



# WASHOE COUNTY COMMISSION

"Dedicated to Excellence in Public Service"

ADKT 411

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September 4, 2008

**FILED**

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

SEP 04 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

Honorable Supreme Court Justices:

In two earlier letters to the Court, I outlined, on behalf of the Board of County Commissioners, the potential impacts to Washoe County if the Court were to adopt the proposed performance standards, and additionally I requested a delay in adoption of the standards until July 1, 2009. The Court's response was to issue an order temporarily staying the implementation date until September 5, 2008. Today, I am writing to once again urge the Court to consider delaying the implementation of the standards until July 1, 2009 for the following reasons.

The fiscal concerns I expressed in the earlier letters have only become more acute because of the continued under-performance of the economy and its impacts upon the County's resources. Specifically, consolidated tax revenues, which had comprised more than 40% of prior year General Fund budgets, have continued to decline significantly. Fiscal year 2007-2008 ended with a reduction of 8.25% on top of a prior fiscal year reduction of 3.53%. AB 104 revenues, which are also primarily sales taxes, have seen actual annual shortfalls for fiscal year 2007-2008 of \$18.9 million. The County continues to see declines in fees and charges for services, particularly in the development services area which indicate the likelihood of an extended slump in the housing market causing a drop in housing-related sales and potential property tax revenues.

To compound an already aggrieved situation, Washoe County sustained further reductions in state-provided funds by legislative actions in the 2008 Special Session. These reductions have been compounded by other budgetary cuts and service reductions which serve to increase the demand for a variety of human services throughout the County.

Nevertheless, as we have previously reported, despite having to reduce the budgets for most operating departments in the current fiscal year, over the past two fiscal years, Washoe County has increased resources dedicated to public defense by \$2.3 million, from \$8.1 million in 2007 to \$10.5 million in 2009. This represents an overall increase of 29% in public defense appropriations. The County continues to implement and support the Model Court Plan utilizing the services of a contract Appointed Counsel Administrator responsible for the appointment of all private attorneys now approved by the Selection Committee for the full range of criminal offenses.

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As reported during the Court's July 5 hearing, work on completion of the weighted caseload study began on May 20 with the approval of the contract by the Board of County Commissioners. To date, representatives of The Spangenberg Group have conducted two on-site visits, completed the draft coding instrument to be used in data collecting, and are planning an on-site training in late September. Due to some issues with the design of the data collection system, the timeline for the project has been extended and, therefore, I am requesting that the Court delay the filing date for the final report until May 15, 2009. This will allow adequate time for any necessary data analysis and the drafting of the final report.

Since the July 5 hearing, two significant events have occurred. First, the issuance by several parties of the White Paper entitled, "The Obligation of States in Providing Constitutionally-Mandated Right to Counsel Services" and secondly, the filing by the Nevada Association of Counties (NACO) of a Bill Draft Request (BDR) for the 2009 Legislature concerning the provision of mandated defense counsel for indigent defendants. Washoe County strongly supports the following central findings and conclusions from the White Paper:

- That the provision of indigent defense counsel is first the responsibility of the states and not county governments.
- That the State has the power to delegate the delivery of indigent defense services to the counties but is ultimately responsible for the provision of defense counsel to indigents.
- That Washoe County and all other Nevada counties have struggled to provide indigent defense services at constitutionally mandated levels.
- That the challenge of providing these services will grow due to increases in the number of stages and time-frames counsel is required and due to the ever-increasing caseloads.
- That the counties be allowed to develop the delivery system for indigent defense within the county.
- That the State should provide the resources to enable the counties to provide the mandated service levels.
- Subject to the State providing the necessary funding for the counties, that a statewide commission be created to ensure that indigent defense services provided meet constitutional standards.

Washoe County has continuously collaborated with NACO during this entire proceeding on indigent defense. This effort has culminated in NACO's September 2 filing of a BDR which would retain the current options for providing indigent defense services. This would also require that the State fully fund its' constitutional mandate to provide indigent defense regardless of the method of delivery. This request was supported by the

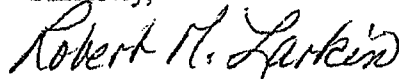
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Washoe County Board of Commissioners and was unanimously approved for submission by the NACO Board.

In view of the issues, concerns, and recent events as outlined above, I again reiterate my request on behalf of the Washoe County Commissioners that the Court place a continuance on the stay for the implementation date of the performance standards until July 1, 2009. This will allow the County to participate in a statewide effort to bring the issues with indigent defense and the related costs to the attention of the Legislature for its consideration and allow for the completion of the weighted caseload study. Without this interim relief from the Court and long-term solution from the Legislature, the burden of indigent defense will create substantial and significant fiscal impacts to the taxpayers of Washoe County.

On behalf of the Washoe County Commission, I again thank the Court for its consideration of this request; the opportunity to comment on this matter; and, the opportunity to participate as a member of the Indigent Defense Commission in this historic effort to protect the integrity of our criminal justice system.

Sincerely,



Robert M. Larkin, Chairman  
Washoe County Commission

RML/an



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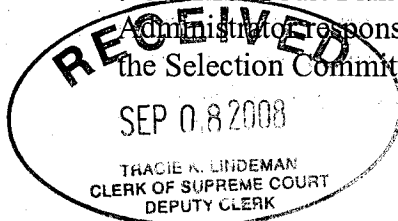
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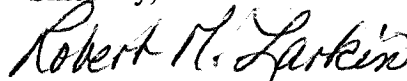
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