



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

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ONSITE VISIT REPORT

Lyon County: Yerington

Visit date: February 28, 2022

I. Brief Narrative.

Executive Director Marcie Ryba and Deputy Director Thomas Qualls traveled to Yerington, NV for an oversight visit, to meet with county officials Eric Milavsky and Josh Foli, tour the jail facilities, observe bail hearings, discuss processes with Lyon County Sheriff's Office supervisors, and meet with contract Public Defender Mario Walther.

During the meeting with Eric Milavsky, HR Director (and Indigent Defense Plan drafter), and Josh Foli, Lyon County Comptroller, the following were discussed:

- (1) the Annual Report – they are working on their plan for next year;
- (2) 48-hour hearings. They are addressing the needs for additional staff for the hearings. For instance, regarding Mario's office (contract PD), the county will increase the amount of the contract by \$150k to cover 1 additional attorney and 1 clerical staff to handle the weekend hearings. They believe that hearings will happen Saturday and Sunday, but are still working on the process. They are also increasing their Court Services Staff from 1 to 3 employees. This will assist with the screening process and pre-trial bail forms which must be completed. They would like to be reimbursed for these expenses;
- (3) Concerns over conflict attorney Carl Arnold. Carl was recently disciplined by the State Bar. They informed that feedback from the local judges is that Carl is not doing a very good job. He is generally not prepared and they are unable to contact him when need. Eric requested that Carl be taken off of the list for Lyon County for now and be given no more assignments. They requested he stay on his current cases, for now, but they may request he be taken off those if something doesn't change. Tom will advise Deputy Director Peter Handy of the problems. And we will schedule a meeting with Drew Christenson to discuss.
- (4) Appointed Counsel Administrator. Feedback from the county and the judges is that they are very happy with the current process and DIDS' handling of selection of counsel and billing. (Judges are reportedly happy with no longer having to approve bills.) The county has no plans at this time to hire their own counsel administrator and will continue to use the Department;

(4) Investigator for Lyon County. There was a discussion of whether Lyon County was willing to add an investigator to Mario's contract. Eric and Josh advised that the investigation charges have increased from \$5-6k in prior years to \$70k this year. (This means a lot more investigation is happening, which is one of our goals.) But the county says this amount is not sufficient to bring on a full-time staff member, yet.

(5) Following up on this meeting, we recommended that Lyon County create an official conflict contract. There have been 100 conflict cases since we took over appointed counsel admin and started counting (since September 1, 2021). Over a year, this is enough for a full-time contract. We are having trouble finding people to cover cases and occasionally the court dates need to be continued. A conflict contract would eliminate this problem and take a substantial load off our office. Josh Foli responded to us that the county has had several conversations with private attorneys in attempt to secure a conflict attorney contract, and none of the attorneys were willing to take on such a contract. He stated he is not interested in having further conversations on that issue at this point.

Lt. Josh Barnes & Justice Complex Visit. Next, at the Lyon County Justice Complex, we met first with Lt. Josh Barnes, and discussed the processes he oversees and what he sees as gaps that need to be filled. He expressed frustration at the judges not streamlining the process more to take more detainees at one hearing. This includes not grouping warrants with the other detainees. The result is that some people are held longer than others before a hearing and it also makes more work for his crew. We also discussed our grant award for discovery tablets, as well as the proposal for a Holistic Resource Center. He expressed a desire for the tablets to be able to connect to their lawyer's offices (only) so they could talk to their lawyers, as well as watch discovery. He would like five tablets, one tablet per unit. One issue I see with this is how to make them accessible to all indigent defense attorneys this way.

We were impressed with Lt. Barnes and the other two Sheriff's deputies who walked us through their processes and who seemed to have a keen interest in due process and protecting rights. They were generally complementary of how Mario and his team have been handling cases and noted it has not always been that way, with prior defense lawyers.

Sgt Sobol had concerns that some defendants were being released before they were connected to resources, which often meant they went right back to troubled conditions or behaviors. In general, they are happy with the FASTT team. We discussed that we've been working with FASTT to make the system even better, more comprehensive. And also to duplicate what Lyon County's FASTT is doing well to other counties.

Finally, we met with Mario Walther, both before and after the bail hearings. We discussed 48-hour hearings, the potential addition of an investigator, discovery tablets, FASTT, and other matters. They have not sorted out all the details of covering the 48-hour hearings, but plan to hire a new attorney. They also hired a new part time assistant for mostly data entry. Mario showed us the private attorney rooms in the jail. So he has

access to space for confidential attorney-client conversations. He noted that they generally do not want to have confidential conversations with detainees prior to bail hearings, as his office has not been appointed until during the hearing, and they've not done a conflict check yet.

II. Oversight Criteria.

1. Client Communication
 - a. There are private spaces in the jail for confidential communications.
 - b. We only observed bail hearings and did not tour the full courthouse for additional spaces. But the jail is in the same building as the courthouse.
 - c. We did not discuss client surveys.
2. First Appearances
 - a. Mario's office covers all initial detention hearings and intends to continue to cover them 7 days a week, when the 48-hr hearings begin.
3. Preparedness / Knowledge of Case
 - a. Mario and his office seem to have the process pretty dialed. Multiple people commented on how much better his representation is than some of his predecessors.
4. Investigation / Experts
 - a. Mario's office spent \$70,000 on investigators this last year, as compared to \$5-6,000 in years past. (Not sure what the numbers are on experts.) This is a vast improvement over years past and a subject we are planning to spend significant time on during our annual conference this year.

III. Next Steps.

1. We need to schedule a follow-up trip to meet with judges and tour courthouse more extensively.
2. We will follow-up on 48-hour hearings, as with other counties, as they begin to occur.
3. Lyon County continues to be a pleasure to work with, from county management to Sheriff's department, to Mario's office. We look forward to continuing to work with them as they adjust the plan, and as we grow our office and our budget.

IV. Photos

Lyon County Justice Center

