qualifications of deputies.**

- 1. The State Public Defender may employ

- (a) Deputy state public defenders in the unclassified service of the State.

- (b) Clerical, investigative and other necessary staff in the classified service of the State.

- 2. **Each deputy state public defender must be an attorney licensed to practice law in the State of Nevada**, and shall not engage in the practice of law, except in performing the duties of office and as otherwise provided in NRS 7.065."

Our Plan:

A **\$30,000 work program** was approved to move funding from personnel to operating.

- \$5,000 was used to reimburse the operating funds that were used earlier in the year to employ an individual with manpower as a legal Secretary.
- With the remaining \$25,000:
  - The Nevada State Public Defender has entered into a contract with an attorney to cover specialty court and assist with in custody arraignments. The contact costs approximately \$1500 per week. To date, approximately \$7k has been spent. At her current workload, to continue this contract until July 1 will cost an additional \$19,500.
  - This contract will exhaust the entire \$25,000 by the end of the fiscal year.

#### **Obtain Approval for an Emergency Work Program**

Could you approve an **emergency work program** so that we can move the additional personnel funding to operating to continue to enter into contracts?

- If this were to be approved, the Department would work to enter Contracts with Attorneys to absorb the current felony work load and allow the NSPD to be transfer part of their current workload to contract attorneys.

As a side note, we did meet last week to request an emergency work program. The request was denied as it was not an emergency and we had not been billed yet for our attorney contractor. I can prepare an email to Robin Hagar to ask her to reconsider now that we have had our initial billing from the attorney and it shows the money will be exhausted, yet we still need more coverage.

We believe that we are in an emergency at this point and the Carson City judges believe we are in an emergency.

Will you support an emergency work program?

- Amount necessary: Initially we had proposed moving \$107,700 -- but at the time, the Supervising Trial Deputy was still employed. At this point, we would like to pay our Mr. Murphy (he will have a significant pay out because he has been employed over 10 years) and move the remainder to Operating.

**Supplemental Appropriation:**

- We would still like to also proceed with a supplemental appropriation. One issue that was highlighted was I will not have budgetary authority to enter a contract until the supplemental appropriation would be approved, which is June (is my understanding). Is there a way to enter a contract even if the budgetary authority won't be approved until June?
- I have emailed Director Stephenson to ask for a time to meet to discuss the appropriation and get the amount correct.

**Allow underfills at NSPD:** Is there a way to modify NRS 180.030 to allow the department to employ individuals that are not licensed to practice law yet? As you are aware, with our pay scales, we will need to recruit out of law school and NRS 180.030 will prevent hires until the bar is passed.

I am available to discuss these proposals if you have the time.

thank you  
Marcie

Department of Indigent Defense Services





Outlook

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**FW: Duty Location Update**

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From Marcie Ryba </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F5B58839B2B045438BE54BF239A778C3-MARCIE RYBA>

Date Thu 3/7/2024 2:50 PM

To Bridgette Mackey-Garrison <bmgarrison@finance.nv.gov>; Amy L Stephenson <astephenson@finance.nv.gov>

Cc Donald Carlson <d.carlson@admin.nv.gov>; Patricia D. Cafferata <pdcafferata@nspd.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>

2 attachments (117 KB)

SKM\_C450i24030710272.pdf; FINAL FY24 BA 1499 Workload - Travel Log.xlsx;

Hi, Bridgette and Director Stephenson,

I do have some good news! As you know, we were seeking to develop a satellite office in Clark County so that we could use Las Vegas attorneys to travel to Ely to cover court. Below is a confirmation that space will be reserved for NSPD in the McCarren Building. We believe this will help with recruitment and retention.

But, the Nevada State Public Defender Budget (BA1499) already has a shortfall – and does not have funding to reimburse travel to Ely from Las Vegas. With the change that we did get a satellite office, would I be able to amend Work Program C67438 (which is AB518 for workload) to add funding for travel for the NSPD? I have attached a proposed travel log request of about \$68,816 so that NSPD can reimburse attorneys travel to Ely.

I am attaching an Order from the White Pine District Court. They are very upset with the NSPD and refusing to let the public defender off of cases, even though we are having workload / staffing issues. The attorneys at NSPD are doing everything they can – including paying for travel from their own pocket (at an expense of about \$1,000 a week).

Please help me find a solution so that the NSPD can provide indigent defense services as required by the Constitution.

Thanks,  
Marcie

**From:** Robert Guillen <rguillen@admin.nv.gov>  
**Sent:** Thursday, March 07, 2024 1:49 PM  
**To:** Marcie Ryba <mryba@dids.nv.gov>  
**Subject:** RE: Duty Location Update

Hello,  
The space we have projected for you holds 3 private offices and 3 cubes.  
Thanks

Robert Guillen Jr (He/Him)  
Management Analyst II  
State of Nevada | Leasing Services  
Email [rguillen@admin.nv.gov](mailto:rguillen@admin.nv.gov)  
Office 702-486-3424 Cell 702-429-1876

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Thursday, March 7, 2024 1:34 PM  
**To:** Robert Guillen <rguillen@admin.nv.gov>  
**Cc:** Jack Robb <JackRobb@admin.nv.gov>; Tawny Polito <tawny@admin.nv.gov>  
**Subject:** RE: Duty Location Update

Thanks, Robert!

We are using the Clark office to try to recruit attorneys. Yes, I did say the amount below. If we are able to hire more people in Vegas, would there be room to grow?

Thanks,  
Marcie

**From:** Robert Guillen <[rguillen@admin.nv.gov](mailto:rguillen@admin.nv.gov)>  
**Sent:** Thursday, March 07, 2024 11:22 AM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Cc:** Jack Robb <[JackRobb@admin.nv.gov](mailto:JackRobb@admin.nv.gov)>; Tawny Polito <[tawny@admin.nv.gov](mailto:tawny@admin.nv.gov)>  
**Subject:** RE: Duty Location Update

Hi Marcie,

We can project you for now to the following address 505 Capovilla, Las Vegas, Nevada 89119 you had mentioned 4 Attorneys, 1 investigator and 1 admin, when will they be approved for LV?

Thanks  
Robert

Robert Guillen Jr (He/Him)  
Management Analyst II  
State of Nevada | Leasing Services  
Email [rguillen@admin.nv.gov](mailto:rguillen@admin.nv.gov)  
Office 702-486-3424 Cell 702-429-1876

**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Thursday, March 7, 2024 10:35 AM  
**To:** Jack Robb <[JackRobb@admin.nv.gov](mailto:JackRobb@admin.nv.gov)>; Robert Guillen <[rguillen@admin.nv.gov](mailto:rguillen@admin.nv.gov)>  
**Cc:** Rachel Rupert <[RachelRupert@admin.nv.gov](mailto:RachelRupert@admin.nv.gov)>; Maria Gassaway <[mgassaway@admin.nv.gov](mailto:mgassaway@admin.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>  
**Subject:** RE: Duty Location Update  
**Importance:** High

Hi, Director Robb and Robert,

It was so nice to see you yesterday! I feel like every time I see you, I need something!

As you are aware, I am working on setting up a satellite location for the Nevada State Public Defender ("NSPD") in Las Vegas, NV. These attorneys will travel to White Pine to provide indigent defense representational services. (Yesterday we discussed the NSPD hardship that 12 attorneys report having an office in White Pine, but none of them are interested in serving as a public defender- there is also a shortage of housing available in Ely- and we are not receiving any applicants of qualified individuals willing to move there).

My understanding, is that you will have space for the NSPD in the McCarren Building that is being purchased by the State of Nevada in Las Vegas.

I contacted HR to request that the work station be moved from White Pine to Clark County, but have been advised that this cannot be done until they can confirm an address in Las Vegas.

Are you able to help me with the address for the McCarren Building?

Once we move the duty location, we will start reimbursing attorneys for their travel to Ely. I believe travel reimbursement will assist with recruitment and retention of attorneys. And help to make the NSPD more sustainable.

Thank you for being so wonderful!!!

Marcie

**Marcie Ryba | Director**  
State of Nevada



Department of Indigent Defense Services

896 W Nye Ln, Suite 202  
Carson City NV 89703  
(775) 687-8493 (o)  
(775) 431-0527 (c)  
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[dids.nv.gov](http://dids.nv.gov)

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**From:** Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>  
**Sent:** Thursday, March 07, 2024 10:24 AM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Cc:** Rachel Rupert <[RachelRupert@admin.nv.gov](mailto:RachelRupert@admin.nv.gov)>; Maria Gassaway <[mgassaway@admin.nv.gov](mailto:mgassaway@admin.nv.gov)>  
**Subject:** FW: Duty Location Update

Marciee-

Looks like HR needs to confirm the address in las Vegas.

DC

**\*NEW phone number\***

Donald Carlson | Budget Advisor | Administrative Services Division  
State of Nevada | Department of Administration  
T: 775-531-3176 | E: [d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)

**From:** Rachel Rupert <[RachelRupert@admin.nv.gov](mailto:RachelRupert@admin.nv.gov)>  
**Sent:** Thursday, March 7, 2024 10:17 AM  
**To:** Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>  
**Subject:** RE: Duty Location Update

Hello,  
HR reached out to me on earlier this week and stated that they need the address DIDS wishes to use confirmed with them before it can be created. I let Daniel know as soon as they confirmed that information and not heard anything since.  
Thank you!

**\*\*\*NEW PHONE NUMBER!**

Rachel Rupert | Administrative Assistant IV | Administrative Services Division  
State of Nevada | Department of Administration  
209 E. Musser Street, Room 304, Carson City, NV 89701-3716  
T: (775) 531-3198 | Cell: 775-350-0669 | F: (775) 684-0275 | E: [RachelRupert@admin.nv.gov](mailto:RachelRupert@admin.nv.gov)

**From:** Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>  
**Sent:** Thursday, March 7, 2024 9:50 AM  
**To:** Rachel Rupert <[RachelRupert@admin.nv.gov](mailto:RachelRupert@admin.nv.gov)>  
**Subject:** FW: Duty Location Update

Hi Rachele-

Do you have an update regarding the question below from DIDS?

Please advise.

Thanks.

DC

**\*NEW phone number\***

Donald Carlson | Budget Advisor | Administrative Services Division  
State of Nevada | Department of Administration  
T: 775-531-3176 | E: [d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)

**From:** Daniel Marlow <[dmarlow@admin.nv.gov](mailto:dmarlow@admin.nv.gov)>  
**Sent:** Wednesday, February 28, 2024 9:25 AM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>; Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>  
**Subject:** RE: Duty Location Update

I have our pay clerk investigating, please hold.

**\*NEW phone number\***

Daniel Marlow | Administrator  
(775) 531-3150 | [Chat or Call me in Teams](#)  
[View my calendar](#)

**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Wednesday, February 28, 2024 9:24 AM  
**To:** Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>; Daniel Marlow <[dmarlow@admin.nv.gov](mailto:dmarlow@admin.nv.gov)>  
**Subject:** RE: Duty Location Update

Hi, Daniel,

Circling back on this one. They are saying we can't change duty location without a physical address.

Please help!  
Marcie

**From:** Marcie Ryba  
**Sent:** Monday, February 26, 2024 9:46 AM  
**To:** Donald Carlson <[d.carlson@admin.nv.gov](mailto:d.carlson@admin.nv.gov)>; Daniel Marlow <[dmarlow@admin.nv.gov](mailto:dmarlow@admin.nv.gov)>  
**Subject:** FW: Duty Location Update

Hello,

Seeking assistance. As we discussed at that meeting with the governor's office, we would like to create a satellite office in Las Vegas so that we can hire attorneys in Clark County and reimburse them for travel.

We had initial discussion with Director Robb that we can have space at the McCarren Building (but since the purchase of that building is not final, we will need to do remote work).

Can you help me change the duty station to Clark County? According to Devani Silva I cannot do this until I have a physical address.

Please help. I need to reimburse travel (as you know)

Marcie

**From:** Jaime Hamtak <[jhamtak@dids.nv.gov](mailto:jhamtak@dids.nv.gov)>  
**Sent:** Monday, February 26, 2024 7:47 AM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Cc:** Cynthia Atanazio <[catanazio@dids.nv.gov](mailto:catanazio@dids.nv.gov)>  
**Subject:** FW: Duty Location Update

A physical address to change the Ely employees to is require. Please see below. 😊



Outlook

## Help Me Find Alternatives to ARPA?

**From** Marcie Ryba </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F5B58839B2B045438BE54BF239A778C3-MARCIE RYBA>  
**Date** Thu 3/7/2024 10:55 AM  
**To** Amy L Stephenson <astephenson@finance.nv.gov>; Bridgette Mackey-Garrison <bmgarrison@finance.nv.gov>  
**Cc** Donald Carlson <d.carlson@admin.nv.gov>; Daniel Marlow <dmarlow@admin.nv.gov>

2 attachments (5 MB)

SB504 Text.pdf; Final ARPA County Fees Memo.pdf;

Hello, Director Stephenson and Bridgette,

Great presentation yesterday! I really liked the shorter version for the Directors. So much easier to understand than prior years! And I want more of that muffin! But I suspect we will be fighting the mice for the crumbs. ha

I am just wanting to update you regarding the NSPD (BA1499) ARPA Funding Request. Taking you back a little bit to this past summer... After our meeting with the Mayor of Carson City and the County Manager Nancy Paulson, we discussed the loss of revenue that will be caused in the NSPD budget by the corrective action plan. With the transfer of representation from the NSPD to the Carson City Public Defender, the NSPD did not collect the amounts from Storey or Carson that are set forth in AB504(2023), Section 9. You encouraged that a possible avenue to cover this revenue shortfall was ARPA funding.

I did submit a request. Attached for your review, but received a TEAMS message from Kelli E. Anderson that it would not move forward and that I should look to other avenues.

Do you or Bridgette have time to meet with me to discuss other possible revenues? Or do you still think ARPA dollars should cover this revenue loss?

Any help would be appreciated!  
 Marcie

Friday

Kelli E. Anderson Friday 8:44 AM



Hi, the work program submitted for ARPA dollars will not move forward at this time, please work with Bridgette for alternatives.

**Marcie Ryba | Director**  
 State of Nevada



Department of Indigent Defense Services

896 W Nye Ln, Suite 202  
 Carson City NV 89703  
 (775) 687-8493 (o)  
 (775) 431-0527 (c)  
[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)  
[dids.nv.gov](http://dids.nv.gov)

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 Support.**

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the intended recipient, please contact the sender by reply email. delete and destroy all copies of the original message.

## Laura FitzSimmons

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**From:** Ryan Herrick  
**Sent:** Monday, March 4, 2024 1:45 PM  
**To:** Marcie Ryba  
**Subject:** RE: State Public Defender Appointment

Marcie,  
Patricia Cafferata should receive the documents today appointing her as the State Public Defender.

As always, please feel free to contact me with any questions or concerns.

Thanks,  
Ryan



**Ryan Herrick**  
*Deputy Policy Director*  
Office of Governor Joe Lombardo  
[ryanherrick@gov.nv.gov](mailto:ryanherrick@gov.nv.gov)  
(775) 684-5670 (office)  
(775) 376-2912 (mobile)

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Wednesday, February 21, 2024 2:49 PM  
**To:** Ryan Herrick <RyanHerrick@gov.nv.gov>  
**Subject:** RE: State Public Defender Appointment

Hi, Ryan!

So nice to meet you, too! I am so grateful you have taken the time to help us unravel this conundrum. I am thinking positive about it!

Very excited to hear that an appointment for the Public Defender has been approved. Cannot wait to hear who it is.

As a follow up, please find attached the NCSC Rural Workload Study and an Executive Summary of the study. I am happy to talk about it, if you are interested.

Have a great day,

Marcie



**Marcie Ryba | Director**  
State of Nevada  
Department of Indigent Defense Services

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**From:** Ryan Herrick <[RyanHerrick@gov.nv.gov](mailto:RyanHerrick@gov.nv.gov)>  
**Sent:** Wednesday, February 21, 2024 2:27 PM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Subject:** State Public Defender Appointment

Marcie,  
It was a pleasure meeting you today!

I was able to confirm that the Governor has approved an appointment for the State Public Defender. I am trying to confirm where the appointment is in the process, and I will keep you posted.

Thanks,  
Ryan



**Ryan Herrick**  
*Deputy Policy Director*  
Office of Governor Joe Lombardo  
[ryanherrick@gov.nv.gov](mailto:ryanherrick@gov.nv.gov)  
(775) 684-5670 (office)  
(775) 376-2912 (mobile)





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**Re: Requested Update**

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From Eve Hanan <eve.hanan@unlv.edu>  
Date Mon 2/12/2024 3:03 PM  
To Marcie Ryba <mryba@dids.nv.gov>

**WARNING** - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Now I see. Please disregard my last email.

On Tue, Feb 6, 2024 at 11:57 AM Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)> wrote:

Hello, Eve,

Just wanted to follow up on our pay parity request that was scheduled for IFC. It was pulled from the agenda.

In the meantime, the NSPD has resigned and the position is vacant. Patty Cafferata is filling in with leadership until a new person is appointed NSPD. At this time, a new position is vacant—the Deputy Public Defender position in White Pine County. Derrick Penney has started and is serving as the Supervising Deputy in White Pine. He is currently traveling back and forth from Las Vegas to provide representation.

Patty Cafferata and Jim Hoffman are providing assistance in covering the White Pine cases until they can be fully staffed.

In the meantime, since we have received no applicants for any of the NSPD positions, the positions were filled with attorneys from Clark County. We have requested remote work approval. I have attached the remote work policy... as I know you are concerned, the policy does not allow for travel reimbursement for travel between the work location and the assigned work office for report workers. There is concern this is causing an economic disincentive to appear in court. See NRS 180.320(2)(a). The Department has requested an exemption from this to allow reimbursement for travel costs.

The crux of our issue is that the NSPD does not provide "pay parity," but it is quite hard to determine what pay parity should be. The NSPD provides representation for several counties – and if we compare to the DA, this is like comparing apples to oranges as DAs in rural counties are allowed private practice.

The other issue is that there are a limited number of attorneys in the rural counties. Please see the attached map. This was created from the State Bar registry for office locations. In White Pine, there are 12 attorneys – 1 is the AG, 4 are DAs, 1 is married to a DA, 2 are retired, 2 have private offices and do not want a salaried position

where they would close their office, 1 is an employee of the NSPD that has just been released from employment. So... it is clear we need to bring them in from other places. The NSPD has hired from the pool of over 5,000 attorneys in Clark County – but the one attorney is unwilling to move to White Pine, at this time. Even if he wanted to move, there is no rental housing readily available and houses on the market are quite limited.

Just wanted to provide that update in case you need it for your next report.

Marcie

### Costs Associated with Working from Home:

The State will not assume responsibility for operating costs, secure internet connectivity, home maintenance or other costs incurred by employees working remotely. The internet connection must have sufficient speed and capacity to accommodate work-related tasks.

Mileage reimbursement will NOT be provided for travel between the remote work location and the assigned work office for remote workers. Mileage reimbursement may be granted for travel between the remote work location and the location of a meeting, etc., that is not being held at the primary duty location, in accordance with State and Federal regulations. This is inclusive of requirements in the State Administrative Manual, particularly that reimbursed mileage must be reduced by the roundtrip mileage between the remote workplace and the assigned work office.

**Marcie Ryba | Director**

State of Nevada



Department of Indigent Defense Services

896 W Nye Ln, Suite 202

## Laura FitzSimmons

---

**From:** Jim Wells  
**Sent:** Friday, March 31, 2023 1:09 PM  
**To:** Marcie Ryba  
**Cc:** Dylan K. Tedford; Peter P. Handy; Thomas L. Qualls  
**Subject:** RE: Request to reopen discussions

No.

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Friday, March 31, 2023 11:50 AM  
**To:** Jim Wells <jimwells@gov.nv.gov>  
**Cc:** Dylan K. Tedford <dktedford@gov.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>; Thomas L. Qualls <ThomasQualls@dids.nv.gov>  
**Subject:** Request to reopen discussions

Hi, Jim,

Happy Friday!

I was hoping that I could bring something to your attention. As we have discussed before, Washoe County recently completed a compensation analysis which resulted in a significant increase to the salaries for Washoe County employees. I believe the end result is about a 30% increase in salaries and will cause the Washoe County public defender's office to have higher salaries than Clark County.

As you can expect, Clark County has heard of this study and the union is contacting the county for matching increases.

Now to the point of this email, is there any possible way to reopen the discussion of whether we can increase the salaries for our State Public Defenders? The NSPD's salary structure is not competitive with Clark and Washoe County currently, and with this proposed increases, they will only be farther behind. We have already seen a mass exodus of employees from the State Public Defender's Office and as you know we have a meeting scheduled with the judges of their concern of how to cover current cases.

If the NSPD is unable to handle the caseload, the cases will be sent to appointed counsel.

Is there any possibility of reopening this discussion? We do not believe we will be able to employ experienced staff, which is necessary to cover the more complex cases.

Attached hereto is a Powerpoint presentation generated by Washoe that reflects 1) their determination that their lawyers are grossly underpaid and 2) their plan to fix it by way of large salary changes effective August 1, 2023. In addition, the first draft of their proposed salary changes is also attached. This document reflects Washoe County's *sui generis* determination to change the pay scale of their classifications, county wide. (There may be some upward movement in these numbers).

Historically, Clark County has always compensated their attorneys at a higher rate, yet we often lose good attorneys to Washoe due to the lower workload and less stressful life. As reflected below, even with a 5% cola in July of 2022, their DDA IV topped out nearly \$12K below a Chief DDA.

WASHOE COUNTY PUBLIC ATTORNEY'S ASSOCIATION  
 \* Effective: 07/01/2022

Class Code	Salary Grade	Job Class Title	Hourly Range		Annual Range	
			Minimum	Maximum	Minimum	Maximum
1090	A	OO Deputy District Attorney I	37.28	50.05	77,542.40	104,104.00
1080	A	OO Deputy Public Defender I	37.28	50.05	77,542.40	104,104.00
1091	A	QQ Deputy District Attorney II	42.59	57.46	88,587.20	119,516.80
1081	A	QQ Deputy Public Defender II	42.59	57.46	88,587.20	119,516.80
1092	A	TT Deputy District Attorney III	49.93	72.38	103,854.40	150,550.40
1082	A	TT Deputy Public Defender III	49.93	72.38	103,854.40	150,550.40
1093	A	UU Deputy District Attorney IV	55.88	78.67	116,230.40	163,633.60
1083	A	UU Deputy Public Defender IV	55.88	78.67	116,230.40	163,633.60

\* Reflects a 5% COLA effective 07/01/22

Clark County Prosecutors Assn  
 Salary Schedules & Ranges  
 July 24, 2021  
 Reflects .25% PERS Decrease

**SALARY RANGE**

Sch	Class Code		Minimum	Midpoint	Maximum
P02	E08126	Annual	77,084.80	113,734.40	150,363.20
		Biweekly	2,964.80	4,374.40	5,783.20
		Hourly	37.06	54.68	72.29
P03	E08127	Annual	113,193.60	144,310.40	175,406.40
		Biweekly	4,353.60	5,550.40	6,746.40
		Hourly	54.42	69.38	84.33

Effective August 1, 2023, Washoe County's top of the range will jump to \$230,859.20. In addition, the starting salary for new hires out of law school will be at least \$94,577.60.

Here are Department of Indigent Defense Salaries:

U4533	DEP DIR OF INDIG DEFS SRVS (EA)	A	E	12
U3922	DEP PUBLIC DEFENDER-APPELL(EA)	B	E	9
U3907	DEP PUBLIC DEFENDER (EA)	B	E	9
U9009	EXECUTIVE ASSISTANT	F	N	5
U4536	EX DIR OF INDIGENT DEFEN SRVS	A	E	12
U3607	INVESTIGATOR (EA)	D	N	6
U4502	STATE PUBLIC DEFENDER	A	E	11
U4006	SPVG PUB DEFENDR-APPEALS	A	E	10
U4004	SPVG PUB DEFENDR-OFFICE	A	E	10
U4005	SPVG PUB DEFENDR-TRIAL	A	E	10

If we do not do something, our ability to recruit qualified candidates, which is already difficult, will become impossible. However, perhaps more concerning is the “brain drain” we have seen from the mid-level deputies, who actually carry the heavy lifting of the burdens of our caseloads. We are also concerned that we will not be able to staff the White Pine County office next fiscal year.

Thank you,  
Marcie



**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

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## Laura FitzSimmons

---

**From:** Jim Wells  
**Sent:** Thursday, March 30, 2023 2:36 PM  
**To:** Marcie Ryba  
**Cc:** Dylan K. Tedford  
**Subject:** RE: Supplemental Information Requested

Hi Marcie,

Please keep Dylan and I in the loop on your meeting with Carson City.

On another note, I may have office space available in Ely at the currently closed Ely Conservation Camp. We can discuss that as we get closer to opening the office in July.

Thanks,  
Jim

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Thursday, March 30, 2023 2:19 PM  
**To:** Jim Wells <jimwells@gov.nv.gov>  
**Cc:** Bridgette Mackey-Garrison <bmgarrison@finance.nv.gov>  
**Subject:** RE: Supplemental Information Requested

Thanks, Jim.

I appreciate the guidance. As you can guess, the most recent resignation was quite a surprise and it was a big blow because he is a very experienced trial attorney. We met with members from the GFO yesterday. We are preparing a plan and will work with Amy to determine the correct amount to request.

I just wanted to keep you in the loop in case you hear something from Carson City. The two district court and two justice of the peace for Carson have requested a meeting with us on Friday to discuss the State Public Defender. I can keep you posted on that meeting if you would like.

Hope you are enjoying this beautiful day.

Marcie

**From:** Jim Wells <jimwells@gov.nv.gov>  
**Sent:** Thursday, March 30, 2023 2:13 PM  
**To:** Marcie Ryba <mryba@dids.nv.gov>  
**Cc:** Bridgette Mackey-Garrison <bmgarrison@finance.nv.gov>  
**Subject:** RE: Supplemental Information Requested

Hi Marcie,

Like every other agency, you need to figure out how to complete your mission given the staffing you have and contracting with additional staff when necessary.

How was the \$107,000 work program calculated and given the vacancies are there additional salary savings that can be used to augment your contracting bucket? How many hours would be saved by implementing the software solution and how can that be used to reduce your caseload and need?

Supplemental appropriations are intended to be a last resort. While they are appropriate to meet unanticipated needs they need to show that all possible alternatives, including reducing unnecessary workloads, have been considered.

Please work with Amy and her staff to determine the correct amount of the request.

Thanks,  
Jim

**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Tuesday, March 28, 2023 1:59 PM  
**To:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>  
**Cc:** Bridgette Mackey-Garrison <[bmgarrison@finance.nv.gov](mailto:bmgarrison@finance.nv.gov)>  
**Subject:** FW: Supplemental Information Requested

Hi, Jim

I hope you are well.

I wanted to follow up on the request for a supplemental appropriation for the Nevada State Public Defender so that he could contract with appointed counsel to assist with covering some of his caseload. He just received notice that his Supervising Trial Deputy Public Defender will be leaving to take a county job. At this point, of his 9 attorney positions, only 4 are filled.

Chris Arabia will be meeting with Carson City today to discuss how many cases the Nevada State Public Defender can actually cover with current staffing levels. As the majority of his experienced staff has left, Chris will advise that he is unable to appoint to any new felony cases for an undetermined period of time.

We have been actively advertising the positions, but have received no qualified applicants for a Supervising deputy position. Chris was hoping to enter into contracts to find attorneys to take the felony cases, but we have insufficient budgetary authority. We submitted a work program to move \$107,700, but that is insufficient for the number of hours we need covered.

Can you help us come up with ideas on how to solve this problem?

Marcie

**From:** Marcie Ryba  
**Sent:** Thursday, March 02, 2023 11:51 AM  
**To:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>  
**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>  
**Subject:** Supplemental Information Requested

Hi, Jim,



Thank you for taking the time to review this request.

## Caseloads

As you are aware, Nevada has yet to adopt a workload standard other than as prescribed in NAC 180, Section 42 which provides: “The workload of an attorney must allow the attorney to give each client the time and effort necessary to ensure effective representation. Any office, organization or attorney who provides indigent defense services shall not accept a workload that, by reason of its excessive size, interferes with the attorney's competence, diligence or representation of clients under the Nevada Rules of Professional Conduct.” The Department is currently undergoing a weighted caseload and delphi study with National Center for State Courts to determine a workload recommendation for our rural offices. This is expected to be completed prior to July 1.

In the meantime, we can refer to a historical caseload maximum which was prescribed by the National Advisory Commission on Criminal Justice Standards and Goals (NAC), a 1973 U.S. Department of Justice-funded initiative, in which the ABA Ten Principles state “should in no event be exceeded.” NAC Standard 13.12 prescribes numerical caseload limits of:

- 150 felonies per attorney per year;
- 400 misdemeanors per attorney per year;
- 200 juvenile delinquencies per attorney per year; or,
- 25 appeals per attorney per year.

In the attached spreadsheet, we took all cases for the past year. This may be classified as open or closed, but all have been worked on this past year that we are reviewing. In addition, we looked to the amount of hours spent on civil/specialty as these cases don't have a specific caseload recommendation so we took the total hours spent on these cases and divided by 1600 hours (which is a full time equivalent position – again, these are attorney hours – so actively working on the case – certain items like admin responsibilities/ training /supervisory duties, etc. are not reported, so the total number of hours in a work year is reduced to 1600 to account for this time that isn't tracked).

When we add up the total number of cases based upon the above caseloads + the hourly work done on Civil/Specialty- the NSPD needs 8.45 attorneys. The office is currently fully staffed at 9 attorneys (it should be noted that this includes the Nevada State Public Defender who also has significant administrative duties – so the NSPD should not be expected to carry a full caseload). As a note, we are seeing a trend in increasing caseloads. Likely this is due to the delay in filings from COVID, more arrests, etc.

Current staffing in the office is 5 attorneys (including the NSPD). As a side-note, one attorney is expected to be on FMLA due to health reasons within the next few weeks and will be out of the office – **thus reducing the attorneys working to 4. *We need coverage for 5 spots.***

## Steps taken thus far to provide coverage:

1. **Contract** with Private Counsel until the Positions can be filled: at this time, NSPD has moved \$25,000 to enter into contracts with counsel. This provides 167 hours of coverage. One contract for \$15,000 has been approved wherein all specialty courts will be covered by the private counsel. A second contract for \$10,000 is pending and will be for coverage on Thursday and Friday of felony level cases, as needed.
  - a. We are paying a contract rate of \$150 an hour with is competitive with Washoe, Churchill, Lyon, and Elko. At this time, we have found at least 2 individuals willing to contract (a 3<sup>rd</sup> is willing, but does not have the required insurance – as set forth by risk

management so we will be unable to contract until that is in place). We believe we will be able to find attorneys to take these contracts at this rate.

2. **Work program** submitted to move \$107,700 to continue contracting until June 30, 2023. (this would provide 718 hours of coverage at the hourly rate of \$150). We are hoping this will be on the April IFC.
3. **Advertise** Job postings for the Chief Appellate and the Deputy Public Defender spots have been posted: on our website, provided to HR, posted with the State Bar, Posted with UNLV Boyd School of Law, sent to our entire listserv of indigent defense providers and word of mouth. The NSPD is also taken steps to post the job posting with law schools outside the state of Nevada (McGeorge and Idaho). The Public Defender has been cold calling individuals on our appointed counsel list to see whether they are interested, but no experienced attorneys are willing to take a salaried position at the pay level offered.
4. The Public Defender has received 2 applicants.
  - a. One applicant for the deputy public defender position has accepted a spot with a start date of June 12 (he is currently working in a clerkship and has been allowed to leave early in June, but no earlier).
  - b. The other applicant withdrew her name from consideration as she does not want to leave Clark County.

### Steps we would like permission to take:

1. **Supplemental Appropriation:**
  - a. **Provide funds for additional contracts:** we would request a supplemental appropriation so that we can continue to recruit (and hopefully fill) these positions. But if we are unable to fill the positions, we will have funding to staff with contract counsel to provide the necessary coverage as required by the 6<sup>th</sup> Amendment and NRS 180, et al.
  - b. **Provide funds for access to software:** The above standards were promulgated in 1973. Since that time, one huge contributing factor to increasing the workload of attorneys is reviewing bodycams/dashcams. In 2017, with the passage of SB176, peace officers are required to wear a portable recording device for all interactions with the public. If there are several peace officers on scene for a case, each has their own video which must be reviewed by defense counsel. As you can guess, this is quite time consuming.

To deal with this increased workload, other states are turning to software, such as Justice Text, to assist. But the NSPD has no funds in its budget for a resource such as this. The pricing is \$1,200 per user per year – **and would cost the office \$13,200** (to provide to 9 attorneys+ 2 investigators). (This software reviews police video and transcribes them – many videos have several minutes before talking talks place – Justice Text allows you to jump to portions in the video where talking is taking place) We believe this resource would assist the NSPD.

- c. Total supplement requested: \$295,500 (will provide software resource and contract funding for time equivalent to 5 attorneys).
2. **Designate a Critical Labor Shortage:** there is a critical shortage of indigent defense providers. All counties (even Washoe and Clark) are struggling to have sufficient providers. If a critical labor shortage were allowed, we believe we may have some attorneys willing to take on some of the NSPD duties until we can get fully staffed. One attorney, for example, has spoken to me that he would like to take more appointed cases, but cannot due to PERS limitations on his salary.

To make this designation, as required by NRS 286.523 we have to look at

- (a) **The history of the rate of turnover for the position:**

2019 – turn-over of 3 attorneys  
2020 – 0 left (COVID)  
2021 – 0 left (COVID)  
2022 – turn-over of 3 attorneys  
2023—turn over of 4 attorneys (so far)

(b) **The number of openings for the position and the number of qualified candidates for those openings after all other efforts of recruitment have been exhausted:** 4 openings total – one qualified candidate received which will be filling one position in mid-June.

(c) **The length of time the position has been vacant:** 2 positions vacant since January, 1 since Feb, 1 will be vacant first week of March (in reviewing data, the amount of time these positions remain vacant between hiring is increasing)

(d) **The difficulty in filling the position due to special circumstances, including, without limitation, special educational or experience requirements for the position:** the salary of the public defenders is not competitive (with AG / District Attorneys / Private Firms), there is a current critical shortage of counsel, rural housing costs have increased significantly, and there is a shortage of attorneys entering the market (in looking at historical data, only 6 graduates from UNLV Boyd School of law go into Government work).

(e) **The history and success of the efforts to recruit for the position, including, without limitation, advertising, recruitment outside of this State and all other efforts made:** See above.

Please let me know if you need any additional data. Available to discuss, if you want.

Thanks,  
Marcie



**Marcie Ryba | Director**  
State of Nevada  
Department of Indigent Defense Services  
896 W Nye Ln, Suite 202  
Carson City NV 89703  
(775) 687-8493 (o)  
(775) 431-0527 (c)  
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[dids.nv.gov](http://dids.nv.gov)

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## Laura FitzSimmons

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**From:** Jim Wells  
**Sent:** Friday, March 17, 2023 9:56 AM  
**To:** Marcie Ryba  
**Subject:** RE: Nevada Bar Foundation Grant Requests

Hi Marcie,

That is interesting and disappointing. I didn't see anything on their website restricting grants to 501(c)(3)s. There is some language in the Supreme Court Rule but even it is not clear it has to be to non-profits.

Have a great weekend.

Jim

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Friday, March 17, 2023 8:40 AM  
**To:** Jim Wells <jimwells@gov.nv.gov>  
**Subject:** Fw: Nevada Bar Foundation Grant Requests

Hi Jim,

Happy Friday! I just wanted to follow up on your suggestion to continue to apply for the State Bar grants. We did apply for the pipeline grant -- hoping to argue that as a state agency we should still qualify -- for law students again, along with other grant.

We received a rejection letter from Deputy Executive Director Lisa McGrane, which explained:

"We have reviewed the two Department of Indigent Defense grant applications submitted to the Nevada Bar Foundation. The Foundation is limited in its charter to granting to organizations that qualify for tax exempt status under Code section 501(c)(3). Although the DIDS is a tax-exempt state agency, it does not have a federal 501(c)(3) IRS tax designation. Therefore, we are unable to consider the applications."

I appreciate your thought to possibly do a work program for the program in the future. I just thought I would put it in your radar because LCB doesn't seem to like us coming to them and asking for money... but maybe I am wrong.

We look forward to Amy's responses. So grateful for your help!

Marcie

**From:** Lisa McGrane <[LisaM@nvbar.org](mailto:LisaM@nvbar.org)>  
**Sent:** Monday, August 22, 2022 10:04 AM  
**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Subject:** Nevada Bar Foundation Grant Requests

**WARNING** - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.




Good morning, Marcie.

We have reviewed the two Department of Indigent Defense grant applications submitted to the Nevada Bar Foundation. The Foundation is limited in its charter to granting to organizations that qualify for tax exempt status under Code section 501(c)(3). Although the DIDS is a tax-exempt state agency, it does not have a federal 501(c)(3) IRS tax designation. Therefore, we are unable to consider the applications.

If you have any questions, or if our assessment is in error, please do not hesitate to contact me.



**LISA MCGRANE**  
Deputy Executive Director

 [702.317.1448](tel:702.317.1448)  
 [lisam@nvbar.org](mailto:lisam@nvbar.org)  
 [www.nvbar.org](http://www.nvbar.org)

## Laura FitzSimmons

---

**From:** Jim Wells  
**Sent:** Thursday, March 16, 2023 11:35 AM  
**To:** Marcie Ryba  
**Subject:** RE: Hi!

Hi Marcie,

I had a conversation with Amy. I have asked her to work with you on the LCB responses since she needs to provide some information on a couple of the questions. She can help edit a couple of the others for brevity as well.

I am not going to add anymore to the budget. We have to stop requesting changes at some point. I would argue the State is a non-profit and should be eligible but that is up to the state bar. If there are savings in other operational categories, we can discuss a work program to fund these for summer 2024 and look at the benefits to determine whether or not to include them in the 2025 budget request.

I am okay with the reimbursement rates for both attorneys being set at \$150 per hour. However, I am concerned about precedent and expectations. If the NPD were assigned to take over this case, would it be done in house using state paid resources? What happens in July when NPD is running the WP County office? As I said in the email earlier this week, comparisons to the White Pine County DA is significantly lower than the \$200 per hour noted in the Soval report.

Thanks,  
Jim

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Wednesday, March 15, 2023 11:51 AM  
**To:** Jim Wells <jimwells@gov.nv.gov>  
**Subject:** Hi!

Hi, Jim,

It is your favorite pain just checking in! Happy Wednesday!

Just wanted to reach out to check in with you since I will be out for a couple of days... I think we have a couple things in the hopper

- (1) can I agree to pay the \$150 (the lowest bid) for one / both attorneys on that co-defendant murder case in Ely
- (2) I don't know if you had a chance to review the LCB responses and provide feedback?
- (3) Finally... we had a grant to pay a \$6,500 stipend per student for a total of two students to work in a public defender's office for the summer. This is part of our pipeline to bring law students to the rural counties (NRS 180.320). The grant was through the Nevada Bar, but they have changed it to limit applicants to non-profits... Is there anyway to add in \$26k over the biennium to continue this rural pipeline?

Thank you!!  
Marcie

**Marcie Ryba | Director**  
State of Nevada



Department of Indigent Defense Services

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## Laura FitzSimmons

---

**From:** Jim Wells  
**Sent:** Monday, March 13, 2023 4:18 PM  
**To:** Marcie Ryba;Chris Nielsen  
**Cc:** Peter P. Handy;Thomas L. Qualls  
**Subject:** RE: Budget Amendment Request

Hi Marcie,

Using the methodology you used for Churchill County, the hourly rate for White Pine would be about \$90.

Total Budget for FY 2023 - \$940,627 Page 18 of final budget report  
(<https://whitepinecounty.net/DocumentCenter/View/8676/WPC-Final-State-Form-FY2023?bidId=h>)

The Stoval report showed 5 attorneys in the DA's office (District Attorney, Chief Deputy District Attorney, Deputy DA, DA Special Prosecutor and Civil Deputy DA)

$940,627/5/2080 = \$90.45$

There has not been an effort to staff this office yet, so a budget amendment is premature and will not be considered at this time.

Thanks,  
Jim

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Saturday, March 11, 2023 8:28 AM  
**To:** Jim Wells <jimwells@gov.nv.gov>; Chris Nielsen <cgnielsen@gov.nv.gov>  
**Cc:** Peter P. Handy <P.Handy@dids.nv.gov>; Thomas L. Qualls <ThomasQualls@dids.nv.gov>  
**Subject:** Budget Amendment Request

Hi, Jim and Chris,

I am sorry to contact you on a Saturday.

This is in relation to ensuring we are in compliance with *Davis*.

Another issue that I am concerned about is whether there is sufficient funding for the White Pine County office. I had a discussion with Michael Wheable, White Pine County Manager, yesterday and discussed building the State Public Defender's Office in Ely. Mike advised that the county would like to have an office created with salaried employees. He feels that this is a better way to provide public defense services. We discussed that we may not be able to fill the positions at the salaried rate and may need to turn to contracts. He advised he was in discussions with Jane Eberhardy (the same attorney we were hoping to hire as the Supervising attorney in Ely) to contract at a rate of \$150 per hour for conflict cases. We advised we were hoping to hire or contract with her, so he is planning to back of these negotiations until we know more. (Another issue is finding rental space in Ely as nothing is listed on loopnet – and there is no county space available at this time)

Again, the NSPD's goal is to build an office there, but the reality is that there are not many attorneys in Ely, Nevada. And as you know, the one attorney there has declined the salaried position as the pay is not competitive. See the State Bar

of Nevada 2022 annual report which says there are 9,303 active attorneys, and of all attorneys licensed to practice (whether active or inactive) only 2.72 percent live in a rural county.

So, to the Davis concerns, and the purpose of this email, as you know, the stipulated consent judgment requires parity with the prosecutor:

Compensation for public defense services provided by rural counties shall be comparable on an hourly basis to that of prosecutors in the same county with comparable experience, and should take into account that prosecutors do not pay for overhead or expenses out of their own compensation.

Davis SCJ, p. 11 l. 23-26.

I would like to request a budget amendment so that if the NSPD is unable to find salaried employees that he has sufficient funding for contracting with attorneys. The budget amendment request would be operating authority to contract with hourly counsel in the amount of \$1,142,250 (with budgetary authority to take in approximately \$461,448 from White Pine County for their portion of the office + \$14,400 (for the non-indigent defense services work the NSPD will be required to do (120x\$150=\$14,400)).

The County Contract Attorney rates are contained in the financial status annual reports. The prison litigation is contained in the excel spreadsheet. The hours for FY21 and 22 were determined by dividing the contract expenses by the reporting rate of **\$100 per hour**. The FY23 hourly reporting is from the attached FY23 case time printout from LegalServer.

	FY 20 White Pine	FY21	FY22	FY23 (2 quarters of reporting)
County Contract Attorneys	\$478,393	\$543,412	\$690,147	\$250,495* (lower than expected because the quarterly payment was not prepaid in the second quarter. Expect to see 2 quarterly payments of \$247,595 in quarter 3)
Prison Litigation Estimated Indigent Defense Hours Worked:	\$155,392	\$171,901	\$117,256	\$96,518
Non-indigent hours worked – but the NSPD must provide coverage: (again, these are not a reimbursable expense, but the NSPD needs to be present for these cases as they are appointed)		7,154	8,075	4,191 (to date) (See FY23 Case Time Report)
		Estimate at 120 hours (attorneys historically have failed to report their non-indigent caseload – in reviewing their support for reporting, attorneys tend to bill about 10 hours a quarter and there are 3 attorneys)	Estimate at 120 hours (attorneys historically have failed to report their non-indigent caseload – in reviewing their support for reporting, attorneys tend to bill about 10 hours a quarter and there are 3 attorneys)	24.3 (See FY23 Case Time Report – we expect this to be underreported as Lorien shows 0 hours and issues with compliance for this type of reporting as it is not considered indigent defense services – but attorneys are still required to do these cases)

The average of FY 21 and FY 22 hours is: 7,615 attorney hours per year. Using this, at an hourly rate of **\$150**, the public defender will need \$1,142,250 to have sufficient funding for contracts. Of course, the county would be expected to pay their portion (the maximum contribution) to the NSPD in the amount of approximately \$461,448 (this is their current maximum contribution).

As you know, Soval Solutions believes the hourly rate is \$202 using the Churchill County data. (I have requested that he do the same analysis with White Pine data.) But I think the attorneys are expecting a rate of \$150 as it is being paid by Lyon, Elko, Churchill, Carson City, White Pine and Nye. On another note, although not a rural county, Washoe is paying \$150-\$200 an hour for appointed work.

We are fearful there isn't sufficient funding in the current budget to allow for the required amount of contract funding and would request a budget amendment.

Thank you,  
Marcie



**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

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**From:** [Jim Wells](#)  
**To:** [Marcie Ryba](#); [Amy L. Stephenson](#)  
**Cc:** [Peter P. Handy](#); [Thomas L. Qualls](#)  
**Subject:** RE: Legislative Requests  
**Date:** Wednesday, March 8, 2023 5:59:53 PM  
**Attachments:** [image001.png](#)  
[image003.png](#)  
[image005.png](#)  
[image006.png](#)

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Hi Marcie,

I am still working through some of the information. I will need you to make some changes or supply additional supporting documents before it goes over. I will get back to you tomorrow.

Thanks,  
Jim

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Wednesday, March 8, 2023 5:34 PM  
**To:** Amy L. Stephenson <astephenon@finance.nv.gov>  
**Cc:** Jim Wells <jimwells@gov.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>; Thomas L. Qualls <ThomasQualls@dids.nv.gov>  
**Subject:** RE: Legislative Requests

Hello,

I hope you are well. I just wanted to circle back on the information that was sent to you. Do I have permission to send it to the legislators? I am just concerned about providing it promptly.

Thank youh  
Marcie

**From:** Marcie Ryba  
**Sent:** Tuesday, March 07, 2023 10:52 AM  
**To:** Amy L. Stephenson <astephenon@finance.nv.gov>  
**Cc:** Jim Wells <jimwells@gov.nv.gov>; Peter P. Handy <P.Handy@dids.nv.gov>; Thomas L. Qualls <ThomasQualls@dids.nv.gov>  
**Subject:** Legislative Requests

Hello, Jim and Amy,

Please find the attachments for the legislative requests from the Joint Meeting of the Assembly Committee on Ways and Means and the Senate Committee on Finance. Please let me know if it can be forwarded to the legislators or if changes need to be made.

Thanks,

Marcie

**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

896 W Nye Ln, Suite 202

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## Laura FitzSimmons

---

**From:** Jim Wells  
**Sent:** Monday, March 6, 2023 11:29 AM  
**To:** Marcie Ryba  
**Cc:** Amy L. Stephenson;Chris Nielsen;Dylan K. Tedford  
**Subject:** Today's Hearing

Good morning Marcie,

I appreciate your testimony this morning. A couple of questions requested additional information. That information needs to be routed through Amy.

I am concerned with the testimony about not being able to monitor the rural counties. I have not seen documentation of the monitoring visits made in the past or projected to be made in the future by Deputy Director Qualls. He mentioned 83 courts, but there was no discussion of the cases attributable to the indigent for which he has oversight. Until we see what that looks like and the time and effort required, saying you do not have sufficient staff is not a correct statement.

As for the complex litigation sufficiency, my understanding is the Lyon County case is not under your jurisdiction because they did not opt in for death penalty coverage. To say we owe \$86,000 as a result of that case is not an accurate statement. Because we are not responsible for all of those costs, using them to state the complex litigation request is insufficient is not correct. There are no imminent death penalty cases to which this funding would apply. Therefore, the amount is sufficient based on our knowledge today of the counties for which it would apply.

Please copy me on any information provided to LCB regarding this morning's hearing.

Thanks,  
Jim

James R. Wells  
Deputy Chief of Staff to Nevada Governor Joe Lombardo  
Office of the Governor  
101 N. Carson Street  
Carson City, NV 89701  
775.684.5667  
jimwells@gov.nv.gov





**From:** [Jim Wells](#)  
**To:** [Marcie Ryba](#)  
**Cc:** [Peter P. Handy](#); [Bridgette Mackey-Garrison](#); [Amy L. Stephenson](#); [Chris Nielsen](#); [Dylan K. Tedford](#)  
**Subject:** RE: FIXED: Budget Amendment Request -- AMENDED  
**Date:** Thursday, March 2, 2023 2:35:29 PM  
**Attachments:** [image001.png](#)  
[image003.png](#)  
[image004.png](#)  
[image006.png](#)

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Hi Marcie,

I am sure the set-aside will come up in the hearing Monday. Amy plans on being there to assist and answer questions as needed.

Thanks,  
Jim

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Thursday, March 2, 2023 12:01 PM  
**To:** Jim Wells <jimwells@gov.nv.gov>  
**Cc:** Peter P. Handy <P.Handy@dids.nv.gov>; Bridgette Mackey-Garrison <bmgarrison@finance.nv.gov>; Amy L. Stephenson <astephenon@finance.nv.gov>; Chris Nielsen <cgnielsen@gov.nv.gov>; Dylan K. Tedford <dktedford@gov.nv.gov>  
**Subject:** RE: FIXED: Budget Amendment Request -- AMENDED

Hi, Jim,

Thank you so much for the update. This will significantly improve our ability to deliver indigent defense services and comply with the *Davis* mandates.

Our budget hearing is Monday. We will update it to include this information. Just so I know, am I allowed to inform the legislators of the \$7 million set aside in the biennium? Or will Director Stephenson (or a designee) be there to discuss this?

Thank you for all this hard work!  
Marcie

**From:** Jim Wells <jimwells@gov.nv.gov>  
**Sent:** Thursday, March 02, 2023 11:39 AM  
**To:** Marcie Ryba <mryba@dids.nv.gov>  
**Cc:** Peter P. Handy <P.Handy@dids.nv.gov>; Bridgette Mackey-Garrison <bmgarrison@finance.nv.gov>; Amy L. Stephenson <astephenon@finance.nv.gov>; Chris Nielsen <cgnielsen@gov.nv.gov>; Dylan K. Tedford <dktedford@gov.nv.gov>  
**Subject:** RE: FIXED: Budget Amendment Requesth- AMENDED

Hi Marcie,

We are finalizing budget amendments this week. Here is the status of the requests from this email:

Budget 1008:

- Additional policy analyst – This will not be approved this session. We added the Management Analyst. I would like to see a workload analysis and we can consider this in the future.
- Training – an additional \$30,765 will be added to each year of the biennium.

Budget 1499e

- Rover – I like the concept but given the difficulties hiring I am not sure adding this position makes sense. We can work on a plan in the interim for next biennium.
- Move up start date for Ely office – approved.
- Legal Secretary at step 10 – approved.

I realize pay is still an issue and is something we will need to work on going forward. Right now, everyone is asking for raises and we need to do these systematically or we just create other problems. As for the death penalty allotment, if a case comes up and the amount is insufficient, we can go to the contingency fund for additional dollars. Adding an amount now without supporting documentation doesn't make sense.

I read the information you sent from Oregon. I think it is important to remember we added \$7.0 million in the budget for next biennium. I think we need to have a broader discussion over the biennium on how best to accomplish your agency's mission and how best to go about funding public defense.

I thought I heard your budget hearing is Monday. We hope to get these amendments over before then but this is what will now be in your 24-25 budget.

Thanks,  
Jim

**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Friday, February 17, 2023 3:59 PM  
**To:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>; Bridgette Mackey-Garrison <[bmgarrison@finance.nv.gov](mailto:bmgarrison@finance.nv.gov)>  
**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>  
**Subject:** FIXED: Budget Amendment Request -- AMENDED

Hello,  
I am sorry. I forgot to finish a sentence in the memo. This is corrected.

Thank you  
Marcie

**From:** [Jim Wells](#)  
**To:** [Marcie Ryba](#)  
**Cc:** [Peter P. Handy](#); [Bridgette Mackey-Garrison](#); [Amy L. Stephenson](#); [Chris Nielsen](#); [Dylan K. Tedford](#)  
**Subject:** RE: FIXED: Budget Amendment Request -- AMENDED  
**Date:** Thursday, March 2, 2023 11:39:28 AM  
**Attachments:** [image001.png](#)  
[image005.png](#)  
[image002.png](#)  
[image003.png](#)

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Hi Marcie,

We are finalizing budget amendments this week. Here is the status of the requests from this email:

Budget 1008:

- Additional policy analyst – This will not be approved this session. We added the Management Analyst. I would like to see a workload analysis and we can consider this in the future.
- Training – an additional \$30,765 will be added to each year of the biennium.

Budget 1499:

- Rover – I like the concept but given the difficulties hiring I am not sure adding this position makes sense. We can work on a plan in the interim for next biennium.
- Move up start date for Ely office – approved.
- Legal Secretary at step 10 – approved.

I realize pay is still an issue and is something we will need to work on going forward. Right now, everyone is asking for raises and we need to do these systematically or we just create other problems. As for the death penalty allotment, if a case comes up and the amount is insufficient, we can go to the contingency fund for additional dollars. Adding an amount now without supporting documentation doesn't make sense.

I read the information you sent from Oregon. I think it is important to remember we added \$7.0 million in the budget for next biennium. I think we need to have a broader discussion over the biennium on how best to accomplish your agency's mission and how best to go about funding public defense.

I thought I heard your budget hearing is Monday. We hope to get these amendments over before then but this is what will now be in your 24-25 budget.

Thanks,  
Jim

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Friday, February 17, 2023 3:59 PM  
**To:** Jim Wells <jimwells@gov.nv.gov>; Bridgette Mackey-Garrison <bmgarrison@finance.nv.gov>

**Cc:** Peter P. Handy <P.Handy@dids.nv.gov>  
**Subject:** FIXED: Budget Amendment Request -- AMENDED

Hello,  
I am sorry. I forgot to finish a sentence in the memo. This is corrected.

Thank you!  
Marcie

**From:** Marcie Ryba  
**Sent:** Friday, February 17, 2023 3:57 PM  
**To:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>; Bridgette Mackey-Garrison <[bmgarrison@finance.nv.gov](mailto:bmgarrison@finance.nv.gov)>  
**Cc:** Peter P. Handy <P.Handy@dids.nv.gov>  
**Subject:** Budget Amendment Request -- AMENDED  
**Importance:** High

Hello,  
Please find attach the budget amendment requests. After our conversation today, we did move some of the requests that were submitted by the monitor to the end of the request.

I look forward to discussing these.

Fingers crossed.

Marcie

**Marcie Ryba | Director**  
State of Nevada  
Department of Indigent Defense Services  
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## Laura FitzSimmons

---

**From:** Jim Wells  
**Sent:** Wednesday, March 1, 2023 6:11 PM  
**To:** Marcie Ryba  
**Cc:** Chris Nielsen; Amy L. Stephenson  
**Subject:** RE: Request for Assistance

Hi Marcie,

I understand the need to pursue contract assistance while you are recruiting to fill vacancies. I would like to see caseloads and the progress on recruitments as well as your ability to contract with outside counsel. If the justification is there we can support the supplemental request understanding it will revert at the end of the year if not used.

Thanks,  
Jim

---

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Wednesday, March 1, 2023 11:31 AM  
**To:** Jim Wells <jimwells@gov.nv.gov>  
**Subject:** FW: Request for Assistance

Hi, Jim,  
Here is the email with attachments.

We were hoping to have an opportunity to explore whether we can request a supplemental and whether you would support a Critical Shortage designation for our Nevada State Public Defender Positions since we are 44% vacancy at this time.

Thanks!  
Marcie

---

**From:** Marcie Ryba  
**Sent:** Monday, February 27, 2023 10:31 AM  
**To:** Chris Nielsen <cgnielsen@gov.nv.gov>; Dylan K. Tedford <dktedford@gov.nv.gov>  
**Cc:** Peter P. Handy <P.Handy@dids.nv.gov>; Thomas L. Qualls <ThomasQualls@dids.nv.gov>  
**Subject:** Request for Assistance

Hello, Chris and Dylan,

I hope that you are well on this snowy day. I am trying to get a little work in before my internet goes out (which it usually does during storms).

As you may know, the Nevada State Public Defender is very short-staffed. At this time, they are at 5 of the 9 attorney positions filled.

To address this issue,

- we have move \$30k from Personnel into Operating. With these funds, we have contracted with one individual to cover about 100 hours of work between now and when IFC occurs. We are

working on another 1-2 contracts with the remaining \$10k, but the individuals we have contacted are exploring getting insurance set up (as required to contract).

- We have received permission to submit a work program to move a little over \$107k from Personnel to Operating. This will allow us to continue the above mentioned contract through the end of June. We will use the remaining funds to contract for additional coverage. This work program has been submitted as C62878. (This will give us sufficient funding to be the equivalent of 1 full time contractor).

As you can guess, the personnel savings are not getting us very far. The going rate for contract counsel in indigent defense right now is \$150-200 an hour and our salaried employees are paid about \$50 an hour. In short, for every 3 hours a salaried employee can work, we get only 1 hour of contractor coverage.

We are actively recruiting. However Washoe County is also actively recruiting. The Washoe Alternate Public Defender has a current job opening and the pay for a deputy public defender is significantly higher than we can pay (about \$50k more for a deputy) (see attached job opening for Washoe). We have also learned that John Arrascada recently resigned as the Washoe County Public Defender, so we expect more openings to take place. If additional attorneys decide to leave our office, we hope to have a plan in place.

As a solution, we have proposed a supplemental budget request for \$204,300. These funds, along with the proposed work program to transfer the \$107k would give us sufficient funding to contract with the equivalent of 4 full-time attorneys until we can get fully staffed.

This request to submit a supplement has been denied by the GFO at this time. Instead, it was requested that our office request assistance from the AG's Office for coverage. The Department did request coverage from the AG and this request was denied. See attached Feb 27 letter.

In the alternative to a supplemental request, the Nevada State Public Defender can conflict pursuant to the 6<sup>th</sup> Amendment and the BIDS regulations related to workload. This may, however, have a chilling effect on public safety and seems to violate NRS 180.450(6).

- NRS 180.450(6) allows a county to transfer the responsibility for indigent defense services to the NSPD. Carson City and Storey County has transferred this responsibility to the State.
- Under the 6<sup>th</sup> Amendment and our BIDS regulation section 42, the NSPD must conflict off a case if it has insufficient staff for to provide effective representation. If the NSPD does conflict off the case due to insufficient staff, the case will need to be transferred to conflict counsel. At this time, there is a shortage of indigent defense counsel and even Washoe is struggling to find coverage (they increased the rate they will pay to \$200 an hour). If counsel cannot be selected and appointed within a reasonable period of time, the case could be dismissed pursuant to the 6<sup>th</sup> Amendment.

This is what took place in Oregon. <https://www.usnews.com/news/us/articles/2022-11-23/oregon-public-defender-shortage-nearly-300-cases-dismissed>. (As a side-note, Oregon approved an emergency plan to provide \$10 million to solve this indigent defense crisis: <https://www.oregonlive.com/politics/2023/01/state-finalizes-10m-plan-to-ease-public-defender-crisis.html>).

We are hoping with the movement of funds into operating by the supplemental request, it will provide the necessary coverage for the Nevada State Public Defender. Is it possible to get permission for this supplemental request to move forward?

Any assistance would be greatly appreciated. Please let me know if you need additional information.

Marcie



**Marcie Ryba | Director**

State of Nevada

Department of Indigent Defense Services

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**From:** Craig A. Newby <[CNewby@ag.nv.gov](mailto:CNewby@ag.nv.gov)>

**Sent:** Monday, February 27, 2023 9:22 AM

**To:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>

**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Thomas L. Qualls <[ThomasQualls@dids.nv.gov](mailto:ThomasQualls@dids.nv.gov)>; Chris R. Arabia <[crarabia@nspd.nv.gov](mailto:crarabia@nspd.nv.gov)>; Chris Nielsen <[cgnielsen@gov.nv.gov](mailto:cgnielsen@gov.nv.gov)>; Teresa Benitez-Thompson <[TBThompson@ag.nv.gov](mailto:TBThompson@ag.nv.gov)>; Rikki M. Garate-Poll <[rgarate@ag.nv.gov](mailto:rgarate@ag.nv.gov)>

**Subject:** RE: Follow-Up

Hello Marcie:

Attached above is the Office's response to last week's request.

Thank you,

Craig

Craig A. Newby

First Assistant Attorney General

Office of the Attorney General

555 E. Washington Ave., Ste. 3900

Las Vegas, Nevada 89101

[cnewby@ag.nv.gov](mailto:cnewby@ag.nv.gov)

P: (702) 486-9246

F: (702) 486-3768



**From:** Marcie Ryba <[mryba@dids.nv.gov](mailto:mryba@dids.nv.gov)>  
**Sent:** Friday, February 24, 2023 11:27 AM  
**To:** Teresa Benitez-Thompson <[TBThompson@ag.nv.gov](mailto:TBThompson@ag.nv.gov)>  
**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>; Thomas L. Qualls <[ThomasQualls@dids.nv.gov](mailto:ThomasQualls@dids.nv.gov)>; Chris R. Arabia <[crarabia@nspd.nv.gov](mailto:crarabia@nspd.nv.gov)>; Craig A. Newby <[CNewby@ag.nv.gov](mailto:CNewby@ag.nv.gov)>  
**Subject:** Follow-Up

Hello, Teresa,

Thank you so much for speaking with me yesterday. And I look forward to your reply on Monday.

As a quick recap of the conversation, the Nevada State Public Defender is required to provide indigent defense services in those counties that have opted in for representation. At this time, Storey and Carson City have opted in. The Nevada State Public Defenders Office is an office of 9 employees, but 4 have left within a short period of time... leaving the NSPD with an effective 44% vacancy rate.

We inquired whether any attorneys from the AGs office could be temporarily transferred to a duty station at the NSPD. For example, Adam Woodrum is one attorney that left the NSPD just a couple weeks ago to go to the AG's office.

This request was a recommendation from Susan Brown at the GFO as a possible solution. Other solutions we are seeking are to transfer funding to contract with individual attorneys, but these transfers will only provide sufficient funding for partial coverage and will not really cover all we may need to be covered.

We are actively recruiting, but do not have any prospects at this time.

Anything you can do would be greatly appreciated.

Marcie



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AARON D. FORD  
*Attorney General*

CRAIG A. NEWBY  
*First Assistant Attorney General*

CHRISTINE JONES BRADY  
*Second Assistant Attorney General*

TERESA BENITEZ-  
THOMPSON  
*Chief of Staff*

LESLIE NINO PIRO  
*General Counsel*

HEIDI PARRY STERN  
*Solicitor General*

STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL

555 E. Washington Ave., Suite 3900  
Las Vegas, Nevada 89101

February 27, 2023

**Via Electronic Mail Only**

Marcie Ryba, Director  
Department of Indigent Defense Services  
896 W. Nye Lane, Suite 202  
Carson City, NV 89703  
[Mrumba@dids.nv.gov](mailto:Mrumba@dids.nv.gov)

**Re: Reassignment of Office Attorneys**

Dear Director Ryba:

We are in receipt of your request to reassign attorneys from our Office to the Nevada State Public Defenders' Office for criminal defense work. While we appreciate the importance of defense counsel within the criminal justice system, this Office must deny your request.

The Attorney General is the chief law enforcement attorney for the State of Nevada. Pursuant to NRS 228.080, the Attorney General has the authority to appoint deputies "to perform fully the duties of his or her office." Here, I am unaware of any duty the Attorney General has as the chief law enforcement attorney to represent criminal defendants as a matter of Nevada law, such that his deputies can be statutorily directed to satisfy your request.

To the contrary, Nevada law empowers the Attorney General to exercise "supervisory powers over all district attorneys of the State in all matters pertaining to the duties of their offices" and to conduct prosecutions "in any court of this State." NRS 228.120. Your request for attorneys from this prosecuting law enforcement agency to represent criminal defendants, if granted, would create a conflict with the Office's law enforcement function.

For example, granting such a request could potentially ask Office attorneys to prosecute and defend against each other in the same criminal matter. Further, the lack of statutory authority for Office attorneys to defend such cases creates potential grounds for any aggrieved criminal defendant to

Marcie Ryba, Director  
Page 2  
February 27, 2023

seek post-conviction relief. Finally, to further emphasize the institutional conflict, such post-conviction challenges would be defended by additional Office attorneys. These institutional conflicts require us to deny your request.

Under such circumstances, we respectfully suggest evaluating alternative, workable solutions with the current administration, specifically his Finance Office. We are confident that you will develop a workable solution for the Nevada State Public Defenders Office to meet its mission within the bounds of applicable law.

Sincerely,

/s/ Craig A. Newby \_\_\_\_\_  
Craig A. Newby  
First Assistant Attorney General  
(702) 486-9246 (office)  
[cnewby@ag.nv.gov](mailto:cnewby@ag.nv.gov)

cc: Chris Nielsen, General Counsel

**From:** Marcie Ryba

**Sent:** Friday, February 17, 2023 3:57 PM

**To:** Jim Wells <[jimwells@gov.nv.gov](mailto:jimwells@gov.nv.gov)>; Bridgette Mackey-Garrison <[bmgarri@finance.nv.gov](mailto:bmgarri@finance.nv.gov)>

**Cc:** Peter P. Handy <[P.Handy@dids.nv.gov](mailto:P.Handy@dids.nv.gov)>

**Subject:** Budget Amendment Requesth- AMENDED

**Importance:** High

Hello,

Please find attach the budget amendment requests. After our conversation today, we did move some of the requests that were submitted by the monitor to the end of the request.

I look forward to discussing these.

Fingers crossed.

Marcie

**Marcie Ryba | Director**

State of Nevada

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**From:** Craig A. Newby  
**Sent:** Thursday, February 9, 2023 10:45 AM  
**To:** Marcie Ryba; Amy L. Stephenson  
**Cc:** Jim Wells  
**Subject:** RE: Good Morning

Hello Marcie:

For brief follow up, the Sixth Monitor report stated that the workload study was to be completed January 2023. To the extent I have not seen it yet, I am presuming it is not yet complete.

What is the new timeline for it to be complete, such that I can advise the client on it in the near future?

Thanks. -Craig

**From:** Marcie Ryba <mryba@dids.nv.gov>  
**Sent:** Tuesday, January 31, 2023 9:42 AM  
**To:** Amy L. Stephenson <astephenson@finance.nv.gov>  
**Cc:** Jim Wells <jimwells@gov.nv.gov>; Craig A. Newby <CNewby@ag.nv.gov>  
**Subject:** Good Morning

Hi, Amy,

Thank you so much for talking with me last night.

As we discussed, you were going to forward a copy of the one shots (of approximately \$3.5 million per year) for the maximum contribution formula, so that I could accurately relay this information to my Board – and a copy of the newly written Budget BDR. Thank you.

Also, we discussed concerns that we have with the budget and whether we will be able to comply with the *Davis* “Stipulated Consent Judgment.” You agreed to try to schedule a meeting with yourself, me and Jim Wells, Deputy Chief of Staff to discuss.

Here are some talking points I was hoping to cover:

1. **Pay parity with the Prosecutors:**

- Like other agencies, the pay of state public defenders is substantially lower than our county/muni counterparts. However, the disparity does not stop there. The NSPD salary range is not even on track with the pay scale of the Attorney General’s Office.
  - ***Of particular concern is the fact that several positions within DIDS are considered to have a higher job classification using the U.S. Equal Employment Opportunity Commission (EEO) standards than their counterparts in the Attorney General’s office, yet receive substantially less pay. See p. 5 of the attachment “Comparison of the Office of Attorney General to Department of Indigent Defense.”***
  - Further, NAC 180, Section 39 requires parity between the salaried public defender and the opposing prosecutor. Our budget request that we submitted was to bring us in parity with the AGs office.
  - **Current Issues:**

- Current vacancy at NSPD for attorneys: 20% -- 8 of 10 attorneys filled (historical vacancy is 0%).
- White Pine County – opted in to the NSPD – *Davis* county – concerned we will not find counsel to take employment there at current pay scales.
  - Contract may not be a viable option: Travel Expenses are very high for appointed / contract counsel. See billing examples (Redacted attachment).
- **estimated cost:**

	FY 24	FY25
▪ DIDS Parity:	\$44,428	\$44,428
▪ NSPD Parity:	\$122,864	\$122,864
▪ Total:	\$167,292	\$167,292
- See table below for new proposals:

Table 1. Proposed Salaries and Job Categories for DIDS Personnel			
Position Title	Current Salary	Proposed Salary	Equivalent AG Position Salary
Executive Director of Indigent Defense Services	\$140,611	\$158,347	Assistant Attorney General; Chief of Staff
Deputy Director of Indigent Defense Services (EA)	\$139,346	\$149,272	General Counsel; Solicitor General
State Public Defender	\$133,012	\$143,779	Bureau Chief (EA)
Assistant Public Defender (Formerly Supervising Public Defender-Office)	NEW POSITION	140,611	
Supervising Public Defender (EA) (Formerly Supervising Public Defender- Appeals, and Supervising Public Defender-Trial)	\$120,344	\$133,012	Chief Deputy Attorney General (EA)
Senior Deputy Public Defender- Appeals (EA)*	NEW POSITION	\$107,676-\$120,344	Senior Deputy Attorney General (EA)
Senior Deputy Public Defender (EA)*	NEW POSITION	\$107,676-\$120,344	Senior Deputy Attorney General (EA)
Deputy Public Defender – Appeals (EA)	\$107,676	\$107,676-\$120,344	Deputy Attorney General (EA)
Deputy Public Defender (EA)	\$107,676	\$107,676-\$120,344	Deputy Attorney General (EA)

\*This is a new class of position that does not necessarily require the hiring of new attorneys at this time. Instead, the presence of this position will allow advancement opportunities for Deputy Public Defenders.

2. **Complex Litigation Unit:** Thank you for the proposal of \$100k.
  - **Discussion Point:** Lyon County has a pending death penalty case (and has opted in). In the first 2 fiscal quarters, death penalty expenses are \$85,000. See attached Lyon County Financial Reports.
  - **If we run out of money, how do we quickly refill?**
3. **Policy Unit:** Pursuant to *Davis* we are required to systematically review, on an annual basis, the quality and efficiency of public defense counsel. See “Stipulated Consent Judgment,” p. 16. Currently, we have insufficient staff to complete this, along with all our other duties.
  - **We had proposed a policy unit** – of 2 attorneys that could travel to the rural counties and watch court – for this systematic review.
    - **NOTE:** the *Davis* monitor has repeatedly commented in her quarterly report of her concern of “insufficient department budget for oversight and other functions.” See Section II of the “Sixth Report of the Monitor.” Failure to

develop this systematic review may cause a violation of the “Stipulated Consent Judgment.”

- **Estimated cost:** FY 24: \$379,334 FY 25 \$467,049
- 4. **Holistic Defense Unit:** Part of our discussion last time was that we needed to show economic benefit for some of our programs. One program we proposed was a “holistic defense” where we provide social workers to public defenders. **Studies have shown that for every \$1 spent on social workers for defense, it saves \$4 on the back end** (via higher likelihood of probation, less prison time, less time in jail, etc.). See attached “Social Worker Report.” We believe providing social workers to our public defenders will reduce their work load (not to mention Clark County and Washoe County have social workers in their public defender offices) and save the state money in the long run.
  - **Estimate cost:** approximately \$800k

Obviously, I am not legal counsel for the *Davis* case, however, the Department has been tasked to complete the requirements set forth in the judgment. In an effort to best avoid liability for the state, we believe these are necessary to meet our compliance obligations in the “Stipulated Consent Judgment” and comply with NAC 180.

I look forward to this discussion.

Marcie



**Marcie Ryba | Director**

State of Nevada

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