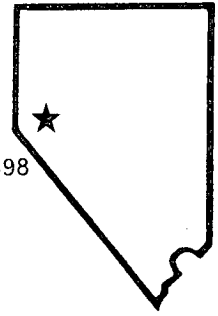




NEVADA ASSOCIATION OF COUNTIES

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FILED

MAR 17 2008

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

March 17, 2008

Nevada Supreme Court
201 South Carson Street
Carson City, Nevada 89701

RE: ADKT NO. 411

Honorable Supreme Court Justices:

The Nevada Association of Counties (NACO) is a non-profit, non-partisan state association for county government officials and staff. The NACO Board of Directors (Board) is made up of at least one county commissioner from each of the 17 counties and representatives from each of the seven statewide associations representing county elected officials including District Attorneys, Judges, Assessors, Sheriffs, Treasurers, Clerks and Recorders.

NACO appreciates the opportunity to provide written comment to the Court in the matter of the review of issues concerning representation of indigent defendants in criminal and juvenile delinquency cases. NACO would also like to thank the Court for holding a hearing on this matter and respectfully requests an opportunity to appear on March 18, 2008 to provide testimony. NACO strongly believes in equality under the law and appreciates the necessity of providing competent, qualified counsel for the defense of indigent persons in Nevada. Providing competent legal counsel to those who are unable to obtain it due to financial reasons is not only required by the United States and Nevada Constitutions but it is also required by Americans' belief in a fair and equitable system of justice.

On February 22, 2008, the Board considered an agenda item on the Nevada Supreme Court's January 4, 2008 Order pertaining to the provision of indigent defense services. During the item, the Board received a presentation on the fiscal impact to Washoe County of compliance with the Order. The Board also heard from other Counties, including those that currently utilize outside counsel for indigent defense, about the impacts to their budgets. The Board voted unanimously to support opposition to the Order. To that end, NACO would like go on record in support of the motions filed by the Pershing County District Attorney on February 8, 2008 and Humboldt County District

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Attorney on February 11, 2008 to set aside the Court's January 4, 2008 Order. NACO also supports the petition filed by the Honorable Richard Wagner on February 11, 2008 to exempt the Sixth Judicial District Court from the Order and the February 27, 2008 request from Washoe County Commission Chairman Robert Larkin to delay the effective date of the performance standards until July 1, 2009.

NACO further supports the March 14, 2008 Resolution from Lyon County requesting the Court to rescind or postpone implementation of the Court's Order of January 4, 2008. We understand that that other Counties plan to file requests with the Court to rescind, postpone or to be exempted from the Order.

Nevada's Counties are diverse in many ways including size, population, economy and how they provide for defense of the indigent. Often a program that works well in one part of the state is totally inappropriate in another. NACO believes that this is true in the matter of indigent defense. We note that there were not representatives from the rural counties on the Indigent Defense Commission.

County Governments in Nevada have the responsibility of providing the essential services to their citizens such as roads, fire and police protection, water and sewer, courts, and jails. Counties are also charged with providing for the health care and criminal defense needs of their less fortunate or indigent citizens. As the Court is probably aware, most Counties in Nevada are struggling to balance their budgets for the current fiscal year in light of sharply reduced tax revenues. Taking into account the serious funding constraints they are facing, a number of counties have expressed a grave concern about their immediate ability to provide indigent defense services at the level required by the Order. Because Nevada is a "Dillon's Rule" state our counties are limited by the State Legislature in their ability to generate the revenue necessary to pay for these services. The Court's Order of January 4, 2008 is, in essence, "an unfunded mandate." Any new requirement for Counties to provide an additional service, or increase the level of existing services, will require a redistribution of funding away from other essential needs.

We encourage the Court to rescind its Order of January 4, 2008. Should the Court decide not to rescind its Order, NACO urges that the Court delay implementation of the Order. A delay would allow the Court to further review Indigent Defense in all Judicial Districts as well as allow Clark and Washoe Counties to receive and analyze the results of the weighted caseload study. We understand that responses to the request for proposals for the study are due March 20, 2008 and joint interviews to select a study firm will be conducted on March 28, 2008.

While not a part of the January 4th Order, NACO would be opposed to the Court requiring that all counties except Clark, Elko, and Washoe use the State Public Defenders Office for indigent defense. It is our position that Counties should continue to have the ability to determine how best to provide defense counsel to indigent defendants.

Providing competent legal counsel for the defense of individuals who have been charged with a crime but cannot afford to hire an attorney is one of the bedrock principals of the justice system in the United States and one that the Nevada Association of Counties (NACO) fully agrees with. Nevada's counties strive to fulfill their Constitutional responsibility and assure that indigent defendants are represented as well as those that can retain attorneys on their own. By and large Nevada's counties are successful in meeting their obligation. Therefore, NACO respectfully urges that the Court rescind, or at a minimum delay implementation of, it's January 4, 2008 Order concerning Indigent Defense in Nevada.

Sincerely,



Jeffrey Fontaine
Executive Director
Nevada Association of Counties

cc: NACO Board of Directors
County Managers