



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

896 West Nye Lane, Suite 202 | Carson City, NV 89703-1578
Phone: (775) 687-8490 | dids.nv.gov

ONSITE VISIT REPORT

Pershing County

Visit date: August 2, 2023

I. Brief Narrative.

Marcie Ryba, Executive Director of the department traveled to Pershing County for an oversight visit to meet with (1) the Pershing County Board of County Commissioners; (2) Kelly Weaver, Pershing Appointed Counsel Administrator; (3) Justice of the Peace Stephens; (4) Erika Canchola, quarterly fiscal reporter for Pershing County; and (5) Steven Cochran, Pershing County Public Defender.

As an overview, the Pershing County indigent defense plan calls for a primary indigent defense provider of the Pershing County Public Defender, Steven Cochran; a first tier conflict public defender, Kyle Swanson; a second tier conflict public defender, unfilled; a third tier conflict public defender, unfilled; and a panel of attorneys from which the Counsel Administrator selects conflict counsel.

Appointed Counsel Administrator

Kelly Weaver serves as the Counsel Administrator for Pershing County. In past discussions with Kelly, she stated that she is having difficulty in finding counsel willing to take Pershing County cases at the \$100 per hour rate, especially since surrounding counties have increased their rates. This matter was set before the Pershing County Board of County Commissioners on August 2, 2023. At this Board Meeting, Director Ryba updated the board on legislative changes regarding indigent defense and Ms. Weaver testified about reasoning behind increasing the hourly rate. The Board voted to approve increasing the hourly rate to \$150 per hour.

In further discussions with Ms. Weaver, she stated that she has assigned approximately 4 cases to the panel of attorneys this year. We discussed that in the Fourth Quarter FY23 data report, no attorneys other than the public defender and the first-tier conflict public defender had entered time in LegalServer. Ms. Weaver has agreed that she will reach out to the attorneys to remind them to enter their time in LegalServer. Stanely Morrice from DIDS will also follow up with Ms. Weaver to go over the steps on how to enter time in LegalServer if the attorneys are unwilling. As Ms. Weaver is not paid on an hourly basis,

but a per page basis, DIDS has agreed to enter the time on Kelly's behalf. Kelly will email approved billing to DIDS for entry into LegalServer by DIDS.

Fiscal Reporting

DIDS has been advised that the fiscal reporting will be completed by Erika Canchola, the newly hired legal secretary in the Pershing County Public Defender's Office. Ms. Weaver, Director Ryba and Ms. Canchola met to discuss the quarterly reporting requirements and Ms. Weaver has volunteered to help Ms. Canchola with these reports. DIDS has agreed to walk Ms. Canchola through the fiscal reporting requirements and help in any way possible.

Justice Court

The Lake Township Justice Court is located within Pershing County. On the date of the visit, there was one criminal matter that was set for a status conference. The Defendant, who was not present, was represented by Kyle Swanson, who appeared telephonically. Mr. Swanson serves as the first-tier conflict attorney for Pershing County. The District Attorney and Judge Stephens were present in the courtroom. During court, the judge disclosed that she had attended high school with the victim in the case, but that she did not feel that she needed to be disqualified from the matter. Mr. Swanson made statements during the hearing which made it clear that he had communicated with his client and had been investigating the case properly. Mr. Swanson did question the judge about the client's concerns and ultimately waived any conflict. The District Attorney made a request to continue the case 45 days and that at the end of the 45-day period, the charges would likely be dismissed. Mr. Swanson did not object to resetting the hearing.

After court, Director Ryba and Ms. Weaver met with Judge Stephens in the judicial chambers. The maximum contribution formula and a background on why the department was created was discussed. Also, it was discussed that the department is required to conduct oversight of indigent defense services providers and that is why we sat through the hearing. Judge Stephens was also advised that DIDS is looking for her feedback on the indigent defense providers before her and that if she ever had concern that she could contact DIDS directly. Judge Stephens stated that she did not have any outright concerns with any attorneys specifically, but that she preferred to have local attorneys that show up in person. In her experience, the appointed counsel from Las Vegas want to appear via Zoom and Judge Stephens does not feel that is the best representation because (1) there is not very good internet coverage in Pershing so that Zoom hearings generally have problems and (2) attorneys don't meet with their clients in person. We discussed that raising the hourly rate may provide a solution to this issue OR Pershing County could work to fill the second and third tier conflict public defender positions. The meeting was extremely positive, and Judge Stephens advised that she would contact the department if she had any further concerns or questions. The meeting concluded with the judge providing a tour of the court house and the conference rooms that are available for attorney client communications. These conference rooms each had a door and looked like an appropriate place to have confidential communications.

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Pershing Public Defender

Steven Cochran met with Marcie as he advised he had a morning with no court, which he stated was very rare. Steve advised that he has a current death penalty case in Pershing County. Steve pointed to stacks of banker's boxes (over 20?) that were filled with discovery from this 40-year-old case that has been remanded for a new trial. Steve had requested additional funding for his budget from the Pershing Board of County Commissioners to scan the documents for review. This request was approved. Steve advised sitting second chair on the case is Kirsty Pickering and that she had been helpful. Marcie reminded Steve that if he needed any help the department would be willing to connect him to other attorneys that regularly defend these cases. Steve was open to the idea but didn't need help quite yet.

In addition to the death penalty case, Steve is assigned all new cases in Pershing County. Also, Steve has been entering all the LegalServer data himself. It was decided that the department would work with his secretary to train her how to enter cases and time so that Steve's workload could be reduced. We discussed the upcoming Board on Indigent Defense Services meeting and encouraged him to participate, but Steve may be unable to be present as he has court on Thursday afternoon.

Steve advised he was very grateful for the weekend stipend for the bail hearings (AB518). He advised this will give him an opportunity to take a break because he can find someone to provide coverage if he is on vacation.

II. Oversight Criteria.

1. Client Communication
 - a. There are several meeting spaces for Justice Court: the Board of County Commissioners Board Room can be used, as well as two conference rooms located in the law library of the court house.
2. First Appearances
 - a. Steve Cochran covers first appearance. He is grateful for the weekend stipend provided by AB518 because he can find coverage if he is unavailable.
3. Preparedness / Knowledge of Case
 - a. Kyle Swanson, in the one criminal matter scheduled for the day was prepared for the case.
 - b. Steven Cochran did not have court on the date of the visit, but appeared to be working on a case file prior to our discussion.
4. Investigation / Experts
 - a. Steve Cochran was not aware that he needed to track investigator time. He advised he uses one quite often, and he will start to enter the investigator time moving forward.

III. Next Steps.

1. Email Kelly Weaver and Erika Canchola to train on LegalServer and entry of time.

IV. Photos



Lake Township Justice Court, Pershing County, Nevada: Courtroom.

Pershing County



Law Library, Pershing County Courthouse with two conference rooms.



Pershing County

Conference Room 2.



Conference Room 1.