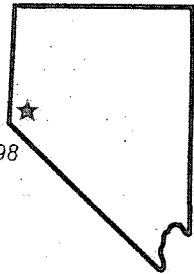




**NEVADA ASSOCIATION OF COUNTIES**

201 S. ROOP STREET, SUITE 101 • CARSON CITY, NEVADA 89701-4790 • (775) 883-7863 FAX (775) 883-7398



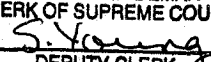
September 4, 2008

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

RE: ADKT NO. 411

**FILED**

SEP 04 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

Honorable Supreme Court Justices:

The Nevada Association of Counties (NACO) would like to comment on the letter submitted to the Court by the American Civil Liberties Union, Charles Hamilton Houston Institute for Race and Justice, National Association of Criminal Defense Lawyers, NAACP Legal Defense and Educational Fund, Inc., and National Legal Aid & Defender Association. NACO shares many of the concerns voiced by the authors of this letter and supports much of the conclusions they reached.

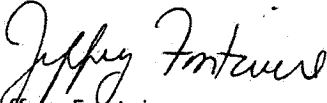
NACO agrees wholeheartedly with the authors contention that *Gideon v. Wainwright*, 372 U.S. 335 (1963), made the provision of defense counsel for indigents incumbent upon the states and not county governments. We further agree that Nevada's counties have faced challenges in providing indigent defense services at constitutionally mandated levels; challenges they have increasingly faced with minimal help from the state. NACO shares the concern that this challenge will continue to grow as the demand for indigent defense counsel continues to increase due to growth in the state's population and expansion of the instances and time frames that these services must be provided as evidenced by the *Gault*, *Alabama v. Shelton*, and *Rothgery* cases cited by the authors.

NACO agrees with the authors conclusion that while the state may delegate the delivery of indigent defense services to the counties it is the state that is ultimately responsible for the provision of defense counsel to indigents. Nevada's counties strive to deliver indigent defense services at a constitutionally sufficient level, and for the most part do so admirably. NACO believes that, due to the diverse characteristics of Nevada, a single method of providing indigent defense services is impractical. Instead, we believe counties should continue to be allowed to develop delivery systems that work best given each county's particular circumstances, and that the state should provide the necessary resources to enable the counties to provide this service. If the state were to provide full funding for indigent defense, then NACO would agree that there should be a statewide commission to ensure that the indigent defense services provided meet constitutional standards.

08-33200

NACO would once again like to thank the Court for this opportunity to comment on this matter and to participate on the Indigent Defense Commission. County governments are the closest to the people and are responsible for providing the everyday services needed by the citizens of this state. The right to be represented by counsel when facing criminal charges is one of the bedrock principals which define our country. Nevada's counties are pleased to be working with the Court to ensure that this ideal is upheld.

Respectfully submitted,



Jeffrey Fontaine  
Executive Director

CC: Via Email  
The Honorable Joni Eastley, Nye County Commissioner  
The Honorable John Ellison, Elko County Commissioner  
Mr. John McCormick, Administrative Office of the Courts

to:

**\*691 a.** The client's family, extending at least three generations back, and those familiar with the client;

b. The client's friends, teachers, classmates, co-workers, employers, and those who served in the military with the client, as well as others who are familiar with the client's early and current development and functioning, medical history, environmental history, mental health history, educational history, employment and training history, military experience and religious, racial, and cultural experiences and influences upon the client or the client's family;

c. Social service and treatment providers to the client and the client's family members, including doctors, nurses, other medical staff, social workers, and housing or welfare officials;

d. Witnesses familiar with the client's prior juvenile and criminal justice and correctional experiences;

e. Former and current neighbors of the client and the client's family, community members, and others familiar with the neighborhoods in which the client lived, including the type of housing, the economic status of the community, the availability of employment and the prevalence of violence;

f. Witnesses who can testify about the applicable alternative to a death sentence and/or the conditions under which the alternative sentence would be served;

**\*692 g.** Witnesses who can testify about the adverse impact of the client's execution on the client's family and loved ones.

F. It is the duty of team members to gather documentation to support the testimony of expert and lay witnesses, including, but not limited to, school, medical, employment, military, and social service records, in order to provide medical, psychological, sociological, cultural or other insights into the client's mental and/or emotional state, intellectual capacity, and life history that may explain or diminish the client's culpability for his conduct, demonstrate the absence of aggressive patterns in the client's behavior, show the client's capacity for empathy, depict the client's remorse, illustrate the client's desire to function in the world, give a favorable opinion as to the client's capacity for rehabilitation or adaptation to prison, explain possible treatment programs, rebut or explain evidence presented by the prosecutor, or otherwise support a sentence less than death.

G. It is the duty of the team members to aid counsel in preparing and gathering demonstrative evidence, such as photographs, videotapes and physical objects (e.g., trophies, artwork, military medals), and documents that humanize the client or portray him positively, such as certificates of earned awards, favorable press accounts and letters of praise or reference.

Cross References:

ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases 4.1--The Defense Team and Supporting Services; 10.7-- Investigation; 10.10.1--Trial Preparation Overall; 10.11--The Defense Case Concerning Penalty.