

**FILED**



**SPARKS JUSTICE COURT**  
WASHOE COUNTY  
STATE OF NEVADA

JUN 24 2008

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

**KEVIN HIGGINS**  
JUSTICE OF THE PEACE  
DEPARTMENT TWO

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June 23, 2008

*ADKT 411*

The Honorable Michael Cherry  
Nevada Supreme Court Justice  
201 South Carson Street  
Carson City, NV 89701

Re: Indigent Defense Commission

Dear Justice Cherry:

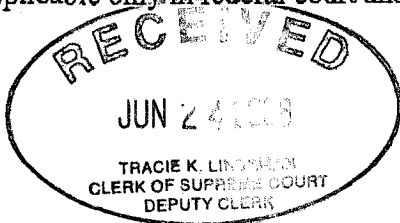
Following my vote against the adoption of the full Indigent Defense Commission Report on May 30, 2008, I explained my reason for doing so and now will take this opportunity to do so again in writing.

After the Nevada Supreme Court's decision to reconvene the Indigent Defense Commission, I welcomed the opportunity to hear from other important constituencies as to the scope and extent of the performance standards and their planned implementation.

Subsequently, a small committee which consisted of representatives from both the defense bar and, for the first time, the prosecution side of the bar met and revised the preamble to the standards which clarified their scope and application and answered several fundamental questions as to their applicability.

It was my understanding that the May 30 meeting of the Indigent Defense Commission was to consider and adopt the revised preamble and consider further revisions to the standards themselves. In fact, this is what the agenda reflects. Several members of the committee voiced their belief that the purpose of the May 30 meeting was simply that, and that revisions to and the adoption of the full standards would take place later. A majority of those voting, however, disagreed and both the revised preamble and the standards were adopted at that time.

It was clear to me that the inclusion of more voices and points of view in the discussion process was leading to a better document to be presented to the Supreme Court. As pointed out by Nancy Becker from the Clark County District Attorney's office and Washoe County District Attorney Richard Gammick, several provisions in the standards, as adopted from the Federal Performance Standards, are applicable only in federal court and not in state court. My belief was that we should present the best



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consensus document that the Commission could to the Supreme Court for their consideration. Again, the majority disagreed and the vote was had on the entire document.

While I was in full agreement as to the adoption of the preamble and agreement as to the vast majority of the defense standards, I believe that it was premature to cut off the revision process.

Although I'm not joining in any other minority report, I understand that Clark and Washoe counties will be submitting their minority report concerning some of those items which could have hopefully been resolved with further discussion and debate. I hope those issues can be fully raised and discussed during the administrative hearing before the Court on July 1.

Very truly yours,



Judge Kevin Higgins

KH/vf