



## **HUMBOLDT COUNTY PLAN FOR DELIVERING INDIGENT DEFENSE SERVICES**

### **I. STATEMENT OF POLICY**

#### **A. Objectives**

1. Achieving Equality and Equal Justice for All before the law.
2. Meeting the Federal and State Constitutional requirements of providing appointed counsel, while not creating any economic disincentive or impairing the ability of appointed counsel to provide effective representation.
3. Promoting the integrity of the relationship between an appointed attorney and a client. Humboldt County shall administer this plan in a manner that ensures the Nevada State Public Defender and other appointed counsel are free from political and undue budgetary influence and subject to judicial supervision, in the same manner and to the same extent as retained counsel or as a prosecuting attorney.
4. Implementing the requirements of appointed counsel deriving from the U.S. and Nevada Constitutions, Nevada Revised Statutes, Nevada and 6th Judicial District Court Rules, Nevada Rules of Criminal Practice, and any regulations promulgated by the Nevada Department of Indigent Defense Services.

### **II. DEFINITIONS**

- A. "Ancillary Services" are defense services other than attorney fees, including: (1) investigator services, (2) expert witnesses and/or their services, (3) and any other expenses that the Public Defender or Conflict Counsel can reasonably justify as needed for the effective assistance of counsel.
- B. "DIDS" refers to the Nevada Department of Indigent Defense Services or its designee.
- C. "Expert Witness" is a person qualified by knowledge, skill, experience, training, or education to render an opinion on scientific, technical, or other specialized matters.
- D. "Indigent person" means a person who is unable, without substantial financial hardship to himself/herself or his/her dependents, to obtain competent, qualified legal counsel on his/her own and who:
  1. is confined and entitled to a prompt, counseled, adversarial bail hearing within 48 hours after being taken into custody;

2. is charged with a felony or gross misdemeanor;
3. is charged with a misdemeanor where the prosecution is seeking jail time (incarceration);
4. is alleged to have violated probation or other Court supervision, and the Court has determined the person is entitled to the appointment of counsel, and jail time or a sentence of confinement may be imposed;
5. is a juvenile alleged to have committed an act of juvenile delinquency other than a minor traffic offense, or alleged to be a child in need of supervision;
6. is entitled to appointment of counsel under the Sixth Amendment to the U.S. Constitution or any provision of the Nevada Constitution, or the Court is likely to impose jail time; and/or
7. faces loss of liberty for criminal contempt.

E. "Investigator" is a person licensed private investigator by the State of Nevada who is qualified to secure evidence and subpoena witnesses; or an employee of the Nevada State Public Defender or private counsel, and is employed or contracted, in connection of the affairs of either office for the purposes of securing evidence or witnesses, and serving witness subpoenas.

F. "Public Defender" means the office of the Nevada State Public Defender and any private counsel with whom they contract with to provide indigent defense services.

G. "Representation" includes counsel and Ancillary Services that the Public Defender or Conflict Counsel can reasonably justify as needed for the effective assistance of counsel.

H. "Conflict Counsel" means private counsel who are on the DIDS list of eligible indigent defense providers maintained pursuant to *NRS 180.430* and who are not contracted to provide first-tier indigent defense services to Humboldt County.

### III. FINANCIAL ELIGIBILITY FOR REPRESENTATION:

A. Indigency Determination: An indigent person is entitled to appointed counsel.

- "Indigency" means the inability of a defendant, without causing the defendant or any of his or her dependents to have substantial financial hardship, to obtain competent, qualified legal counsel on his or her own.

- "Substantial hardship" is presumptively determined to include all defendants who receive public assistance, as that term is defined in *NRS 422A.065*; reside in-public housing, as the term is defined in *NRS 315.021*; or who has a household income that is less than 200 percent of the Federal Poverty Guidelines.

- A person is presumed to have a substantial hardship rendering him/her indigent if he/she is currently serving a sentence in a correctional institution, housed in a mental health facility, or is a minor.

- Defendants not falling below the presumptive threshold are subject to a more rigorous screening process to decide if their circumstances would result in a substantial financial hardship if they retained private counsel. Those circumstances include the seriousness of charges being faced, monthly income and expenses, and local private counsel rates.

B. Screening for Eligibility: Pretrial Services shall provide an initial screening of financial eligibility of an incarcerated individual within 48 hours of being taken into custody and provide a recommendation to the Court with regard to the eligibility of the incarcerated individual for appointed counsel based upon the above provisions herein. The initial screening shall be forwarded to the Nevada State Public Defender and the applicable Justice, Municipal, or District Court before the incarcerated individual is seen by a judge. A Court receiving the initial screening shall further investigate the application for appointed counsel. The Court's decision on whether to appoint counsel must *be* based on the criteria in section III(A) of this plan or as otherwise required by law.

C. Partial Eligibility: If the court determines that a defendant can afford counsel, but cannot be effectively represented due to inability to pay for appropriate Ancillary Services, the court shall order reasonably necessary services be provided at no cost to the defendant, subject to the procedures established by DIDS for the approval and payment of Ancillary Services. A copy of the order will be forwarded to DIDS.

#### IV. PRETRIAL RELEASE

A. Risk Assessments: Pretrial Services will meet with an incarcerated individual within 48 hours of being taken into custody, for purposes of conducting a risk assessment for pretrial release. Copies of the risk assessment any other documents obtained by Pretrial Services relevant to release, such as charging documents, or probable cause affidavits, will be forwarded to the Nevada State Public Defender/and any of their contracted counsel for Humboldt County, the Prosecutor, and the relevant Court in sufficient time for the Public Defender to meaningfully dialogue with the incarcerated individual concerning pretrial release.

B. Detention Hearings: Detention hearings will take place within 48 hours of being taken into custody. The Public Defender or their contracted counsel and Pretrial Services will attend the hearings.

C. Release: Pretrial Services will provide supervision and services to any released indigent person as ordered by the relevant Court as a necessary condition of pretrial release. Pretrial Services will provide assistance to the indigent person to assist the indigent person in complying

with the conditions of pretrial release, including appearing at all future proceedings, if any. Pretrial Services will provide prompt notice to the indigent person's defense counsel of any difficulties the indigent person may have in complying with the conditions of release.

#### V. APPOINTMENT OF COUNSEL.

##### A. Counsel:

1. The Nevada State Public Defender, or their contacted counsel, will provide first-tier indigent defense representation and will be assigned to represent all indigent persons appointed defense counsel by the Court.

2. Conflict Counsel will provide second-tier indigent defense representation.

3. All indigent defense providers must seek qualification from and be qualified by DIDS for the level of cases they handle.

##### B. Conflicts:

1. The Public Defender, their Contracted Counsel, and Conflict Counsel shall, as soon as practicable upon appointment, conduct a conflict check to determine if any conflict of interests exists that would prevent representation of the indigent person.

2. When the indigent defense counsel determines he/she is conflicted out of representing an indigent person, he/she shall provide written notice of the conflict to the relevant Court and DIDS.

3. Upon the relevant Court's determination that the indigent defense counsel is conflicted out, the Court shall direct DIDS to select Conflict Counsel to represent the indigent person.

4. The Humboldt County District Attorney's office shall have no authority to determine whether a Public Defender or Conflict Counsel has a conflict of interest.

##### C. Appearance:

1. The Public Defender or their Contracted Counsel shall be present at the initial appearance in person, or if allowed by the Court via Zoom, and be prepared to address appropriate release conditions in accordance with relevant statutes, rules of criminal procedure, and caselaw.

2. A timely initial appearance must not be delayed pending a determination of the indigency of a defendant.

3. Thereafter, counsel for the indigent person shall be present at all other critical stages of the legal proceeding, whether in or out of court, in person, or if allowed by the Court via Zoom.

##### D. Number and Qualifications of Counsel in Capital Cases:

1. Number: A person charged with an Open Murder case that is reasonably believed by the Court and the Prosecutor to result in a capital charge, shall be represented by two attorneys.

2. Qualifications: Appointment of indigent defense counsel representing a defendant charged in a capital case shall comport with *Nevada Supreme Court Rule (S.C.R.) 250*.

F. Compensation: Conflict Counsel is entitled to compensation for services reasonably provided in representing an indigent person at the current DIDS established rate. Conflict Counsel shall submit detailed claims of services provided in representing an indigent person to DIDS for review, approval, and payment pursuant to their procedures and practices.

G. Case Related Expenses:

1. Prior to incurring any Ancillary Services more than \$2,500.00, indigent defense counsel shall obtain pre-authorization from DIDS to incur such case-related expenses, pursuant to their procedures and practices.

2. Private counsel is entitled to reimbursement for Ancillary Services, pursuant to DID's procedures and practices.

3. Indigent Defense Counsel shall submit detailed claims for reimbursement for Ancillary Services to DIDS for review, approval, and payment pursuant to their procedures and practices.

VI. TRAINING

All Indigent Defense Counsel is expected to meet all requirements for education, training and experience, as promulgated in regulations approved and adopted by DIDS.

VII. DUTIES OF INDIGENT DEFENSE COUNSEL

A. Standards of Performance: Services rendered by appointed Indigent Defense Counsel shall be commensurate as much as possible with those rendered by private legal counsel and shall meet the legal standards for representation specified in the United States Supreme Court decision in *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052 (1984). Representation shall be provided in a professional, skilled manner guided by applicable regulations; laws; Nevada Rules of Professional Conduct; the Nevada Indigent Defense Standards of Performance adopted by the October 16, 2008, *Nevada Supreme Court Order in Administrative Docket 411*, or the same as may be amended; and the American Bar Association's Criminal Justice Standards for the Defense Function. Additionally, Indigent Defense Counsel must advise all clients not to waive any of their substantive legal rights or plead guilty at the initial appearance, unless doing so is in the client's best interests. Indigent Defense Counsel must make all reasonable efforts to meet with their client within seven days following the assignment of the case and at least

twenty-four hours before any critical court hearing, and shall keep their clients informed on a regular basis of significant updates in the client's case.

B. Continuity in Representation: All Indigent Defense Counsel shall endeavor to provide consistency in the representation of indigent persons so that the same attorney represents a person through every stage of the their case without delegating the representation to others, except for administrative and other tasks that do not affect the substantial rights of the defendant.

C. Workload Standard: The workload of the Indigent Defense Counsel must allow him/her to give each client the time and effort necessary to ensure effective representation. Any counsel who provides indigent defense services shall not accept a workload that, because of its excessive size, interferes with counsel's competence, diligence, or representation of their clients. Indigent Defense Counsel shall maintain caseload data and submit reports in accordance with the DIDS regulations.

D. No Receipt of Other Payment: Appointed Indigent Defense Counsel may not require, request, or accept any payment or promise of payment or any other valuable consideration for representation under their appointment, unless such payment is approved in a Request for Attorney Fees through and by DIDS and in accordance with this Plan.

E. Use of Client Surveys: Client surveys authorized by DIDS shall be provided to clients at the conclusion of Indigent Defense Counsel's representation.

#### VIII. CLIENT COMMUNICATION

A. Confidentiality: Humboldt County shall provide a private room for Indigent Defense Counsel within the Courthouse for purposes of private discussions between counsel and clients, including a room adjacent to the courtrooms reserved for all counsel representing indigent persons. The Humboldt County Detention Center and the Humboldt County Juvenile Detention Center shall provide space for private discussions between counsel and clients within their respective facilities. The Humboldt County Detention Center and the Humboldt County Juvenile Detention Center shall provide private rooms for telephonic conferences between counsel and their clients.

B. Data Collection: Humboldt County and Indigent Defense Counsel will utilize data collection and case management systems provided by DIDS at state expense for caseload and time reporting, as specified in the Board on Indigent Defense Services Regulations.

#### IX. EFFECTIVE DATE; MODIFICATION

This plan is effective February 17, \_\_\_\_\_, 2026 and will remain in effect until otherwise modified in writing. This plan may be modified by formal action of the Humboldt Board of County Commissioners.