

**WHITE PINE COUNTY PLAN
PROVISION OF INDIGENT SERVICES
NAC-180 §§ 2-50**

This plan meets or exceeds the requirements for the provision of Indigent Defense Services, established by Nevada statutes, court judgments, and Nevada Court rules.

This plan addresses those factors in NAC-180; §§2-50 that relate to the proper provision of indigent defense services.

SECTION 1. DEFINITIONS. The definitions provided in NAC-180 §§3-10 are incorporated in this Plan.

THE STATE PUBLIC DEFENDER (NSPD): The State Public Defender will serve as White Pine County's primary public defender and will be assigned to represent all Eligible Clients. State Public Defender attorneys will be qualified by the Department of Indigent Defense Services (DIDS).

INDIGENT SERVICES COUNSEL are those attorneys who may be appointed when the NSPD to represent indigent defendants who have committed offenses within the county and are entitled to representation under Nevada Law.

QUALIFIED ATTORNEY is an attorney who has been identified by DIDS as having the required qualifications to represent indigent defendants in White Pine County either as contract counsel in The State Public Defender or as conflict counsel.

SECTION 2. JURISDICTION. This plan is intended to satisfy the requirements for White Pine County, Nevada only.

SECTION 3. CONFLICT COUNSEL. Contracting with private attorneys to provide Indigent Defense Services as conflict counsel will follow this procedure. White Pine County will contract with one or more qualified attorneys as conflict public defenders. All contracts will be consistent with this plan, all DIDS regulations, Nevada case law, and will be approved by the White Pine County Board of Commissioners.

Qualified candidates may be identified through either solicitation by White Pine County or by proposals submitted by private counsel that set forth the qualifications and legal experience of the applicant. Proposals for conflict counsel may include applications by multiple attorneys for shared contract(s) so long as the proposals meet Nevada's legal requirements.

If the County elects to accept proposals, the proposals shall include as an attachment the attorney's qualification letter from DIDS. Proposals must have a provision for complying with DIDS regulations. The County may seek and consult listed references in the contracting process.

If both the NSPD and the contract conflict counsel have conflicts, the case will be referred to DIDS for selection of appointed private counsel from the DIDS approved list of attorneys. DIDS will make an effort to select regionally local counsel first, and then look to the broader list of approval counsel to handle the case.

SECTION 4. INDIGENCY SCREENING PROCESS AND APPOINTMENT OF COUNSEL. Justice of the Peace will screen criminal detainees not later than within 48 hours of arrest, to determine whether they are eligible for defenses services.

If Justice of the Peace determines that the criminal detainee is qualified to receive indigent services, the State Public Defender will be notified by the Justice of the Peace's court clerk and provided with the documentation sufficient to support a first appearance or bail hearing. If a State Public Defender attorney has a disqualifying conflict that cannot be resolved within Nevada Law and the Rules of Professional Conduct, that defendant will be referred to DIDS and assigned to a contract conflict counsel, in rotation if possible. In the event contract conflict counsel has a conflict DIDS will select an independent qualified conflict counsel as set forth below.

In the event of a dispute as to a criminal detainee's eligibility for services, the Indigent Services Provider will continue to provide representation until the matter is resolved with the judicial officer in accordance with Nevada law.

If the County has more than one conflict contract, the State Public Defender will provide immediate notice of any conflict / inability to represent any eligible client to the Department by email at didscontact@dids.nv.gov. The SPD will also transfer the file in LegalServer. If there is only one conflict contract, the State Public Defender will notify the contract holder immediately and transfer physical and legal server files to that person. The State Public Defender will include in the notification the following information (if available): charging document, probable cause sheet or declaration, and the date, time and location of the next scheduled court appearance.

Upon receipt of the above notification, the Department will select a contract conflict attorney in rotation, or if they are unavailable, select another Qualified Attorney(s) for assignment from among the panel of Qualified Attorneys. The Department will use a rotation system insofar as practicable, but will ultimately have discretion to make assignments on any legitimate basis, including, without limitation, qualifications, interest, track record of responsiveness and dependability in accepting assignments, feedback from Eligible Clients, feedback from White Pine County officials, and capacity to take on work.

A Qualified Attorney contacted by the Department for an assignment may accept or reject the assignment. If the Qualified Attorney (or staff duly authorized to accept assignments on the Qualified Attorney's behalf) is not available during normal business hours when contacted by the Department, the assignment will be deemed rejected. The Department will contact other Qualified Attorneys until it obtains acceptance from a sufficient number of Qualified Attorneys to represent all Eligible Clients.

Upon confirmation of acceptance of assignment by Qualified Attorney(s), the Department will provide prompt notice and a proposed order confirming selection of counsel to the Appointing Authority—i.e., the Judge, Justice, or Master presiding over the court in which the Eligible Client's charges are pending.

In the event of a capital case, The State Public Defender will make a good faith attempt to have a lead counsel qualified by District Court, in accordance with Nevada Supreme Court Rule 250. If no attorney in The State Public Defender can qualify, DIDS will appoint a Qualified Attorney authorized to serve as lead counsel under Supreme Court Rule 250, and White Pine will pay compensation pursuant to NRS 7.125 or relevant DIDS regulation, pursuant to AB 518 (2023) for such services. The State Public Defender and/or other Qualified Attorneys will be assigned as co-counsel, unless the office has a conflict. If the State Public Defender has a conflict, a second qualified attorney will be appointed by DIDS as co-counsel.

SECTION 5. INITIAL APPEARANCES AFTER ARREST OR SUMMONS. The provider of indigent defense services will be at all appearances after arrest or summons including: in Justice Court, first appearances, arraignments, justice court appearances for bail and release matters, waiver matters, hearing settings; in District Court, initial hearings for juvenile cases, and probation revocation cases as agreed to by written county contract if the scope of the contract exceed the DIDS definition of indigent services. Criminal detainees may refuse counsel, when fully informed of their rights, in accordance with NRS 171.188(1). Upon appointment, counsel will provide written information to all detainees containing contact information and appointment information to ensure prompt client contact after appointment. Attorneys must be prepared to address appropriate release conditions in accordance with relevant statute, rule of criminal procedure, and caselaw. A timely initial appearance, bail hearing, or arraignment hearing must not be delayed pending a determination of the indigency of the defendant. Counsel must be present at all other critical stages, whether in or out of court.

SECTION 6. PRIVILEGED COMMUNICATIONS. County facilities housing or holding indigent defendants or criminal detainees will provide accommodations for confidential or otherwise privileged communications between indigent criminal defense clients and legal counsel. Within the White Pine County Detention Center, a room will be available for meetings between counsel and clients that is not monitored or recorded, surreptitiously, accidentally, or in any fashion, that would violate attorney-client privilege. The White Pine County Courthouse will allow use of a room for attorney-client privilege meetings. Facilities for unrecorded and unmonitored audio and video communications will be provided for those situations where face-to-face communications are unavailable or impractical.

SECTION 7. COLLATERAL INDIGENT DEFENSE SERVICES. Upon Notice of Appearance by Indigent Defense counsel, the courts and the prosecutor will provide copies of all available reports and other filings and discovery in a fashion designed to ensure rapid and accurate transmission.

PRIVATE INVESTIGATOR/EXPERT WITNESSES/CONFLICT COUNSEL. The County will establish funding for private investigator services, expert witnesses, and appointed private conflict counsel. All requests for experts and investigator will be submitted to the Department of Indigent Defense Services for review and approval if deemed reasonable and necessary.

SECTION 8. WARRANTY OF CONSISTENT REPRESENTATION. Indigent clients will be entitled to consistency of counsel throughout their cases. An individual defendant facing either repeat or multiple charges due to a course of conduct can expect to be represented by the same defense counsel throughout each stage of the case in each case. The exception to this rule may be for 48-hour / bail hearings, in which the counsel appearing may not be the counsel who is ultimately assigned to a particular client. Counsel with the State Public Defender shall appear at all 48-hour hearings, unless otherwise designated by the Court

SECTION 9. WARRANTY OF PROFESSIONAL SERVICES. All Services provided by Indigent Defense counsel must meet or exceed the requirements of the Nevada Rules of Professional Conduct, the Nevada Indigent Defense Standards of Performance adopted October 16, 2008 by the Nevada Supreme Court Adopted in Administrative Docket 411 or as subsequently amended, and DIDS regulations.

Indigent Defense counsel will counsel clients to avoid uninformed waivers of substantive or procedural rights or uninformed guilty pleas or waivers unless done after consulting with counsel. In aid of this requirement, counsel will ensure contact with clients occur within 7 days of appointment or assignment to the case. Counsel will maintain consistent contact with clients thereafter. Consistent contact means at least every thirty days unless there are no significant developments in the case.

Surveys provided by the Board of Indigent Services will be provided to indigent clients at the conclusion of representation.

SECTION 10. INVOICING AND PAYMENT

A. Appointed Conflict Counsel

Qualified Attorneys providing services to Eligible Clients within White Pine County in exchange for an hourly rate will submit monthly invoices to the Department. Such invoices will be submitted on a current Request for Attorney's Fees form found on DIDS website: www.dids.nv.gov. The form must include any appropriate backup, no later than ten (10) days after the end of the month in which the services were rendered. The backup will contain time entries rounded to the nearest one-tenth (1/10th) of an hour, describing with the work performed and identifying the attorney who performed it.

The Department will approve for payment reasonable attorney's fees reflected on the Requests for Attorneys' Fees and backup. In reviewing for reasonableness, the Department may consider factors such as: (i) average case times as determined by workload analysis; (ii) time and skill required; (iii) complexity of the case; and (iv) experience and ability of the Qualified Attorney(s). The Department may request additional information or explanation where necessary. In the event the Department denies or modifies a Request for Attorneys' Fees, it will provide an explanation to the Qualified Attorney, with a copy to the White Pine County Finance Director, as to why the denied portion was not reasonable. Such denials will be subject judicial review.

Payment for all approved attorneys' fees will be issued by the White Pine County Finance Director's Office. The Department will notify the Finance Director's Office of all approved Requests for Attorneys' Fees, attaching a copy of the invoice and a redacted backup. The Finance Director's Office will issue payment within thirty (30) days of receipt of documentation from the Department.

B. Case-Related Expenses

Insofar as Case-Related Expenses are incurred in providing services to Eligible Clients, the following procedures will apply:

1. Pre-Authorization: Case-Related Expenses expected to exceed \$2,500 will be submitted to the Department for pre-authorization before they are incurred. The Qualified Attorney will submit the request for pre-authorization to the Department by email at didscontact@dids.nv.gov. The request will include an explanation of why the expense is reasonably necessary to provide Representational Services. The Department will notify the White Pine County Finance Director of preauthorization at the same time that the Qualified Attorney is notified.
2. Reasonableness Review: All Case-Related Expenses, whether or not they are subject to pre-authorization, are subject to the Department's review for reasonableness. Invoices for Case-Related Expenses will be submitted to the Department for such review no later than thirty (30) days following the termination of the representation. Any requests for expenses not timely submitted will be waived. The Department will approve all reasonable and necessary Case-Related Expenses, and will notify the White Pine County Finance Director's Office of all approved expenses and provide a copy of the invoice.
3. Payment: The White Pine County Finance Director's Office will issue payment for all approved Case-Related Expenses within thirty (30) days of receipt of notice of the Department's approval and a copy of the invoice.

SECTION 11. REIMBURSEMENT FOR PAYMENTS EXCEEDING THE MAXIMUM COUNTY CONTRIBUTION

A formula for establishing the maximum amount a county is required to pay for the provision of indigent defense services in a Fiscal Year has been codified into statute. Under AB 518, the maximum amount White Pine County must pay for Fiscal Year 2023-24 is \$461,448. For each fiscal year after Fiscal Year 2023-2024, the maximum amount will be equal to the maximum for the immediately preceding fiscal year, increased by the lesser of: (1) The cost of inflation, as measured by the appropriate regional CPI or 5%.

White Pine County will be permitted to obtain reimbursement for costs associated with the provision of indigent defense services under this plan to the extent they exceed the maximum contribution in the preceding paragraph. White Pine County will file financial status reports with the Department in a manner consistent with Regulations, using the appropriate form provided by the Department. The White Pine County Board of Commissioners hereby designates the White Pine County Finance Director as its designee to submit such reports to the Department. To the extent the financial status reports reflect costs in excess of the maximum contribution for any Fiscal Year, White Pine County may request reimbursement. Nothing herein will be construed to preclude White Pine County from seeking additional reimbursement pursuant to NRS 353.266, NRS 180.450, or as otherwise permitted by law.

SECTION 12. WORKLOAD STANDARD. The workload of each Qualified Attorney providing services to Eligible Clients within White Pine County must allow the attorney to give each client the time and effort necessary to ensure effective representation. Any attorney who provides indigent defense services will not accept a workload that, by reason of its excessive size, interferes with the attorney's competence, diligence, and/or representation of clients. The maximum workload guidelines as determined by the Department are incorporated herein by reference and will be followed to the

greatest extent practicable. To the extent required by the Department's Board, Qualified Attorneys providing indigent defense services under this plan will maintain caseload data and track time spent providing indigent defense services in accordance with Regulations of the Board on Indigent Defense Services.

SECTION 13. EFFECTIVE DATE; MODIFICATION

This plan is effective _____, 2023 and will remain in effect until otherwise modified in writing. This plan may be modified by formal action of the Board of County Commissioners.

SECTION 14. PLAN ADMINISTRATOR AND CONTACTS

The County Manager or designee will be the administrator of this plan for indigent defense services. The County Manager or designee will report any material breaches or other significant matters to the Board of County Commissioners. The Board of County Commissioners may take any lawful, situationally-appropriate action with respect to any contract.

Questions about the administration of this plan may be directed to the White Pine County Manager or their appropriate designee.