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March 14, 2008

Tracie K. Lindeman  
Clerk of the Supreme Court  
201 South Carson Street  
Carson City, Nevada 89701

**FILED**

MAR 14 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

RE: ***Indigent Defense Order***

To Whom It May Concern:

The following is submitted by Kenneth V. Ward, Esquire, one of the three contract public defenders representing indigent criminal defendants in Lyon County. Most of this Court's Order pertains to issues prevalent in Clark and Washoe Counties. The rural counties which have contracted with private attorneys to provide indigent services do not share the difficulties experienced by Clark and Washoe Counties. A brief history of private attorney contracts may be of assistance to the Court.

In 1990, Lyon County expressed dissatisfaction with both the quality and cost of services provided by the State Public Defender and pursuant to statute created the Office of the Lyon County Public Defender. Originally, I was the sole attorney under contract. The original contract required me to provide one additional attorney to be available to represent conflict cases. Cost to the County was considerably less and representation was better due to the necessity of having a local office. In the past 18 years, the contract for public defender services evolved into a coalition of three separate offices staffed by three independent attorneys. Each attorney is assigned as primary attorney to certain geographical areas with the remaining attorneys available to represent conflict cases. Under this arrangement, there is no necessity to appoint outside counsel unless there are four or more indigent co-defendants in a case, thus significantly reducing cost while maintaining competent representation.

Similar arrangements are currently in effect in most of the rural counties. In footnote 6 of this Court's January 4, 2008, Order, the Nevada State Public Defender was directed to brief the issue of representing indigent defendants in all counties except Clark, Elko, and Washoe, with the obvious implication that contract public defenders in the rural counties are somehow deficient. Further investigation should provide evidence that these counties established contract public defenders due to inadequate and more costly representation provided by the State Public Defender.

Issues which are immediately apparent and which directly impact the rural counties as a result of this Court's January 4, 2008, Order can be summarized as follows:

Private attorneys are not subject to the standards. It would appear that each defendant, regardless of his or her economic standards should be entitled to the same

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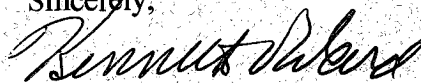
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standards of performance.

2. Comparing public attorneys to attorneys in private practice on contract to provide public defender services is inappropriate. Private attorneys often work well in excess of forty (40) hours per week and willingly do so. Public attorneys employed by the state or county are discouraged from working over forty (40) hours per week due to state and county regulations. Larger law firms routinely require junior associates to bill 2000 to 2200 hours per year. Any attorney who bills 2000 hours per year will likely spend more than 60 hours per week in the office if not more.
3. The various systems in place in rural counties where contract attorneys are used can be tailored to the specific demographics and geographic criteria of the county. For example, in Lyon County there are three Justice Courts all of which are at least 30 miles apart. With an office in each township indigent defendants can be seen by their Court-appointed attorney in the place in which they reside. Most rural counties do not have all court facilities centrally located as Washoe and Clark Counties, and therefore do not have to logistical issues present in the rural counties.
4. Rural counties and the judiciary in these counties have for the most part been satisfied with the representation of indigent defendants by contract attorneys. If the representation is sub-standard the county can revoke the contract, fail to renew the contract, and consider other applicants to get qualified attorneys. The counties would simply have to take what they get under the State Public Defender and have no ability to review attorneys experience or competence, much less require the State to provide other counsel.
5. Cost issues are extremely important to rural counties. Seeking State Legislative budget concessions to fund Statewide Public Defender Services is highly problematic. The State Public Defender advised Lyon County would require \$750,000 per year to provide these services in 2007. Lyon County pays three attorneys a combined cost of \$330,000 to not only provide public defender services but to provide two conflict attorneys as well. If the State Public Defender were to provide these services, the county would be required to provide conflict attorneys for any case involving co-defendants at a significant cost. Total costs to the people of the State of Nevada would in all likelihood exceed \$1,000,000.

In summary, it is urged that the rural counties be allowed to decide for themselves the manner in which to provide public defender services.

Sincerely,



Kenneth V. Ward, Esquire