



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

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**QUARTERLY OVERSIGHT REPORT**

**Outreach & Compliance Advisors Summary #1**

Report date: May 1, 2024

**I. Zone 1 – David Schieck**

**Eureka**

On his first visit, David observed the facilities and met with contract PD Kelly Brown, DA Ted Beutel, and Justice of the Peace Rowley. He reports that the Eureka Justice Court had a room available for attorney-client communication, but that the District Court had no such space. Bown advised that he had used the jury deliberation room or the court room in the past.

The primary issue in Eureka County appears to be that the Sheriff has closed the jail in attempt to save money. In his interviews with each, the decision was criticized by the DA, the Justice of the Peace, and Mr. Brown. Clients must be housed in either Lander County or White Pine County, as a result. If they are in Lander County, they are virtually inaccessible to Brown, whose office is in Ely, NV. If they are in White Pine for a hearing, the jail personnel reportedly favors all White Pine detainees first, and often refuses to bring Eureka defendants to the remote hearing room at all. Also, they will not allow Brown to see his clients at all if court is in session. They require him to make appointments to see clients and often won't make any availability until after hours.

As with other rural counties, transportation of defendants is also an issue. The Sheriff reportedly has not brought defendants housed in other counties to court, even if directed to do so. And if a defendant is housed in White Pine County, and then released in Ely, they are forced to find their own transport back to Eureka.

Judge Rowley and the DA stated that the 48 hour hearings were going smoothly. Usually they are remote. Only issues are, again, due to transfer of detainees and their unavailability due to issues stated above. Additional visits and interviews are scheduled to follow up on these matters and for court observation.

## **Esmeralda**

David met with Justice of the Peace Danielle Johnson and contract public defender Jason Earnest, as well as DA Robert Glennen. Meeting space in Goldfield is questionable, as we have reported in the past, but Judge Johnson says she can make her courtroom available. Also, the district court courtroom is rarely used, so that is available. (There is also a room near the jail, but it is in an attic and difficult to access.)

David reports that Jason Earnest is providing competent representation across the board. He also reports Judge Johnson to be fair and impartial.

Judge Johnson reports 48 hour hearings being held as necessary. The DA and Earnest generally appear via zoom.

The biggest issue has also to do with the Sherrif, who is not technically qualified to hold the office, as I believe he reportedly has a domestic violence conviction, and therefore cannot carry a firearm. Due to the DA's position on this matter, that the Sheriff isn't qualified, there is currently a recall effort against the DA.

## **Lincoln**

David traveled to Pioche, Panaca, and Pahrnagat Valley to observe the courthouses and meet with stakeholders. He met with Justice of the Peace Mike Crowley, DA Dylan Freher, and contract PD Franklin Katschke.

Lincoln County courthouse does not have a dedicated attorney room, but there is a room on the bottom floor of the courthouse that can be used for this. Katschke confirmed this. In Pahrnagat Valley Justice Court, there is a room built adjacent to the courtroom for this purpose.

The judge reported no problems with 48 hour hearings. Katsche also stated they were timely and he was appearing for them.

David later watched court in Pioche, a law and motion calendar before Judge Debrescu. He reports that Katschke was prepared, including for a difficult sentencing hearing.

Lincoln County appears to be working smoothly and effectively with the two PD contracts with Franklin Katschke and Shain Manuele.

## **Nye**

David has visited Tonopah, Beatty, and Pahrump multiple times. He has met with all justices of the peace, both district court judges, the district attorney, and all contract counsel, as well as a few conflict appointed counsel.

The attorneys have not reported any issues with 48-hour hearings. Judge Vitto said the hearings are going smoothly, with attorneys generally appearing by video, but that they are free to attend in person.

There are a number of spaces in the Nye County Courthouse in Pahrump that can be used for attorney client meeting spaces. Judge Wanker's courtroom has been remodeled to include two meeting rooms at the rear of the courtroom, there is also a jury room between the two justice courts, and there is a public defender room off the rotunda of the justice courts.

Upon further inspection, it appears that the anterooms to Dept 1 are not sound proof. Further, the room at the rear of the justice courts is often occupied by state's witnesses or law enforcement. Some of the attorneys are unwilling to ask these people to clear out if they need to use to room. Finally, the room off the rotunda was described by attorneys as not sound-proof and therefore not confidential.

Two contract attorneys noted a discovery problem regarding body-cam videos. They report not being able to download the videos to view as needed or be able to show clients, investigators, or experts. David thinks this is a violation of discovery rules and should be addressed via discovery motions to the court. The attorneys also report that they have to wait several weeks for discovery.

Attorneys report that covering parole hearings are a huge waste of time and resources. The county could opt in to the NSPD for these hearings, and that would alleviate this.

Attorneys complain about the size of the caseload and the judges acknowledge that all contract attorneys have too many cases.

Overall, David reports that all contract attorneys are doing a good job under difficult circumstances. After numerous in-court and online observations, he notes the attorneys are prepared, competent, and effective.

In summary, he reports there are several other issues in Nye County that likely need to be addressed, including:

1. Reduction of caseload for all contract attorneys through new additional contracts;
2. Requests for Settlement Conferences are being delayed for 60 to 90 days or longer. He suggests the county obtain Settlement Conference Judges to help settle cases;
3. There is a need to expedite the filing of cases in District Court after Justice Court bind-overs;
4. He suggests entering into a second northern Nye contract to alleviate caseload and travel issues and insure conflict attorney presence at Tonopah proceedings;
5. He suggests entering into a specialized contract for Drug Court, Abuse/Neglect, Termination of Parental rights and Mental Health court or other specialty court;

6. He suggests the county obtain a Court Management System that allows attorneys to access court records on-line or to file on-line (I do not believe a CMS is going to happen, but the state is still working on the statewide roll out of eflex, an electronic filing system that would allow attorneys to see all their cases and access the documents in them.);

7. Investigate PSI preparation. See if it is possible to implement the use of a gross misdemeanor work sheet instead of a full PSI on most gross misdemeanor cases; and

8. Consider dividing the existing and planned new contract attorneys by Department, in order to reduce the number of District Court appearance days for the attorneys. (It will require more information to determine if this is possible.)

## **White Pine**

Since David's initial observations in White Pine County, he reports that the changes in White Pine County have been dramatic. There was originally upheaval due to the resignation of the State Public Defender, and the subsequent loss of other staff caused David serious concerns, under **Davis** and as referenced in the Eleventh Report of Monitor.

He reports that the difference between his Onsite visit on February 26, 2024 and the proceedings he has viewed recently is reportedly significant. His initial Onsite Report dated March 4, 2024, stated:

“My overall impression is that the lack of continuity in attorney staffing is a major obstacle to quality representation. ADKT 411 and the **Davis** holding do not contemplate a constant change of counsel. A competent legal secretary and support staff can alleviate many of the problems. For instance, no PSI in the file before the sentencing date and no record of transmission of the PSI to a locally incarcerated client could have been avoided. Or inability to contact an out of custody client who resides locally and knows her plea hearing date but had not been provided a copy of the plea agreement.”

The Department and the NSPD staff have rallied to correct these issues. Patty Cafferata has officially been appointed by the Governor to head the office. And a little over a month after his first report, his observations are that the shortcomings have been addressed and many of the problems corrected. His recent meeting with Judge Fairman in Pioche on March 22, 2024 confirmed positive improvements.

There is one potential issue outstanding. There appears to be imperfect communication between the Justice Court and the NSPD's office, resulting in inadequate notice of some hearings. On March 28, 2024, at least one prison case was set for arraignment. No attorney was present. The Judge conducted the arraignment anyway and set a preliminary hearing within 15 days without counsel.

## **II. Zone 2 – John Kadlic**

### **Carson**

No information available yet on 48-hr hearings or facilities for confidential attorney-client meetings. John has conducted onsite court visits, to both Justice Court Department 1 & 2, Judge Armstrong, and Judge Tatro. John observed contract conflict public defender attorney Maria Pence and Carson City Deputy Public Defender Scott McKenna. He did not report any concerns with their preparedness or effectiveness.

### **Churchill**

John has observed multiple hearings in New River Township Justice Court in Fallon. He reports that there are adequate facilities for confidential attorney-client meetings. John observed Churchill County PD Jacob Sommer and Churchill County Alternate PD Wright Noel in court proceedings. He did not report any concerns with their preparedness or effectiveness. John believes a social worker would be beneficial to defendants in Churchill County.

### **Lyon**

He reports that Judge Kassebaum does his 48 hour hearings via zoom in Yerington. And Judge Vecchiarelli does her 48 hour hearings from the courtroom in Dayton. The defendants were in custody in Yerington. Judge Vecchiarelli informed him that she and Judge Matheus, in Canal Township Justice Court alternate weekly in doing the hearings. The hearings are 7 days a week (where necessary), at noon on weekdays and at 9am on weekends.

John has observed multiple hearings in Lyon County, including Walker River Township Justice Court in Yerington, Dayton Township Justice Court in Dayton, and Canal Township Justice Court in Fernley. He reports that there are adequate facilities for confidential attorney-client meetings. John observed Lyon County contract PD Mario Walther and his deputies Olga Walther, Kale Brock, and Patrick Mansfield, as well as appointed counsel Ryan McPhee and Ray Areshenko in court proceedings. He did not report any concerns with their preparedness or effectiveness. He did express some concern that Mansfield appeared via Zoom for all 29 of his cases one day.

John believes a social worker would be beneficial to defendants in Lyon County.

### **Storey**

No reporting on Storey County yet.

## **Mineral**

John conducted an observation visit to Hawthorne Township Justice Court and observed contract public defender Kale Brock in court proceedings. He did not report any concerns with their preparedness or effectiveness.

### **III. Zone 3 – Derrick Lopez**

## **Douglas**

Derrick has observed court in all courtrooms and locations, including: East Fork Justice Court and the Ninth Judicial District Court in Minden, and Tahoe Justice Court in Stateline, NV, as well as West.

Additionally, the Advisor has met with all the contract public defenders and all the judges in the county. He has also met with the District Attorney.

Derrick consistently reports that the attorneys are meeting with their clients before court, and that they are consistently prepared and knowledgeable of their clients and cases. It appears all clients are adequately advised of their rights by counsel. Overall, the contract attorneys appear to have sustainable workloads and are providing effective representation.

The courts are not seeking reimbursement from defendants for representation. And from his observations, each of the judges appear to be fair and impartial and to treat all parties respectfully.

When interviewed, each attorney stated that their caseloads were heavy, but manageable. Uniformly, they all would like there to be an additional contract attorney to reduce their caseloads a little. Finally, they each commented that there needs to be a space for confidential attorney-client meetings at the Tahoe Justice Court.

## **Elko**

Derrick has interviewed all the attorneys in the Elko PDs Office. He has also spoken with Deputy DA Justin Barainca.

Derrick has observed court in Elko Justice Court, Wells Justice Court, Eastline Justice Court, and Carlin Justice Court, as well as West Wendover Municipal Court. He has also toured each of these facilities. He met with Judge Kenneth Quirk, who presides in West Wendover Municipal Court and Eastline Justice Court, as well as Carline Justice Court Judge Dee Primeaux. He observed 48 hour hearings before Elko Justice Court Judge Bryce Drake, who appeared to be fair and impartial, and to give thoughtful consideration to the requests. He noted that there needs to be a confidential attorney-client meeting space at the Elko Justice Court.

In his observations so far, judges all appear to be fair and impartial, and no public defenders expressed concerns about the judiciary.

Consistent requests from the public defenders are that there be a space created in the jail for confidential attorney-client communications prior to the 48 hour hearings and/or during court recesses in those hearings. They would also like for the 48 hr hearings to be scheduled in a way to allow them to interview the detainees prior to the hearings. (The way it currently works, the DA is allowed to state their position, then a recess is allowed for counsel to discuss the matter with the defendant before making an argument. The PDs are in the jail with the defendants, and everyone else is on video, so the sound can be muted.) They also think a sound machine would be helpful for the jail, so jail staff are unable to overhear the conversation. They would also like a confidential attorney-client meeting space at the Elko Justice Court.

Of primary concern in Elko is the understaffing of the Elko PDs office, and their inability to staff and keep deputies, due to the salaries, which are not competitive. As a result, the PDs office conflicts off a substantial number of cases every month (averaging around 55 cases). This has been ongoing since November of 2022. The puts considerable strain on the Department every month to assign cases to attorneys from the appointed counsel list. The attorneys in the PDs office generally state that their caseloads are manageable. But the strain on the system is downstream.

DIDS Directors have been engaged in an ongoing conversation with Elko County management over this issue. Elko County is reluctant to raise PD salaries, even though they will be reimbursed for the increases by the State, because they are in a collective bargaining agreement with the PD and DA offices, and they would have to raise DA salaries, as well. And they wouldn't get reimbursed for that.

We have discussed numerous incentives with Matt Pennell at the PDs office and with County management, including stipends, student loan payments, and other recruitment efforts. The Department has secured substantial funding for student intern and employment recruitments through its LASSO program. So far, we have not seen movement from the county on this matter.

## **Humboldt**

Derrick toured the Humboldt County Courthouse, including the Union Justice Court and the Sixth Judicial District Court. He noted a room designated for attorney-client communications.

He also interviewed Matt Stermitz, the current Humboldt County PD, as well as Robert Dolan, an attorney who regularly takes appointed cases in Humboldt County. Additionally, he met with Union Justice Court Judge Jim Loveless and District Attorney Kevin Pasquale.

Finally, Derrick observed court in Union Justice Court, observing Matt Stermitz, as well as appointed counsel Ray Areshenko and Ryan McPhee. His observations were that the attorneys appearing during his observations were prepared and had sustainable workloads. Due to the recent resignation of the APD, McPhee was recently appointed to take over two of his cases, as a result he appeared somewhat unfamiliar with the full history of the cases. He still reported that all three attorneys appeared to be providing effective representation. He also reported that Judge Loveless appeared to be fair and impartial.

There are a few concerns in Humboldt County right now. While the county management and the Board of Commissioners have been cooperative and receptive to complying with the workload study, they have a shortage of attorneys in the short term. Matt Stermitz stated in his interview that his primary concern is getting the county to hire a deputy for his office, to help manage the caseload. Recently the Alternate PD resigned. And so all cases are either going to the PDs office or to the appointed counsel list.

The plan that DIDS has developed with county management is for them to hire another deputy for Matt's office, and to contract with a local firm for 2 FTE under the workload, and then to possibly contract with another firm to act as conflict counsel. The system would work as two primary PD offices, and cases would be assigned in rotation to the Humboldt County PD and to the contract PD, unless both have a conflict, then it would go to the contract conflict counsel. That plan is in the works. And there is a firm that is willing to sign the primary contract, the county is just trying to get it finalized. To add a layer of difficulty to this, Matt is going on vacation for a month starting May 13. So DIDS will need to manage all assignments for new cases during this time or until the contract is signed with the firm for primary representation.

## **Lander**

Derrick toured the Lander County Courthouse in Battle Mountain, NV. He met with the Justice Court and District Court clerks, as well as the DA William Schaeffer and Chief Criminal Deputy DA, Michael MacDonald. Neither DA expressed any concerns about the quality of defense representation in the county. No court observation or attorney interviews have occurred yet. (Derrick was contracted with approximately one month later than the other two advisors, so he has not had the opportunity to complete a full round of observations yet. Also, one of his counties, Elko, takes up proportionately more time due to the number of courts and its geographic remote location.)

## **Pershing**

Derrick also toured the Pershing County Courthouse in Lovelock, NV. He met with the Justice Court and District Court clerks, as well as the DA Bryce Shields, Pershing County Public Defender Steve Cochran, and Justice of the Peace Karen Stephens. No concerns were expressed about the quality of representation by the public defender. No court observation has occurred yet.