



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

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ONSITE VISIT REPORT

Esmeralda County

Visit date: February 15-16, 2022

I. Brief Narrative.

Day 1.

Executive Director Marcie Ryba and Deputy Director Thomas Qualls traveled to Goldfield, NV for an oversight visit, to meet with the Board of Commissioners, the Justice of the Peace, and contract Public Defender Jason Earnest.

Prior to the Commissioners meeting, we met with Justice of the Peace Danielle Johnson. Judge Johnson gave us a tour of the Esmeralda County Courthouse, including the Justice Court and District Court courtrooms, the jury room, Sheriff's Office, and various other spaces. The historic courthouse was built in 1905 and much of the original furniture is still being used.

During our meeting and tour, the judge voiced several concerns, including lack of adequate space for attorneys to meet privately with their clients. Under the current system, attorneys are able to meet with their clients in the jury room. A drawback of this is that it connects to two other rooms, and so is not completely private. The room is one floor above the justice court. Occasionally the Judge allows attorneys to meet in her courtroom, and she temporarily clears the room. Due to the lack of convenient meeting space, it appears the more common practice is just to talk to clients in the hallway.

Overall, Judge Johnson is extremely helpful and knowledgeable about the system and its challenges. She introduced us to the Commissioners, the Sheriff, and the District Attorney. She has also placed the DIDS client surveys directly outside the courtroom, where defendants can collect them either coming or going from court.

Judge Johnson informed us that she is already doing 48 hour hearings, in advance of the mandate by AB 424, and that Public Defender Jason Earnest has made himself available virtually. Judge Johnson speaks highly of Jason Earnest as being an effective advocate and of being consistently present and on time. She did not have the same praise for the District Attorney.

Marcie and Tom then presented to the Board of Commissioners. The presentation included discussions of the upcoming Annual Reporting, including the Financial Reporting, and the updated Indigent Defense Plan, due May 1, 2022. It was decided by the Commissioners that LaCinda Elgan will be our point of contact in these reporting matters. We also discussed the County's ability to opt-in to the Nevada State Public Defender system, including for direct appeals and death penalty cases. The Commissioners seemed interested in opting in to the NSPD for direct appeals and death penalty coverage.

We also met with the Esmeralda District Attorney. He does not seem to be interested in continuing to work on the Indigent Defense Plan. We are waiting for him to send us a copy of the old plan, so we can use it to move forward.

The Sheriff gave us a tour of the jail, which is attached to the courthouse. The Sheriff is concerned about the lack of attorney/client privacy in the jail. There is a phone and a computer next to the jail cells, but they are currently not private. There was only one inmate in custody during our visit. But if any more were present, then communication in the jail would be a problem. The Sheriff did confirm that there is a private space on the third floor of the courthouse, in a kind of attic space, where attorneys can meet privately with clients. Based upon the fact that Judge Johnson was not aware of the space, it is unclear how often it is used. Also, to access the third floor, the attorney and client must walk up a set of very steep stairs, which seems to discourage its regular use.

Day 2.

Marcie and Tom returned to Goldfield on Wednesday, February 16, for pre-trial hearings before Judge Johnson in Esmeralda Justice Court. The DA appeared virtually, from Las Vegas, and Jason Earnest appeared in person. Mr. Earnest was prepared and was an effective advocate for each of his clients. There appears to be chronic late discovery problems with the District Attorney's office and lack of criminal complaints filed in time for the pre-trial conference, but Mr. Earnest appeared to be on top of it.

We then met with Jason Earnest after court. We spent over an hour with him and discussed a wide range of issues, including his observations and personal experience that Nye County needs more indigent defense attorneys. I will discuss that more in the Nye County Oversight Report. (Jason serves as Public Defender for Esmeralda County, and also has a contract to cover Tonopah courts and do conflict cases in southern Nye County.)

Jason assures us that the caseload in Esmeralda is manageable, that he is generally able to meet with clients privately, and that his biggest frustrations about the work is that the DA is not very organized. This results in the system being inefficient and causing inconveniences for both clients and the attorney.

II. Oversight Criteria.

1. Client Communication
 - a. There are options for private or semi-private meeting spaces, but overall they are inadequate, inconvenient, or cause disruptions and time delays to use. Also, spaces on the second or third floors are inaccessible to older or disabled clients.
 - b. Jason Earnest appears to be able to communicate with his clients in advance and to have a good relationship with them.
 - c. The Justice Court has made surveys available to all defendants. It is unclear how many use them. Also, it is unclear how many Jason personally delivers to his client. We will follow up on this.
2. First Appearances
 - a. Jason Earnest is reliable and timely and appears virtually or in person for all hearings.
 - b. Judge Johnson reports that Jason is already appearing virtually for 48-hour hearings. It is anticipated that this system will remain in place after July 1, 2022.
3. Preparedness / Knowledge of Case
 - a. Jason Earnest was prepared and had knowledge of his cases and client's histories. Judge Johnson had great things to say about Jason and his reliability. (She did not have similar accounts of the district attorney.)
4. Investigation / Experts
 - a. We discussed several cases in which Jason intends to use investigators and experts in the near future. There did not appear to be an issue with the availability of fees..

III. Next Steps.

1. Jason Earnest appears to be doing a great job as Public Defender. His office has caught up with caseload data entry on LegalServer, but they still need to finish entering attorney time. We will continue to run regular LegalServer reports, as with all offices, to monitor progress.
2. We are working with the county regarding updated Indigent Defense Plan, due May 1, as well as their annual report.
3. We will continue to check in with Jason regarding his needs and his upcoming need for experts and investigators, as well as any other resources.

IV. Photos

1. Jury room, meeting space on 2nd floor
2. Justice Court / alt meeting space
3. Justice Court / alt meeting space
4. District Court
5. District Court
6. Computer for detainees
7. Phone for Detainees
8. Client Surveys outside Justice Court
9. Local Rules



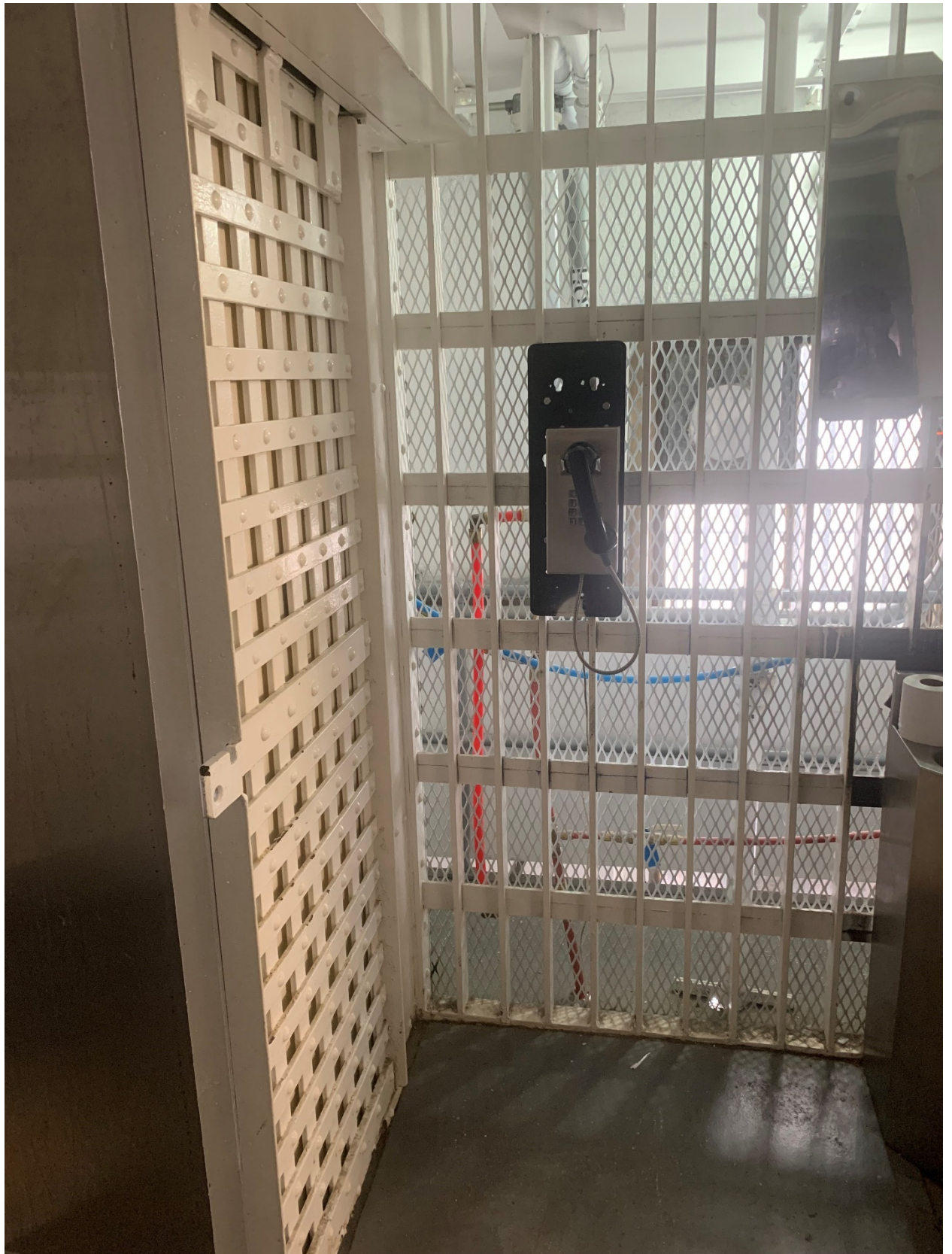


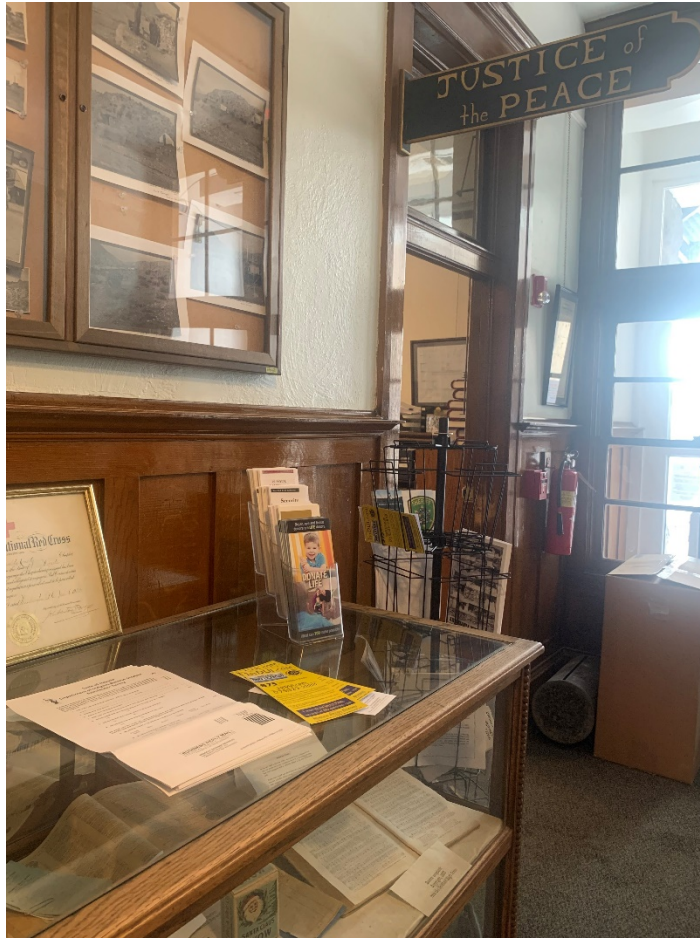














NOTICE OF PUBLIC MEETING OF THE ESMERALDA COUNTY BOARD OF COMMISSIONERS

February 15, 2022

1:00 p.m.

Esmeralda County Courthouse

403 E. Crook Avenue, 2nd Floor

Goldfield, NV 89013

1. **CALL TO ORDER AND ROLL CALL.**
2. **PUBLIC COMMENT.** (Discussion only. Action may not be taken on any matter brought up under this agenda item. It must be placed on an agenda, at a later meeting for action.)
3. ***RECESS TO ESMERALDA COUNTY BOARD OF HIGHWAY COMMISSION:**
4. ***APPROVAL OF EXPENDITURES.**
5. ***DISCUSSION/DECISION/APPROVAL:** Rejected Vendor Bills from Auditor's Office.
6. ***FINANCIAL REPORTS**

A. Assessor	\$173,082.19	01/31/2022
B. Clerk	\$486.60	02/02/2022
C. Justice Court	\$37,561.50	02/04/2022
D. Recorder		
E. Sheriff	\$1,080.00	02/02/2022
F. Taxes	\$65,870.59	01/31/2022
G. Goldfield Utilities	\$18,204.46	01/31/2022
H. Silver Peak Utilities	\$5,176.52	01/31/2022
7. ***APPROVAL OF THE MINUTES from the 11/09/2021 Special and 02/01/2022 meeting of the Esmeralda County Board of County Commissioners.**
8. ***TREASURER'S REPORT**
9. ***AUDITOR'S REPORT**
10. **Update of Current and Future Meetings and Activities of Commissioner's Winsor, Hipp, and Keyes.** (This is only an update. No decisions will be made.)

11. **Update of current and Future meetings and activities of Elected Officials and Department Supervisors as needed.** (This is only an update. No decisions will be made.)
12. ***FOR POSSIBLE ACTION/DISCUSSION/DECISION:** Approval for the Board of County Commissioners to request the State Fire Marshall to allow the Developer of the Goldfield Gas Station to use Charles Abbott for review of plans in place of the State Fire Marshall review, with the owner to pay the costs of services rendered by Charles Abbott. (Commissioner Tim Hipp)
13. ***FOR POSSIBLE ACTION/DISCUSSION/DECISION:** Approve to hire a part-time Goldfield Tourism Coordinator. (Commissioner Tim Hipp)
14. ***FOR POSSIBLE ACTION/DISCUSSION/DECISION:** Present new Agenda Request Form, announce new agenda request email, talk to commissioners and public about deadlines for agenda requests, procedures for submitting agenda requests with backup information to the Clerk's office. (LaCinda Elgan)
15. ***FOR POSSIBLE ACTION/DISCUSSION/DECISION:** Approve (if needed): Esmeralda County Board of Commissioners will discuss and have the first reading of an ordinance regulating parking on County Roads or Property. (Robert E. Glennen, III)
16. ***FOR POSSIBLE ACTION/DISCUSSION/DECISION:** Approve paying the outstanding invoices for Baughman and Turner. (Robert E. Glennen, III/Vera Boyer)
17. ***FOR POSSIBLE ACTION/DISCUSSION/DECISION:** Approval of agreement between Shaw Engineering and Esmeralda County for construction management, including electrical engineering support and resident inspection for the Esmeralda County Generator Project Phase 2 with all cost of services provided under this amendment to be reimbursed community development block grant. (Mike Anderson)
18. ***FOR POSSIBLE ACTION/DISCUSSION/DECISION: (TIMED ITEM: 1:30PM)** Approval of plan to raise parcel fees sufficient to cover the operating costs for the Solid Waste (Landfill) as discussed in the workshop and to be presented at a public hearing. (Carl Shrider)
19. ***FOR POSSIBLE ACTION/DISCUSSION/DECISION:** Approve a designated commissioner for the cooperating agency for GreenLink West project (EIS). (Maureen Glennen)
20. **FOR DISCUSSION ONLY (NO DECISIONS WILL BE MADE):** Discussion only: Update on the Rhyolite Ridge Lithium/Boron Project. (Tyson Falk & Robert Stepper, Loneer)
21. **FOR DISCUSSION ONLY (NO DECISIONS WILL BE MADE):** Anna Dobbins will provide a presentation on the Nevada Public Health Institute, including the organization's history,

current projects, and future goals. Following the presentation, Anna Dobbins will lead a discussion; asking commissioners what the public health and workforce needs are in the county, including barriers and solutions to addressing those needs. Anna Dobbins will also lead a discussion on how NPHI can support the Local Board of Health. (Anna Dobbins)

22. ***FOR POSSIBLE ACTION/DISCUSSION/DECISION:** The Department of Indigent Defense Services will provide an update on the Department and data that has been collected. The Department will request the board to provide the fiscal quarterly report for amounts spent on indigent defense services from October 1, 2021-December 31, 2021. These reports are due on a quarterly basis if Esmeralda County is requesting reimbursement for indigent defense expenses pursuant to the Maximum Contribution Formula of the Board of Indigent Defense Services, Section 16. (Marcie Ryba, Director and Thomas Qualls, Deputy Director of the Department on Indigent Defense Services)

The Department will request a point person to talk to when requesting indigent defense data.

The Department will update the Board on the annual reports (NRS 260.070) which are due to the Board of Indigent Defense Services by May 1, 2022.

23. ***FOR POSSIBLE ACTION/DISCUSSION/DECISION:** Update on Gold Point
24. **PUBLIC COMMENT.** (Discussion only. Action may not be taken on any matter brought up under this agenda item. It must be placed on an agenda, at a later meeting for action.)
25. **CORRESPONDENCE:**
26. ***FOR POSSIBLE ACTION** – Closure of meeting, pursuant to NRS 288.220 for purposes of conducting labor negotiations, conferring regarding labor negotiations, issues and other personnel matters.
27. ***FOR POSSIBLE ACTION** – Discussion, deliberation, and possible decision on labor negotiations, issues, and other personnel matters.
28. ***FOR POSSIBLE ACTION** – Recess meeting, pursuant to NRS 241.015(2)(b)(2) for purposes of conferring with legal counsel regarding potential or current litigation.
29. ***FOR POSSIBLE ACTION** – Discussion, deliberation and possible decision on conference with legal counsel regarding potential or current litigation presented in recessed meeting.
30. **PUBLIC COMMENT.** (Discussion only. Action may not be taken on any matter brought up under this agenda item. It must be placed on an agenda, at a later meeting for action.)
31. ***ADJOURNMENT:**

NOTE: For those who cannot attend the meeting in person, the following GoToMeeting is available:

Esmeralda County BOCC & BOHC Meetings
Tue, Feb 15, 2022 1:00 PM - 5:00 PM (PST)

Please join my meeting from your computer, tablet or smartphone.

<https://meet.goto.com/LaCindaElgan/esmeralda-county-bocc--boh-c-meetings-3>

You can also dial in using your phone.

United States: [+1 \(312\) 757-3121](tel:+13127573121)

Access Code: 177-069-853

Get the app now and be ready when your first meeting starts: <https://meet.goto.com/install>

NOTE: The asterisk “*” denotes action agenda items.

NOTE: In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA’s Target Center at (202)720-2600 (voice and TTY) or contact USDA through the Federal Relay Services at (800)877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) Mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410
- (2) Fax: (202) 690-7442; or
- (3) Email: program.intake@usda.gov.

Minutes for this meeting will be produced in a summary format. Please provide electronic or written copies of testimony or presentations if you wish to include them as exhibits.

The regular meeting of the Esmeralda County Board of Commissioners will be held on Tuesday, February 15, 2021, beginning at 1:00 p.m.

In accordance with NRS 241.020 this agenda was posted at the following locations: Commission Chambers, Esmeralda County Courthouse foyer and Goldfield Post Office. In addition, notices were mailed for posting to the following locations: In Goldfield: Goldfield Library. In Silver Peak: Silver Post Office and Silver Peak Library. In Fish Lake Valley: Dyer Post Office, Boonies and Esmeralda Market.

Agenda items may be taken out of order.

Reasonable effort will be made to assist and accommodate physically handicapped persons attending the meeting. Please contact Maureen Glennen at 775-485-3406, at least 48 hours prior to the meeting so that arrangements may be made.

Requests to receive the agenda must be made in writing to the Esmeralda County Clerk/Treasurer, PO Box 547, Goldfield, Nevada 89013. A form is available upon request.

If you have any questions regarding this agenda or future agendas, please do not hesitate to contact the Esmeralda County Clerk/Treasurer at 775-485-6309.

I, Michelle Garcia, Esmeralda County Deputy Clerk, hereby certify that in accordance with NRS 241.020 I posted or caused to be posted, this agenda to the above locations on February 09, 2021.



Michelle Garcia
Esmeralda County Deputy Clerk