

OVERSIGHT NEVADA STATE PUBLIC DEFENDER TIMELINE

The September 2018 Sixth Amendment Center's Right to Counsel Report (which was the culmination of the 2017 SB 377 legislative study committee hearings) concluded:

State of Nevada has a 14th amendment obligation to ensure 6th amendment indigent defense services...The State of Nevada has only very limited oversight of primary representation...in just two jurisdictions, Carson City and Storey County) the use the State PD. **However the State Public Defender System suffers from undue political interference and inadequate funding.**" (emphasis added).

The inadequate funding of the State Public Defender System in Nevada has been of continued concern to the Davis monitor, DIDS and this Board. The salary range has left many positions open, with not even a single applicant for over a year.

It is in this context that Patty Cafferata applied to work in indigent defense. Her resume is in the materials at "oversight 1" and establishes that she had no prior criminal defense experience.

Issues arose almost immediately. Oversight 2 is a letter written to DIDS on May 26, 2023, by the Storey County District Attorney pointing out constant and pervasive problems with Ms. Cafferata's performance and concluding the "current situation is untenable, potentially compromises the constitutional rights of the accused, and creates a risk of liability exposure to the County. It cannot be allowed to persist."

In response, DIDS conducted a site visit, the report of which is contained in oversight 4-6. The justice of the peace was interviewed, and she expressed numerous concerns. DIDS staff observed Ms. Cafferata in court and agreed with the concerns that had been expressed by the DA and JP. The conclusion was "while many of these issues could be remedied with additional training/shadowing by and with more experienced criminal defense counsel in the SPD office, currently there are no such counsel available....in short the

best option under the circumstances appears to be to allow Storey County to opt out of the SPD and join the CCPD. “

On January 10, 2024 Ms. Ryba emailed the Governor’s office to inform them that Chris Arabia had resigned effective January 26. She offered the assistance of herself of BIDS to help with the next appointment. Oversight p 7. There was no response from the Governor’s office so Ms. Ryba wrote essentially the same message again on January 22nd. There was no response to that email either.

On February 21, Ms. Ryba met with a member of the Governor’s staff and was told that a new State PD had been approved by the Governor but was not told who it was. Oversight p 11. Instead, Ms. Cafferata emailed Marcie on February 29 and told her she had just heard from the Governor’s office that she had been appointed. Oversight p.9. Marcie was then informed of that appointment by email from the Governor’s staff on March 4th.

Our regulations require every indigent defender to submit an application to DIDS establishing their qualifications. Ms. Cafferata had not done so. DIDS sent an email to Ms. Cafferata on October 4th, pointing out she was not in compliance with the regulation. Oversight p. 31. Ms. Cafferata replied the same day “I submitted the form. Remembering cases for the last 30 years is not possible. I have a book at home I entered my jury trials in. I can look for it sometime next week and give you whatever information I recorded, if you really need that information.” Oversight p. 30.

DIDS staff replied on October 7, “I will need the case names and numbers and the jurisdictions of at least three felony trials” in which Ms. Cafferata participated. Oversight p. 29. The following day, Ms. Cafferata replied that she would check her list of cases that evening but could not provide case numbers. Oversight p. 29.

On October 11th, Ms. Cafferata was reminded to supply the information needed to place her on the qualified list. Oversight p. 28. Ms. Cafferata replied that the information of the 10 cases, jurisdiction and dates of trials were at her house but if staff needed the information, staff could contact the

various clerk's offices in Lincoln Lander and Esmerelda counties. Oversight p. 27.

In that same email, Ms. Cafferata informed DIDS that she has a jury trial next week in Ely.

It must be noted that BIDS had no knowledge of the deficiencies of Ms. Cafferata's representation of indigent defendants until its Chair began to request information from DIDS staff. The reports summarizing the observer's material are supposed to be compiled by staff quarterly and provided to BIDS, but that has not been done since Ms. Cafferata began to appear in court in White Pine County.

As is made clear in the onsite visit report by the Davis compliance observer, significant concerns about Ms. Cafferata's ability to provide constitutionally sufficient representation to Nevada's indigent defendants have been communicated repeatedly by judges and district attorneys in White Pine County. Oversight pp. 13-20, onsite visit report dated September 23, 2024, by DIDS oversight observer, David Schieck.