

IN THE SUPREME COURT OF THE STATE OF NEVADA

2008 APR 30 AM 11:16

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2  
3 IN THE MATTER OF THE REVIEW OF) ADKT No. 411  
4 ISSUES CONCERNING )  
5 REPRESENTATION OF INDIGENT )  
6 DEFENDANTS IN CRIMINAL AND )  
7 JUVENILE DELINQUENCY CASES. )

**FILED**

MAY 01 2008

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

8 CLARK COUNTY'S ADMINISTRATIVE PLAN  
9 FOR APPOINTMENT OF COUNSEL

10 COMES NOW Clark County, Nevada, by and through THE HONORABLE  
11 KATHY A. HARDCASTLE, Chief Judge of the Eighth Judicial District;  
12 JEFFREY M. WELLS, Clark County Assistant County Manager; DREW R.  
13 CHRISTENSEN, Clark County Director of the Office of Appointed  
14 Counsel, and moves this Honorable Court for an Order approving  
15 the attached Clark County Administrative Plan for Appointment of  
16 Counsel.

17 Respectfully submitted,

18 By: *[Signature]*  
19 THE HONORABLE KATHY HARDCASTLE  
20 Chief Judge for the Eighth  
21 Judicial District Court - Dept IV  
22 200 Lewis Avenue  
23 Las Vegas, NV 89155

24 By: *[Signature]*  
25 JEFFREY M. WELLS  
26 Clark County Assistant County Manager  
500 S Grand Central Pky  
Las Vegas, NV 89155

By: *[Signature]*  
DREW R. CHRISTENSEN  
Clark County Director Office of Appointed Counsel  
500 S Grand Central Pky  
Las Vegas, NV 89155

RECEIVED  
28  
MAY 01 2008  
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

08-33180

# CLARK COUNTY'S ADMINISTRATIVE PLAN FOR APPOINTMENT OF COUNSEL

*Effective Date July 1, 2008*

## OVERVIEW

Clark County, Nevada provides indigent individuals legal counsel at all phases of serious criminal proceedings. In furtherance thereof, Clark County established the Office of the Public Defender for the purpose of providing all necessary legal counsel to indigent individuals accused of criminal activity. Clark County established the Office of the Special Public Defender to provide all necessary legal counsel to individuals charged with the offense of Open Murder that the Public Defender is unable to represent. The Office of the Special Public Defender also provides legal counsel to indigent parents facing termination of their parental rights. Clark County now has established The Office of Appointed Counsel (OAC) as an independent department, separate from the Judges, Court Administration, the Public Defender's Office, and the Office of the Special Public Defender. The OAC develops and administers programs that effect the legal representation of indigent individuals criminally accused in Clark County, Nevada that cannot be represented by either the Office of the Public Defender and/or the Office of the Special Public Defender. The OAC also develops and administers programs that effect the legal representation in parental termination cases where the Office of the Special Public Defender is unable to provide representation.

## OFFICE OF APPOINTED COUNSEL'S STATEMENT OF POLICY

**Objectives** - The Office of Appointed Counsel's objective is to assure quality legal representation of indigent persons without waste of public resources. The OAC shall administer this Plan so that those accused of crime, or otherwise eligible for services of appointed counsel, will not be deprived, because they are financially unable to pay for adequate representation, of any element of representation necessary to an adequate defense. It is the goal of the OAC to maintain a panel of attorneys, who are available and well qualified to provide high quality, dedicated, effective, efficient legal representation to those individuals financially unable to employ counsel in adult criminal cases, juvenile criminal cases, and parental termination cases where the Office of the Public Defender and the Office of the Special Public Defender are unable to do so. This panel of attorneys shall become known as the Indigent Defense Panel (IDP). It is the OAC's responsibility to insure that all individuals who qualify for appointments outside of the Public Defender and Special Public Defender receive timely and competent legal representation from the IDP and that appointments are allocated in a manner that is fair, neutral and nondiscriminatory. The OAC may amend this Plan as necessary to continue to provide high quality criminal defense services.

The further objective of the OAC is to implement the requirements set forth in the Order entered by the Supreme Court of Nevada on January 4, 2008 in ADKT 411, or as same may be amended.

## DEFINITIONS

**Administrative Attorney** – is the head of the OAC who is responsible for overseeing the operations of the case management process, assignment of attorneys outside of the Public Defender and Special Public Defender to indigent defense cases, administering contracts, authorizing expenditures, and providing policy analysis on criminal justice issues to the County Administration.

**Appointed Attorney** – includes private attorneys, both contracted and hourly.

**Ancillary Services** - are defense services paid for in addition to attorney's fees including investigator services, expert services and mitigation specialist fees, where necessary and appropriate.

**Case Specific Costs** - are expenses authorized by the OAC on a case-by-case basis when reasonably necessary to provide an appropriate defense. Such costs include expert witness fees, transcription, photocopying and related expenses, where necessary and appropriate.

**Clark County Guidelines** – refers to the documents prepared by the OAC and approved by the Administrative Attorney setting forth the rules for authorizing expenditures and processing requests for payment.

**Expert Witness** - is a person qualified by knowledge, skill, experience, training, or education to render an opinion on scientific, technical, or other specialized matters.

**Investigator** – is a person licensed by the State of Nevada who is qualified to secure evidence and/or subpoena witnesses to be used in the preparation and trial of criminal cases.

**Mitigation Specialist** – is a person qualified by knowledge, skill, experience, or other training as a mental health or sociology professional to investigate, evaluate and present psychosocial and other mitigation evidence in cases where the state is seeking the death penalty.

**Representation** – includes counsel and investigative, expert and other services

## PROVISIONS OF REPRESENTATION

**Mandatory** - Representation shall be provided for any financially eligible person who:

1. Is charged with a felony or gross misdemeanor;
2. Is charged with a misdemeanor where jail time is mandatory or the prosecutor is seeking jail time;
3. Is alleged to have violated probation or other supervision and custody time may be imposed;
4. Is a juvenile alleged to have committed an act of delinquency;
5. Is subject to commitment pursuant to NRS 433A.310
6. Is seeking relief from a sentence of death pursuant to NRS 34.724(1)
7. Is in custody as a material witness;

8. Is entitled to appointment of counsel under the Sixth Amendment to the U.S. Constitution or any provision of the Nevada Constitution, or when due process requires the appointment, or the judge is likely to impose jail time;
9. Is charged with criminal contempt who faces loss of liberty;
10. Faces loss of liberty in a case and Nevada law requires the appointment of counsel;
11. Has received notice that a grand jury is considering charges against him/her and a request for counsel has been made to, and approved by, the Court.

**Discretionary** - Whenever a court determines that the interests of justice so require, representation may be provided for any financially eligible person who:

1. Is charged with a misdemeanor, infraction or code violation for which a sentence of confinement is authorized;
2. Is seeking post conviction relief, other than from a death sentence, pursuant to NRS 34.724(1);
3. Is charged with civil contempt who faces loss of liberty;
4. Is a Party to a dependency case in which termination of parental rights is a possibility;
5. Has been called as a witness before a grand jury, a court, or any agency which has the power to compel testimony, and there is reason to believe, either prior to or during testimony, that the witness could be subject to criminal prosecution, a civil or criminal contempt proceeding, or face loss of liberty;
6. Any other case in which the interest of justice requires appointment of counsel.

**When Counsel Shall be Provided** - Counsel shall be provided to eligible persons within 72 hours or as soon as feasible after they appear before a judge, when they are formally charged or notified of charges if formal charges are sealed, or when a Justice of the Peace, Hearing Master, or District Judge otherwise considers appointment of counsel appropriate.

### **DETERMINING INDIGENCY**

**Financial Eligibility** - Consistent with Nevada Supreme Court Order ADKT 411: "a person will be deemed 'indigent' who is unable, without substantial hardship to himself or his dependents, to obtain competent, qualified legal counsel on his or her own. 'Substantial hardship' is presumptively determined to include all defendants who receive public assistance, such as Food Stamps, Temporary Assistance for Needy Families, Medicaid, Disability Insurance, reside in public housing, or earn less than 200 percent of the Federal Poverty Guideline. A defendant is presumed to have a substantial hardship if he or she is currently serving a sentence in a correctional institution or housed in a mental health facility. Defendants not falling below the presumptive threshold will be subject to a more rigorous screening process to determine if their particular circumstances, including seriousness of charges being faced, monthly expenses, and local private counsel rates, would result in a substantial hardship were they to seek to retain private counsel."

**Screening for Eligibility** - Court Administration, through Pretrial Services, may conduct screening for financial eligibility and provide a recommendation to the court with regard to eligibility of the defendant for the services of appointed counsel based upon the provisions set forth above. Appointed Counsel may assist in providing information during the screening but shall not be asked to make a recommendation with regard to eligibility.

**Partial Eligibility** - If a court determines that a defendant is able to afford counsel but cannot be effectively represented due to inability to pay for appropriate services such as investigators, experts, or other services, the court shall require the defendant to retain counsel but shall order that those ancillary services be provided at no cost to the defendant.

**Disclosure of Change in Eligibility** - If at any time after appointment, counsel obtains information that a client is financially able to make payment, in whole or in part, for legal or other services in connection with his or her representation, and the source of the attorney's information is not protected as privileged communication, counsel shall advise the court.

**Reimbursement –**

**Adult:** In adult matters, where the court determines that an individual does not meet the indigence standards, but the court acknowledges that a hardship exists to retain private counsel, the court may order the individual to reimburse the county for a portion of the reasonable attorney fees, whether public defender, contract, or appointed counsel.

**Juvenile:** In juvenile delinquency matters filed with the court, the juvenile should be presumed to be indigent. The court may order the parents of the juvenile to reimburse the county for the reasonable attorney fees, whether public defender, contract, or appointed counsel. NRS 62E.300.

**SYSTEM OF SELECTION FOR COURT APPOINTED COUNSEL**

Annually, Clark County will recruit attorneys to provide indigent defense services on a contract basis. The County will place attorneys into categories based on qualifications and interest: (1) Track assignments with hourly appointments for life and multiple defendant cases (excluding murder and sexual crimes); (2) Hourly capital murder cases; (3) Hourly non-capital murder, sexual assault/lewdness, highly complex, multiple defendant, and other cases/charges carrying a potential life sentence; (4) Hourly capital appeal/habeas cases; (5) Hourly non-capital appeal/habeas cases; (6) Juvenile delinquency; and (7) Parental termination/abuse and neglect cases.

Attorneys interested in the above stated positions will provide applications to the OAC for consideration. Attorneys may apply in one or more of the different categories based on qualifications and interest. Recruitment for appointed counsel will take place during the spring of each year, with annual contracts beginning July 1<sup>st</sup> of each fiscal year. The OAC may amend these time frames in the future to allow for longer contract terms.

The administrative attorney of the OAC will chair the newly created Indigent Defense Selection and Appointment Committee (IDSAC). The IDSAC will be composed of members from a variety of stakeholders concerned with the integrity of indigent criminal defense. Various organizations such as the Public Defender's Office, the Special Public Defender's Office, the Federal Public Defender's Office, Nevada Attorneys for Criminal Justice, the State Bar, the Clark County Bar, the various minority Bar organizations, Nevada Legal Aid, and possible others, may be invited to designate an individual to become a member of the IDSAC. No member of the IDSAC should have a pecuniary interest in the outcome of the attorney selection process or be in any way legally or

financially related to any attorney whose qualifications will be evaluated. Additionally, no prosecutors or judges shall be members of the IDSAC. The IDSAC will determine if the applicants meet the required qualifications. Only attorneys who meet the required qualifications will be placed on the qualified attorney lists for the various indigent defense categories.

The IDSAC shall meet at least once a year and shall solicit input from judges, and others familiar with the practice of criminal defense, shall review any complaints from clients and the history of participation in training of each applicant and each contract or hourly attorney receiving appointments to determine, along with the OAC, eligibility and continuing participation.

The IDSAC will select the top interested and qualified candidates to fill the available track appointment positions annually, as well as the top candidates to fill the juvenile delinquency appointments. A list of qualified alternates will be maintained to fill any positions that may become available throughout the fiscal year.

Qualified attorney lists will be developed for each of the other categories of indigent defense work. The list of qualified attorneys will be revised annually. Attorneys already under contract with the OAC for a specific defense area, unless otherwise notified, need not reapply, but need only submit their intent to renew by the deadline.

Complaints from clients, judges, or the public about representation by appointed counsel shall be transmitted to the OAC for consideration by IDSAC and OAC in evaluation of appointed counsel.

### **ASSIGNMENTS AND PROCEDURES FOR APPOINTMENT OF COUNSEL**

The IDSAC will assign the selected track attorneys to the various adult and juvenile tracks. In Clark County there are currently twelve (12) different adult track assignments – nine (9) in Las Vegas, two (2) in North Las Vegas, and one (1) in Henderson/outlying jurisdictions. The juvenile system currently has two tracks utilizing eight (8) attorneys.

From the selected applicants, each will be assigned to a specific track annually. The assignment process will take into account the interest of the various applicants, previous track assignments, and the collective wisdom of the IDSAC and the OAC. Typically, no attorney should serve on the same track for more than two consecutive years.

Once all the track attorneys have been assigned to the various departments and all of the lists for the other specific categories have been approved, the appointment of attorneys to specific cases will take place as follows:

**Track Assignments** – Each Judicial department will rotate appointments among the track attorneys assigned to their particular court with the objective of allocating the workload approximately equally.

**Juvenile Delinquency** – Each Hearing Master and/or Juvenile Court Judge will rotate appointments among the track attorneys assigned to their particular court with the objective of allocating the workload approximately equally.

**Parental Termination** – Each Hearing Master and/or District Court Judge will rotate appointments among the list of qualified attorneys with the objective of allocating the workload approximately equally.

**Criminal Hourly Cases** - The OAC will assign counsel for the court to appoint where appropriate for all murder, sexual assault/lewdness, appeal, multiple defendant, and complex cases from the various approved lists generated by the IDSAC. Each Court, when the occasion arises where appointment of counsel is appropriate, will contact the OAC for the next available qualified attorney. The Court will pass the case until the next appropriate judicial court date for confirmation of counsel. The OAC will be tasked with rotating all appointments through the variety of approved lists equally.

### **MENTORSHIP AND TRAINING**

**Mentorship Program** - The OAC will form and administer a mentorship program. Mentors will include attorneys who have: (1) at least five years criminal defense experience in adult court, juvenile court, appellate work or parental termination work; (2) participated in at least two non capital murder trials and/or sexual assault/lewdness trials; or (3) are Rule 250 qualified.

The OAC will pair all qualified mentors with a mentee to allow the mentee to enhance their professional development and improve their level of qualifications as counsel via experience. On a case by case basis, the OAC and mentor will navigate which cases the mentee will be assigned and what particular duties the mentee will be assigned. Neither mentors nor mentees will receive additional compensation for participating in the program. In no instance shall an attorney who has not tried at least one felony trial be permitted to try a felony case without an experienced criminal defense attorney (mentor) sitting as “second chair”.

**Annual Training** – A training program shall be conducted for all private attorneys who receive appointments to criminal cases. The program will include training in bail and release, motions practice, juvenile delinquency matters, search and seizure, evidentiary issues and trial practice, appeals/post conviction practice, and parental termination issues. All contract and hourly appointed attorneys will be encouraged to attend.

**Periodic Training** - Periodic training events will be conducted on issues of interest to appointed counsel.

**Creation and Coordination of Training** - The Public Defender and the OAC shall be responsible for coordinating, scheduling and creating the training events described above.

### **STANDARDS FOR COURT APPOINTED COUNSEL**

#### **GENERAL QUALIFICATIONS:**

**Eligibility** -The attorney shall be familiar with the practice and procedure of the criminal courts of Nevada and shall be a member in good standing of the State Bar of Nevada. The attorney shall have an office location in Clark County.

**Compliance with Ethical Standards** - All attorneys shall comply with the Nevada Rules of Professional Conduct and shall require that all investigators, experts and others working for or under the direction of the attorney shall also comply with all appropriate ethical standards.

**Evidentiary Matters** - The attorney shall be familiar with the Nevada Rules of Evidence and shall have knowledge of the use of expert witnesses and evidence, including, but not limited to, psychiatric and forensic evidence.

**Co-Counsel** - Whether to appoint co-counsel in any non-death penalty offense and the qualifications of such counsel, shall be at the discretion of the OAC and/or the court. The OAC will supply the court with an attorney from the variety of approved lists for appointment.

**Continuing Education** - To maintain eligibility to receive appointed cases, each attorney must certify that he/she is Nevada CLE compliant and complete a minimum of six (6) hours of training approved by the OAC in criminal law, evidence or trial practice during each fiscal contract year. (See Mentorship and Training above) Proof of compliance must be provided annually along with the annual application or notice of intent. A failure to present the affidavit shall cause an attorney to be subject to removal from the lists of attorneys eligible for appointment.

**Re-Certification** - An attorney shall file either a new application or notice of intent to renew by May 1st of each year to remain on the list(s).

**Removal from List** - The OAC may remove an attorney from consideration for appointments if the attorney does not fulfill duties required by law, attorney's creed, canons, local rules, or the provisions of this plan. An attorney removed from the list(s) will be given notice and the reasons for the removal, but will have no recourse to challenge the decision of the OAC.

#### **QUALIFICATIONS FOR SPECIFIC LISTS:**

**Death Penalty Cases** - Two lawyers must be appointed as soon as possible in all open murder cases which are reasonably believed to likely result in a capital charge. In order to serve as lead counsel in a capital case where the State of Nevada is seeking a death sentence, an attorney must exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases and must:

1. Be Nevada Supreme Court Rule 250 compliant;
2. Have acted as lead counsel in at least five (5) felony trials, including one murder trial tried to completion (i.e., to a verdict or a hung jury);
3. Have acted as defense co-counsel in at least one death penalty trial tried to completion;
4. Have been licensed to practice law for at least three years; and
5. Participate, at least every two (2) years, in continuing legal education courses relating to death penalty defense/mitigation.

Any attorney appointed as second chair in a capital case shall exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases.

Appointment of attorneys in capital cases shall be as further guided by Nevada Supreme Court Order ADKT 411, or as the same may be amended, attached hereto as Exhibit A.

**Non Death Penalty Murder and Sexual Crime Cases Where Life in Prison is a Possible**

**Punishment** - Any attorney appointed to represent a defendant as lead counsel in such cases must exhibit proficiency and commitment to providing quality representation to defendant and must:

1. Have acted as lead counsel in at least five (5) felony trials;
2. Have been licensed to practice law for at least three (3) years;
3. Have significant experience in Clark County with felony cases from appointment in Justice Court to District Court jury trial and sentencings;
4. Be familiar with substantive criminal law and criminal procedure and its application in the courts of Nevada;
5. Stay abreast of changes and developments in the law by remaining compliant with continuing legal education requirements set forth above under General Requirements.
6. Individual exceptions to these qualifications may be made by the IDSAC and OAC.

Appointment of attorneys in non-death murder and sexual crime cases shall be further guided by Nevada Supreme Court Order ADKT 411, or as the same may be amended, attached hereto as Exhibit A.

**All other Felonies and Gross Misdemeanors** - Any attorney appointed as lead counsel to represent a defendant in any other felony or gross misdemeanor case not listed above, must exhibit proficiency and commitment to provide quality representation to defendants and must:

1. Have at least one (1) year experience in criminal litigation;
2. Have at least one (1) felony jury trial tried to completion as either first or second chair;
3. Have been lead counsel in at least five (5) preliminary hearings and/or misdemeanor trials;
4. Have demonstrated to the court and the OAC the ability to investigate, prepare, and competently present a case to the court or jury .
5. Be available to prepare and try cases on a timely basis. Attorneys who fail to appear in court or demonstrate an inability to timely investigate, prepare and try cases will not be considered qualified for the Clark County IDP. Attorneys accepted for the Clark County IDP, who no longer meet this criteria, will be removed from the list by the OAC.
6. Individual exceptions to these qualifications may be made by the IDSAC and OAC.

Appointment of attorneys in felony and gross misdemeanor cases shall be further guided by Nevada Supreme Court Order ADKT 411, or as the same may be amended, attached hereto as Exhibit A.

**Death Penalty Appellate Counsel – both Direct and Post Conviction** - Any attorney appointed as counsel to represent a defendant who has received a sentence of death in a direct appeal or post conviction proceedings, must exhibit proficiency and commitment to provide quality representation to defendant's and must:

1. Be Nevada Supreme Court Rule 250 compliant;
2. Have at least three (3) years of experience in criminal litigation;

3. Have acted as lead counsel in at least two (2) appeals or post conviction proceedings of felony convictions; and
4. Have on at least two (2) occasions filed briefs and/or argued in the Nevada Supreme Court, Ninth Circuit Court of Appeals or the United States Supreme Court.
5. Individual exceptions to these qualifications may be made by the IDSAC and OAC.

Appointment of appellate, either direct or post conviction, counsel in death penalty cases shall be further guided by Nevada Supreme Court Order ADKT 411, or as the same may be amended, attached hereto as Exhibit A.

**Non- Death Penalty Appellate Counsel – both Direct and Post Conviction** - Any attorney appointed as counsel in a non-death penalty direct appeal or post conviction proceedings, must exhibit proficiency and commitment to provide quality representation to defendant's and must:

1. Have at least two (2) years of experience in criminal litigation;
2. Have acted as lead counsel in at least one (1) appeal or post conviction proceeding of a felony and/or gross misdemeanor conviction; and
3. Have on at least one (1) occasion filed briefs and/or argued in the Nevada Supreme Court, Ninth Circuit Court of Appeals or the United States Supreme Court.
4. Individual exceptions to these qualifications may be made by the IDSAC and OAC.

Appointment of appellate, either direct or post conviction, counsel shall be further guided by Nevada Supreme Court Order ADKT 411, or as the same may be amended, attached hereto as Exhibit A.

**Juvenile Delinquency Cases** - Any attorney appointed as counsel in a juvenile delinquency case must exhibit proficiency and commitment to provide quality representation to defendant's and must:

1. Have at least one (1) year of experience in criminal and/or juvenile delinquency litigation;
2. Have litigated at least one (1) criminal jury trial as either first or second chair;
3. Have full understanding and familiarity of NRS Title 5 – Juvenile Justice;
4. Have a minimum of four (4) CLE credits annually in juvenile delinquency issues and provide proof thereof to the OAC annually with the application or notice of intent.
5. Individual exceptions to these qualifications may be made by the IDSAC and OAC.

Appointment of juvenile delinquency counsel shall be further guided by Nevada Supreme Court Order ADKT 411, or as the same may be amended, attached hereto as Exhibit A.

**Parental Termination Cases** - Any attorney appointed as counsel in a parental termination case must exhibit proficiency and commitment to provide quality representation to defendant's and must:

1. Have at least one (1) year of experience in parental termination cases;
2. Have a minimum of three (3) CLE credits annually in parental termination issues and provide proof thereof to the OAC annually with application or notice of intent.
3. Individual exceptions to these qualifications may be made by the IDSAC and OAC.

## DUTIES OF COURT APPOINTED COUNSEL

**Standards** – In addition to the information listed in the Standards section above, the services to be rendered a person represented by appointed counsel shall be commensurate with those rendered if counsel were privately employed. Representation shall be provided in compliance with the Performance Standards for Representation of Indigent Defendants adopted by the Nevada Supreme Court, January 4, 2008, or as the same may be amended.

**Professional Conduct** - Attorneys appointed under this Plan shall conform to the highest standards of professional conduct, including but not limited to the provisions of the Nevada Rules of Professional Conduct.

**No Receipt of Other Payment** – Appointed counsel may not require, request, or accept any payment or promise of payment or any other valuable consideration for representation under the appointment, unless such payment is approved by order of the court.

**Continuing Representation** - Once counsel is appointed, counsel shall continue representation until substitute counsel has filed a notice of appearance; until an order has been entered allowing or requiring the person represented to proceed pro se; or until the appointment is terminated by court order. If appointed counsel is relieved, such counsel must assist successor counsel in securing the file and other necessary information to insure that all deadlines are met, including those applicable to post-conviction matters. Additionally, subject only to withdrawal or substitution permitted under the Nevada Rules of Criminal Procedure and the OAC, attorney's representation shall be from the date of appointment through every stage of the legal proceedings, including the processing of a notice of appeal and filing of a Fast Track Supreme Court brief or until the charges are terminated, and shall include any status checks, probation revocation proceedings or other hearings set at or subsequent to sentencing. If requested by Client, attorney shall file a Notice of Appeal and Designation of Record in all circumstances where the Client has a legal right to appeal. Also if counsel was appointed to a track, counsel shall be obligated to conclude all cases assigned to him/her on the track even if such case or cases extend beyond the time period of the contract or if counsel is assigned to a different track. Once the contract has expired or has been terminated, no additional monthly compensation will be provided; however, hourly compensation will be paid to counsel for actual trial time, provided the trial case was appointed to counsel during the contract period.

**Responsibility Cannot be Delegated** – While appointed counsel may receive assistance from associate attorneys, mentees, or other IDSAC approved attorneys in carrying out his/her responsibilities, appointed counsel cannot delegate responsibilities for representation to another attorney. In the case of scheduling conflicts, vacations or other short-term unavailability of appointed attorney, appointed attorney may arrange for substitute representation by a competent, duly licensed attorney (as stated above) at no additional cost to the county. Said substitute representation SHALL be limited to initial arraignments, status checks, continuances, set time certain hearings, and other similar proceedings. Any critical court appearances - i.e. preliminary hearings, motion hearings, evidentiary hearings, sentencing, probation revocation hearings, trials, etc., MUST be handled by appointed attorney who contracted with county. If appointed attorney cannot be available for any critical court appearance that cannot otherwise be continued for appointed counsel's presence, prior approval for representation by substitute counsel must be received through the OAC.

**Contact Information** - Appointed counsel must be available to receive communications by telephone, answering service, pager, or voice mail from 8:00 am to 5:00 PM on workdays. Counsel shall also maintain a FAX and/or Email address for receiving notices, motions, appointments, etc. from the OAC 24 hours a day, 7 days a week. Difficulty communicating with counsel by court, court staff, clients or the OAC will be potential grounds for removing counsel from the approved list.

**COMPENSATION OF COURT APPOINTED COUNSEL**

The following schedule is adopted pursuant to NRS 7.125 and the Clark County Board of County Commissioners, with the intent to provide reasonable compensation to court appointed counsel for time spent performing the reasonable and necessary services representing client, taking into consideration, but not limited to, the following factors: the time and skill required, complexity of the case, experience and ability of appointed counsel, the reasonable and necessary overhead costs of attorneys in the area generally, the number of assignments expected under the contract, the hourly rate paid for all appointed counsel; and the ability of the appointed attorney to comply with the Performance Standards adopted by the Nevada Supreme Court, or as the same may be amended. This schedule may be amended from time to time as necessary and appropriate to insure counsel are reasonably compensated.

**Track Cases (Except Death and Life Cases), Gross  
Misdemeanors and Misdemeanors -**

Monthly fee	<b>\$4500.00/mth</b>
Trial Time in Court	<b>\$100.00/hr</b>

(does not include time spent in trial preparation)

Habitual Offender cases - Hourly compensation for any work directly related to the habitual sentencing issues shall be paid at **\$100.00/hr** commencing upon the filing of any notice that a sentence of life imprisonment will be sought under NRS 207.010. The balance of the case will be considered compensated as part of the monthly fee for the underlying track contract.

Highly Complex or "Extraordinary Cases"- Hourly compensation shall be paid at **\$100.00/hr** on any case that either the OAC or court determines is a case, not normally covered by hourly compensation, yet has such highly complex issues that hourly compensation is appropriate.

If pursuant to NRAP Rule 3C (b) the track attorney is required to file a Notice of Appeal, rough draft transcript request form, and fast track statement, said track attorney shall be appointed by the Court and compensated at the hourly rate set forth in NRS 7.125 as well as being reimbursed for any costs or expenses incurred.

**Juvenile Delinquency Cases -**

Monthly fee	<b>\$4000.00/mth</b>
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**Death Penalty Cases -**

Hourly fee	<b>\$125.00/hr</b>
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**Non-Death, Life Cases and  
Multiple Defendant/Juvenile Cases  
not covered by Track and Non-Death  
Appeals and Post Conviction Cases**

Hourly fee \$100.00/hr

**Parental Termination Case**

Hourly fee \$100.00/hr

**INVESTIGATION EXPENSES AND EXPERT WITNESS FEES**

The defendant has the right to proper investigation of his/her case and for appointment of expert witnesses when necessary for reasonable defense of his/her case. Requests for funds for investigators or expert witnesses shall be made through the OAC. Investigation expenses will be compensated based on the usual and normal charges for such investigations in the Eighth Judicial District. This amount may be amended from time to time as necessary and appropriate to insure investigators are reasonably compensated without waste of public resources. Travel time from the investigator's office to the courthouse, jail and lawyer's office is not compensatable. Mitigation, mental health, ballistics, forensics, fingerprint, DNA experts necessary for the defense of the accused shall be compensated based on the usual and normal charges for such experts in the Eighth Judicial District.

A denial of a request for investigations or witness expense by the OAC, may be reviewed by the Court.

Incurring frivolous, unnecessary or improper investigation and/or expert expenses may be a basis for removal of the attorney from the list of qualified attorneys.

**REQUESTS FOR PAYMENT OF ATTORNEY FEES AND EXPENSES**

**Payment requests for attorney services will be processed as follows -**

All invoices for attorney's services and cost reimbursement under statute or county contract must be submitted directly to the OAC on a Payment Request Form, supported by appropriate documentation.

Compensation shall be subject to the limits of NRS 7.125. Requests for fees in excess of the statutory amount may be made through the OAC. If a request is denied, excess fees may be requested pursuant to NRS 7.125. Fees exceeding the maximum statutory rate will be reduced to the statutory rate unless accompanied by prior written OAC authorization or Court authorization.

The OAC is responsible for reviewing and verifying all bills and back-up documentation, and may request additional back-up documentation or explanation from the attorney or court, if necessary to fairly and appropriately process the request for payment.

A sampling of bills and back-up documentation and/or questionable bills will be forwarded to the Indigent Defense Bill and Review Committee (IDBRC) for recommendations to the OAC. Members of the IDBRC will be made up of members from the Clark County Public Defender,

Special Public Defender, and private criminal bar. No member of the IDBRC shall have a pecuniary interest in the outcome of an attorney's bill or be in any way legally or financially related to any attorney whose bills are being reviewed.

Appointed counsel must wait until all responsibilities in relation to the case appointment have been completed before submitting a Payment Request, except in either capital cases or "extraordinary" cases where interim billing is authorized.

All Payment Requests shall be submitted to the OAC no later than 30 days after termination of the attorney's responsibilities in the case. The County will reject any claims received more than 60 days from the conclusion of a case. Any requests for indigent attorney fees or expenses not timely submitted will be considered waived, and the services considered being performed pro bono.

A denial of a payment request for attorney services by the OAC, may be reviewed by the Court.

**Payment requests for ancillary services and case-specific costs will be processed as follows -** All invoices for ancillary services and case-specific costs must be submitted to the OAC on a Payment Request Form with appropriate documentation.

All invoices for ancillary services and case-specific costs must be signed by the contract attorney on the case who verifies that the services/items were provided and were necessary to present an adequate defense.

Compensation shall be subject to the limits of NRS 7.135. Requests for fees in excess of the statutory amount may be made through the OAC. If a request is denied, excess fees may be requested pursuant to NRS 7.135. Fees exceeding the maximum statutory rate will be reduced to the statutory rate unless accompanied by prior written OAC authorization or Court authorization.

OAC is responsible for reviewing and verifying all invoices and back-up documentation, and may request additional back-up documentation or explanation from the attorney, ancillary service provider, or court, if necessary to fairly and appropriately process the request for payment.

A sampling of invoices and back-up documentation and/or questionable invoices will be forwarded to the Indigent Defense Bill and Review Committee (IDBRC) for recommendations to the OAC. Members of the IDBRC will be made up of members from the Clark County Public Defender, Special Public Defender, and private criminal bar. No member of the IDBRC shall have a pecuniary interest in the outcome of ancillary service provider's bill or be in any way legally or financially related to any ancillary service provider whose invoices are being reviewed.

All invoices must wait until all responsibilities in relation to the case appointment have been completed before submitting a Payment Request, except in either capital cases or "extraordinary" cases where interim billing is authorized.

All Payment Requests shall be submitted to OAC no later than 30 days after termination of the case. The County will reject any claims received more than 60 days from the conclusion of a case. Any requests for expenses not timely submitted will be considered waived.

A denial of a payment request for any ancillary services or case specific costs by the OAC, may be reviewed by the Court.