

Soval Solutions, LLC

Compensation Analysis and Recommendations for Nevada Department of Indigent Defense Services: Final Report

Prepared for the Nevada Department of
Indigent Defense Services

31 May 2022

Soval Solutions, LLC
1406 Veterans Drive, #212
Omaha, NE 68022
Dr. Mitchel N. Herian, Owner
mitch@sovalsolutions.com
402-651-6329

Summary

The Nevada Department of Indigent Defense Services (DIDS) helps provide critical representation for indigent defendants in the State of Nevada. In order for DIDS to carry out its functions, it is necessary for the organization to have the ability to attract and retain talent. Currently, DIDS is at a disadvantage in hiring qualified defense attorneys, as salaries are typically below those offered in other comparable organizations in the state. Specifically, many DIDS salaries are below those offered to employees in the Nevada Attorney General's office who have similar levels of responsibility. Furthermore, many DIDS employees receive salaries that are well below salaries offered to public defenders in urban counties, and below those offered to prosecutors in various counties. This document provides evidence of pay differentials between DIDS employees and similarly situated employees throughout Nevada. This information is then used to develop recommendations for updated salaries to be offered to DIDS employees.

Nevada Department of Indigent Defense Services Salary Change Request

The Department of Indigent Defense Services (DIDS) was established by AB 81 in 2019 and charged with oversight and regulation of indigent defense services throughout the state. The primary mission of DIDS is to “to assist Nevada counties in developing quality, equitable, and sustainable indigent defense systems that strengthen local communities and meet or exceed the state and federal constitutional guarantees that protect each of us.” In order to effectively pursue this mission, it is imperative that DIDS personnel, and the indigent defense community in Nevada, receive adequate pay in relation to the critical work that they do. Appropriate pay structures will ensure that DIDS and the indigent defense community can attract and retain the talent needed to provide vigorous representation of indigent defendants throughout the State of Nevada.

Currently, there are two primary challenges in relation to attorney pay within DIDS. First, the current pay structure for DIDS employees is not consistent with the pay structure used in the Nevada Attorney General’s office. DIDS regulation 39 states that, “... an attorney who receives a salary for providing indigent defense services is entitled to receive a reasonable salary, benefits and resources that are in parity, subject to any applicable negotiated collective bargaining agreements, with the corresponding prosecutor’s office that appears adverse to the office of public defender in criminal proceedings.” The pay disparity for similar job responsibilities may lead qualified candidates to pursue work in the Attorney General’s office—or in another executive department—rather than for DIDS.

Second, the pay structure of DIDS may be detrimental to efforts to recruit and retain attorneys to rural areas of the state. This is likely part of a broader problem regarding efforts to attract qualified defense attorneys to work in rural parts of Nevada. As Tables 3 and 4 of this document indicate, the salaries for public defenders in Nevada’s most urban counties outpace the salaries of attorneys in DIDS. To illustrate the imbalance, in Clark County the Public Defender salary ranges from \$138,216 to \$214,219 annually. This puts the maximum salary for the Clark County Public Defender 52.4% higher than the current salary for the DIDS Executive Director (\$140,611), 53.7% higher than the DIDS Deputy Director (\$139,346), and 61.1% higher than the State Public Defender. With an annual salary range of \$123,406 to \$191,318, the salary of the Clark County Assistant Public Defender also far outpaces the salary of the top three positions at DIDS. A similar situation exists with regard to Washoe County where the Public Defender salary ranges from \$145,121 to \$188,656 and the Alternate Public Defender Salary ranges from \$132,496 to \$172,224. This puts the maximum salary for the Washoe County Public Defender 34.2% higher than the current salary for the Executive Director or DIDS; the maximum salary for the Washoe County Assistant Public Defender is 22.5% higher than the current salary of the Executive Director of DIDS.

To increase the competitiveness of pay for defense attorneys within DIDS, it is proposed that the salary structure within DIDS is changed. First, it is proposed that salaries for managing attorneys are increased to more closely align with attorneys in the Attorney General’s office that possess similar organizational responsibilities. As Table 1 below indicates, it is proposed that the Executive Director of DIDS, the Deputy Executive Director of DIDS, and the State Public Defender would receive pay that is consistent with positions in the Attorney General’s office that have comparable job tasks and organizational responsibilities. Similarly, it is proposed that pay for the Supervising Public Defender- Appeals, the Supervising Public Defender-Trial, the Deputy Public Defender-Appeals, and the Deputy Public Defender

receive pay that is consistent with positions in the Attorney General’s office that have comparable job tasks and organizational responsibilities.

In addition to changes to salary ranges for DIDS employees, several job classification changes are suggested. First, it is proposed that one current position be reclassified: the Supervising Public Defender-Office to be changed to Assistant Public Defender. This change will give the current Supervising Public Defender-Office a title and pay that is more in line with the actual duties of the position.

Second, currently, the roles for the Supervising Public Defender for Appeals and the Supervising Public Defender for Trials are specified in the Nevada Budget. It is requested that the specifications for “Appeals” and “Trials” for Supervising Public Defenders are dropped so that the roles for these individual positions are no longer fixed. The resulting two positions will have the titles “Supervising Public Defenders”. This will provide greater flexibility within DIDS so that Supervising Public Defenders can effectively fill both roles in the office if needed.

Finally, it is also recommended that the positions of the Senior Deputy Public Defender and Senior Deputy Public Defender-Appeals are created. These positions will not require the hiring of new personnel at this time. Rather, the presence of these positions will allow for advancement opportunities for the Deputy Public Defender and the Deputy Public Defender-Appeals, thus providing an additional incentive for attorneys to seek employment with DIDS and ultimately maintain loyalty to the organization as they progress through a structured career path.

| 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. | | | |

The proposed salary structure will not completely address discrepancies between urban and rural pay for defense attorneys in Nevada. However, the adjustment will represent an initial step in alleviating disincentives for defense attorneys to practice, particularly in rural parts of the state.

Comparison of Current Office of Attorney General and Department of Indigent Defense Services Salaries

To understand the current status of employment positions and how those positions compare to comparable jobs in the Attorney General’s office, Table 2 below provides an overview of the current salaries for the various positions in both the Nevada Office of Attorney General (AG) and the Nevada Department of Indigent Defense Services. Two aspects of the table are noticeable. First, the AG’s office has a much more varied classification of positions. The AG’s office contains 25 unique classes whereas DIDS has 10 unique position classifications. This discrepancy suggests that an individual working within DIDS may experience fewer opportunities for advancement and promotion, in relation to an individual working in the AG’s office.

Second, the table provides clear evidence that the top positions within DIDS are not receiving compensation that is in parallel to the top positions within the AG’s office. The top two positions within DIDS—the Executive Director and Deputy Director—receive pay that is below the top seven positions within the AG’s office. The State Public Defender receives a salary that is directly in line with the salary received by the Chief Deputy Attorney General.

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. To illustrate, the column titled “EEO-4” in Table 2 indicates the ways in which jobs are classified using EEO standards. Positions with the EEO-4 classification of “A” are considered Officials and Administrators. Positions with the EEO-4 classification of “B” are considered “Professionals” who report to employees that are classified as “A”. We can see that the two executive-level positions within DIDS are classified as Officials and Administrators using the EEO-4 Job Category classification, yet receive lower rates of pay than employees in four categories classified as “B” within the Attorney General’s office.¹ Similarly, the three current Supervising Public Defender positions within DIDS are classified as job code “A”, yet receive equivalent pay to a position within the Attorney General’s office classified with job code “B”.

¹ The State of Nevada appears to have adapted the numeric system of Job Category classifications used by the U.S. Equal Employment Opportunity Commission with an alphabetic system. Please see the following location for more detail about Job Category classifications: <https://eeocdata.org/pdfs/EEO-4%20Instruction%20Booklet.pdf>.

| OFFICE OF ATTORNEY GENERAL | | | DEPARTMENT OF INDIGENT DEFENSE SERVICES | | |
|----------------------------|----------------------------------|---------|---|---------------------------------|---------|
| EEO-4 | ROLE | SALARY | EEO-4 | ROLE | SALARY |
| B | ASSISTANT ATTORNEY GENERAL | 158,347 | | | |
| A | CHIEF OF STAFF | 158,347 | | | |
| B | CONSTRUCTION LAW COUNSEL | 149,272 | | | |
| A | GENERAL COUNSEL | 149,272 | | | |
| B | SOLICITOR GENERAL | 149,272 | | | |
| B | SPECIAL COUNSEL (EA) | 149,272 | | | |
| A | BUREAU CHIEF (EA) | 143,779 | | | |
| | | | A | EX DIR OF INDIGENT DEFEN SRVS | 140,611 |
| | | | A | DEP DIR OF INDIG DEFS SRVS (EA) | 139,346 |
| A | CHIEF DEPUTY ATTY GENERAL (EA) | 133,012 | A | STATE PUBLIC DEFENDER | 133,012 |
| B | AG COUNSEL FOR PROSECUTG ATTYS | 120,977 | | | |
| A | SPECIAL ASSISTANT, AG, MILITARY | 120,977 | | | |
| A | SPECIAL ASSISTANT, AG, NEIGHBORH | 120,977 | | | |
| B | SR DEPUTY ATTY GENERAL (EA) | 120,344 | A | SPVG PUB DEFENDR-APPEALS | 120,344 |
| | | | A | SPVG PUB DEFENDR-OFFICE | 120,344 |
| | | | A | SPVG PUB DEFENDR-TRIAL | 120,344 |
| B | CHIEF FINANCIAL OFFICER | 115,096 | | | |
| B | INFORMATION TECHNOLOGY CHIEF | 112,798 | | | |
| B | DEP ATTY GENERAL (EA) | 107,676 | B | DEP PUBLIC DEFENDER-APPELL(EA) | 107,676 |
| | | | B | DEP PUBLIC DEFENDER (EA) | 107,676 |
| | | | | | |
| A | CHIEF INVESTIGATOR | 98,809 | | | |
| A | CHIEF PERSONNEL MANAGER | 98,809 | | | |
| B | FINANCIAL ANALYST | 91,841 | | | |
| B | PUBLIC INFORMATION OFFICER | 79,807 | | | |
| B | INVESTIGATOR (EA) | 74,242 | D | INVESTIGATOR (EA) | 74,242 |
| B | OMBUDSMAN, DOMESTIC VIOLENCE | 67,131 | | | |
| E | SPVG LEGAL RESEARCHER (EA) | 66,506 | | | |
| F | EXECUTIVE ASSISTANT | 63,340 | F | EXECUTIVE ASSISTANT | 63,340 |
| E | LEGAL RESEARCHER (EA) | | | | |
| E | PROGRAM SPECIALIST-TECH CRIMES | | | | |

Source: State of Nevada Compensation Schedule: https://hr.nv.gov/uploadedFiles/hrnv.gov/Content/Sections/Compensation/2021_Compensation_Schedules/PP10%207-12-21.pdf
Note: Shaded cells indicate roles across which equivalent pay is given for employees of Office of Attorney General and Department of Indigent Defense Services

Salaries for DIDS Attorneys in relation to County Public Defenders and Select District Attorneys

Beyond pay differentials for attorneys within the Executive Branch, attorneys within DIDS experience pay deficits with some of their counterparts at the county level throughout Nevada. The differentials are particularly acute when we compare DIDS employees to public defenders in urban parts of the state.

The following tables present salary information for county-level salaried positions within public defenders’ offices across the State of Nevada. As noted above, top public defender positions in urban counties in Nevada are commonly salaried above even the top executive positions within DIDS. The discrepancy in pay between DIDS attorneys and county-level public defenders in urban parts of the state may hinder the ability of DIDS to attract highly qualified attorneys to serve in the office.

To illustrate the imbalance, in Clark County the Public Defender salary ranges from \$138,216 to \$214,219 annually. This puts the maximum salary for the Clark County Public Defender 52.4% higher than the current salary for the DIDS Executive Director (\$140,611), 53.7% higher than the DIDS Deputy Director (\$139,346), and 61.1% higher than the State Public Defender. With an annual salary range of \$123,406 to \$191,318, the salary of the Clark County Assistant Public Defender also far outpaces the salary of the top three positions at DIDS.

| Role | Code | Minimum | Maximum |
|--|-------------|-----------------|-----------------|
| SPECIAL PUBLIC DEFENDER | M07227 | \$138,216.00 yr | \$214,219.20 yr |
| PUBLIC DEFENDER | M07229 | \$138,216.00 yr | \$214,219.20 yr |
| ASSISTANT PUBLIC DEFENDER | M07228 | \$123,406.40 yr | \$191,318.40 yr |
| ASSISTANT SPECIAL PUBLIC DEFENDER | M07226 | \$123,406.40 yr | \$191,318.40 yr |
| CHIEF DEPUTY PUBLIC DEFENDER* | E07329 | \$113,193.60 yr | \$175,406.40 yr |
| DEPUTY PUBLIC DEFENDER* | E07327 | \$77,084.80 yr | \$150,363.20 yr |
| SPECIAL INVESTIGATOR - PUBLIC DEFENDER | N46244 | \$57,158.40 yr | \$88,649.60 yr |
| INVESTIGATOR II - PUBLIC DEFENDER | N46243 | \$52,998.40 yr | \$82,097.60 yr |
| INVESTIGATOR I - PUBLIC DEFENDER | N46242 | \$49,088.00 yr | \$76,024.00 yr |

* Salaries set by Collective Bargaining Agreement between Clark County and the Clark County Defenders Union. Sources: Salary data obtained from Clark County Human Resources, governmentjobs.com.

A similar situation exists with regard to Washoe County where the Public Defender salary ranges from \$145,121 to \$188,656 (see Table 4). This puts the maximum salary for the Washoe County Public Defender 34.2% higher than the current salary for the Executive Director or DIDS, 35.4% higher than the Deputy Director, and 41.8% higher than the State Public Defender. The Washoe County Alternate Public Defender Salary ranges from \$132,496 to \$172,224. The maximum salary for the Washoe County Assistant Public Defender is 22.5% higher than the current salary of the Executive Director of DIDS, 23.6% higher than the DIDS Deputy Director, and 29.5% higher than the State Public Defender.

| Role | Code | Minimum | Maximum |
|-----------------------------|-------------|----------------|----------------|
| Public Defender | | \$145,121.60 | \$188,656.00 |
| Alternate Public Defender | | \$132,496.00 | \$172,224.00 |
| Deputy Public Defender IV* | 1083 | \$110,968.00 | \$156,228.80 |
| Deputy Public Defender III* | 1082 | \$99,153.60 | \$143,728.00 |
| Deputy Public Defender II* | 1081 | \$84,572.80 | \$114,108.80 |
| Deputy Public Defender I* | 1080 | \$74,027.20 | \$99,403.20 |

* Salaries set by Collective Bargaining Agreement between Washoe County and the Washoe County Public Attorneys Association. Sources: Salary data obtained from Collective Bargaining agreement and Washoe County Human Resources website.

Elko County has recently undertaken a compensation and salary study. In that study, it is suggested that public defenders in paygrades in E18, E20 and E21 receive substantial pay increases. The suggested paygrades and steps are presented in Table 5. As the table shows, the Chief Civil Deputy Public Defender and Public Defender (Grade E21) are suggested to have a pay range of \$106,017 to \$153,732. This would again put the maximum end of the scale above each of the top three positions within DIDS. The Chief Civil Deputy Public Defender is slated to have an annual pay range of \$98,633 to \$143,020. The top end of this range is essentially at the level of the DIDS Executive Director and above the other to two positions in the agency. In short, the public defenders in Elko County are on track to receive salary updates that are equivalent to or exceed the salaries received by the top employees within DIDS.

| Step | Deputy Public Defender (Grade E18) | Chief Civil Deputy Public Defender (Grade E20) | Chief Civil Deputy Public Defender and Public Defender (Grade E21) |
|-----------------------|---|---|---|
| 1 | \$41.03 | \$47.42 | \$50.97 |
| 2 | \$43.08 | \$49.79 | \$53.52 |
| 3 | \$45.14 | \$52.16 | \$56.07 |
| 4 | \$47.19 | \$54.53 | \$58.62 |
| 5 | \$49.24 | \$56.90 | \$61.17 |
| 6 | \$51.29 | \$59.27 | \$63.72 |
| 7 | \$53.34 | \$61.64 | \$66.27 |
| 8 | \$55.39 | \$64.01 | \$68.82 |
| 9 | \$57.45 | \$66.39 | \$71.36 |
| 10 | \$59.50 | \$68.76 | \$73.91 |
| Annualized Pay Range* | \$85,342 to \$123,760 | \$98,633 to \$143,020 | \$106,017 to \$153,732 |

*Computation based on 2,080 hour work year.
Source: Step and Salary data obtained from updated pay and salary study for Elko County. Provided to the author.

Finally, the salaries for the top three public defender position in Churchill and Humboldt counties are presented in Tables 6 and 7, respectively. The salaries show that officials in these rural counties receive salaries that are roughly equivalent to the salaries paid to the top three employees at DIDS. Again, this equivalence suggests that DIDS is at somewhat of a disadvantage in attracting top talent to its office, in relation to the pay received by public defenders in urban counties.

| Role | Code | Minimum | Maximum |
|---------------------------|------|-----------------|-----------------|
| Public Defender | 1281 | \$109,636.80 yr | \$147,409.60 yr |
| Deputy Public Defender II | 1283 | \$89,960.00 yr | \$120,993.60 yr |
| Deputy Public Defender I | 1282 | \$81,494.40 yr | \$109,636.80 yr |

Source: Churchill County, Nevada HR
<https://www.governmentjobs.com/careers/Churchill/classspecs?keywords=public%20defender>

| Role | Code | Minimum | Maximum |
|---------------------------|------------|-----------------|-----------------|
| Public Defender | 100-048-01 | \$111,012.28 yr | \$141,540.66 yr |
| Alternate Public Defender | APD1 | \$100,445.61 yr | \$128,048.95 yr |
| Deputy Public Defender | 100-048-02 | \$85,424.34 yr | \$117,459.15 yr |

Source: Humboldt County, Nevada HR: <https://www.governmentjobs.com/careers/hcnv/classspecs?keywords=public%20defender>

To provide additional evidence regarding the lack of equivalence between DIDS employees and their counterparts at the county level, it may be useful to examine the salaries of District Attorneys in Carson City, Nevada. Recall that under DIDS regulation 39, public defenders are supposed to earn a salary equivalent to the “corresponding prosecutor's office that appears adverse to the office of public defender in criminal proceedings.” The Carson City District Attorneys office can provide a comparison. As Table 8 shows, the maximum salaries of the top positions within the Carson City District Attorneys office are considerably higher than the top salaries of the top positions within DIDS. It should be noted that county salaries for some elected positions in Nevada counties are regulated by NRS 245.043.

| Role | Code | Minimum | Maximum |
|-------------------------------------|------|-----------------|-----------------|
| Assistant District Attorney | L240 | \$107,413.23 yr | \$184,587.87 yr |
| Chief Deputy District Attorney | L301 | \$97,648.58 yr | \$156,237.50 yr |
| Supervisor Deputy District Attorney | L230 | \$100,838.40 yr | \$117,705.40 yr |
| Senior Deputy District Attorney | L220 | \$84,032.00 yr | \$107,140.80 yr |
| Deputy District Attorney | L210 | \$70,131.37 yr | \$102,889.71 yr |
| Deputy District Attorney-Civil | L210 | \$70,131.37 yr | \$102,889.71 yr |
| Deputy District Attorney-Juvenile | L210 | \$70,131.37 yr | \$102,889.71 yr |

Source: Carson City Human Resources Website: <https://www.carson.org/home/showdocument?id=76969&t=63764870260800000>

Retirement and Bar Dues

Beyond salary differentials, counties also make contributions to retirement plans. This differs from state employees at DIDS who are part of the employee-employer compensation plan, which requires employees to contribute 15.5% of their income to retirement. The 15.5% contribution further differentiates the salaries of county and state employees by enlarging the salary gap between DIDS employees and county employees in similar positions of authority.

Currently paying the bar dues of Nevada state employees is prohibited by rules laid out in the Nevada State Administrative Manual (SAM). Specifically, SAM 2628 states that professional association dues are not an allowable State expense. The payment of bar dues and fees associated with required continuing legal education courses (CLEs) are a requirement for all practicing attorneys in Nevada. In order to maintain competitiveness in both the public and private labor markets, it is suggested that DIDS be allowed to reimburse employees for bar dues and CLES. With 11 employees at DIDS, this works out to \$4,950 in bar dues annually.