



# Las Vegas Municipal Court

## At the Regional Justice Center

P.O. Box 3960 • Las Vegas, Nevada 89127-3960 • Main 702-229-6509 • Fax 702-385-5510 • TTY 702-384-3253

April 24, 2008

**FILED**

FEB 12 2009

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

Judiciary

Judge Bert Brown  
Chief Judge  
Department 4

Judge Cynthia S. Leung  
Department 1

Judge Elizabeth B. Kolkoski  
Department 2

Judge George Assad  
Department 3

Judge Cedric A. Kerns  
Department 5

Judge Martin D. Hastings  
Department 6

Court Administration

James P. Carmany  
Court Administrator

Chief Justice Mark Gibbons  
Nevada Supreme Court  
201 South Carson St  
Carson City, NV 89701-4702

Dear Chief Justice Gibbons:

Pursuant to ADKT 411, "*In the Matter of the Review of Issues Concerning Representation of Indigent Defendants in Criminal and Juvenile Delinquency Cases*", the following Administrative Plan is submitted by the Las Vegas Municipal Court for the review and approval by the Nevada Supreme Court.

It is the intent of the Las Vegas Municipal Court to implement the attached plan within six months of receiving the Court's approval.

Should the justices have any questions regarding this Administrative Plan, both myself and/or our Court Administrator, James Carmany, would be pleased to address them with the court. We can be contacted at 702-229-4673.

Sincerely,

Bert Brown  
Chief Judge

jc  
docs/admin/minutes/Indigent/Supreme Court Cover Ltr 4-08

Enclosures

Cc: Municipal Court Judges  
James Carmany  
Municipal Court Indigent Defense Admin Plan Committee

In Memorium

The Honorable Seymore H. Brown  
September 2, 1929 - June 16, 2000

Mission Statement

To provide efficient and ethical proceedings through quality service, alternative sentencing, and innovative use of technology.

09-31703

# ***Las Vegas Municipal Court***

In response to the Supreme Court Order dated January 4, 2008 titled, "IN THE MATTER OF THE REVIEW OF ISSUES CONCERNING REPRESENTATION OF INDIGENT DEFENDANTS IN CRIMINAL AND JUVENILE DELINQUENCY CASES"

The Las Vegas Municipal Court (LVMC) hereby submits the following Administrative Plan for the selection of attorneys to represent Indigent Misdemeanor Defendants and the process for the determination of a Defendant's Indigence:

## **Indigent Defense Administrative Plan**

1. The City of Las Vegas Finance & Business Services Purchasing & Contracts Division (Purchasing) in conjunction with City of Las Vegas Human Resources (HR) Department will issue a Request for Proposal (RFP) for the representation of indigent defendants for all matters before the Las Vegas Municipal Court (LCMC).
  - a) Public Attorney Contracts will be offered for each LVMC department with no limitation on the number of contracts an individual applicant may apply for or be awarded.
    - (1) Contract will be awarded at a fixed annual price as determined by the City of Las Vegas City Council.
2. Independent Selection Committee will determine who is awarded the individual Public Attorney contracts. Selection Committee will be comprised of 5 members who will make the final determination relative to the awarding of any Municipal Court Indigent Representation contracts, including "mid-cycle" replacements should a vacancy occur.
  - a) Committee will include representatives from: The Federal Public Defender office, County Public Defender office, Nevada State Bar, Criminal Justice Association (attorney group) and the City of Las Vegas City Manager's office.
  - b) Court/judicial input relative to potential conflicts of interest, may be provided prior to the selection committee's review, however, no judicial pre-empt and/or veto of any selection is permitted.
  - c) Committee to be constituted by July 1, 2008, with first order of business to establish their "rules".
3. City of Las Vegas Purchasing & HR to have responsibility for all Administrative functions including:
  - a) Establishing the Scope of Work and Issuing the Request for Proposals.
  - b) Conducting initial review/interview of all applicant firms to ensure they meet all basic criteria (as established by the Supreme Court Order and LVMC) before submitting all qualified applicants to the independent "Selection Committee".

- c) Writing and Issuing Public Attorney contract(s) and ensuring that all mandated licenses, proof of insurance, etc., are obtained.
  - d) Ensuring that all individual indigent defense attorneys employed by the firm(s) awarded a Public Attorney contract meet all LVMC and Supreme Court Order eligibility criteria both at contract issuance and throughout term of contract.
  - e) Conducting periodic "audits" to ensure contract compliance.
  - f) Payment.
4. Minimum Qualifications for Attorneys/Firms awarded a contract:
- a) 1M Liability/Malpractice Insurance.
  - b) Experience- Three (3) years or more of criminal experience required for all attorneys supporting the contract.
  - c) Administrative plan to be submitted as part of application process detailing how the Public Attorney will provide appropriate service levels to the department(s) they are awarded, including how they will fill attorney staff vacancies (vacation, illness, etc.).
  - d) List of all attorneys who will practice in the courtroom submitted and approved by the selection committee as part of application process.
  - e) Changes to approved attorney list supporting the contract must be approved by the Selection Committee prior to practicing in the courtroom.
    - (1) Emergency attorney substitution- name must be submitted within a reasonable period of time.
5. Scope of Work to be included in the Request for Proposal will:
- a) Be developed by a committee appointed by the Las Vegas Municipal Court and the Las Vegas City Manager's Office.
  - b) Include full professional defense for all defendants entitled to indigent representation
  - c) Include Traffic Court indigent representation as appropriate
  - d) Include Appeals
  - e) Assure compliance with all Supreme Court Orders and Performance Standards relative to the representation of indigent defendants

## **Las Vegas Municipal Court Plan for the Determination of Indigence\***

1. Defendant not in custody:
  - a) The defendant appears in the courtroom, is facing jail time and states that they cannot afford legal counsel for their defense.
  - b) The defendant completes the Declaration, and the Public Attorney determines from the Declaration that the defendant qualifies under the Presumptive Threshold Standard, accepts the case and represents the defendant.
  - c) If the Public Attorney requests a more rigorous screening, the completed Declaration is forwarded within 2 business days by the Public Attorney to the Las Vegas Municipal Court Judicial Enforcement Unit (JEU) for processing.
  - d) If the defendant disputes a finding of non-qualification for indigent status and court appointed counsel, or the Declaration has discretionary aspects that cannot be resolved by a more rigorous review.
  - e) The case may be continued for a hearing or other action as determined by the court.
  
2. Defendant in custody:
  - a) Defendants are presumed to be indigent if they are in custody.

\*Determination of Indigence Exhibits A & B attached:

Case/History No. \_\_\_\_\_

Exhibit A

# LAS VEGAS MUNICIPAL COURT

\*\*\*\*\*

## DECLARATION AND APPLICATION FOR COURT-APPOINTED COUNSEL

YOUR NAME: \_\_\_\_\_ Social Security Number \_\_\_\_\_

YOUR ADDRESS: \_\_\_\_\_ Do you live in Public Housing? \_\_\_\_\_  
Where you live? Are you serving a sentence? \_\_\_\_\_

\_\_\_\_\_  
City/State/Zip Code

HOME PHONE (\_\_\_\_) \_\_\_\_\_ CELL PHONE (\_\_\_\_) \_\_\_\_\_

WORK PHONE (\_\_\_\_) \_\_\_\_\_

### PERSONAL INFORMATION

Number of children or others you are legally responsible for: \_\_\_\_\_

Where do you work? \_\_\_\_\_

How much do you make monthly before taxes and anything else is taken out of your pay check: \$ \_\_\_\_\_

Other monthly Income (Wife/Husband, Partner, Co-habitant, other): \_\_\_\_\_

How much are all of your bills each month (rent, mortgage, utilities, credit cards, loans, car payment)  
\$ \_\_\_\_\_

I and/or my family am currently receiving the following:

AFDC	\$ _____	Unemployment	\$ _____	Worker's Comp	\$ _____
Food Stamps	\$ _____	SSI	\$ _____	Medicaid	\$ _____
Other Public Assistance Type	_____				\$ _____

I, \_\_\_\_\_, am saying that I cannot afford to hire an attorney. If a crime is charged against me and the City Attorney is seeking for me to serve time in jail and I cannot afford to hire an attorney, the court may appoint an attorney only under certain circumstances.

I have given the above information to see if an attorney can be appointed by the court to represent me in court. I understand that this information may be used to see if I can pay for an attorney to represent me in court. I am giving my permission to contact any credit bureau, review my credit report from any credit bureau, investigative agency or any other source. I authorize the Las Vegas Municipal Court to verify any statements made and information provided and obtain any other information needed. **I declare under penalty of perjury** that the information that has been given is true and correct. I understand that I might have to pay back all or a part of the attorney fees if it is found that I can pay.

\_\_\_\_\_  
Date \_\_\_\_\_

SIGN YOUR NAME

## 2008 HHS Poverty Guidelines

Exhibit B

Persons in Family or Household	Poverty Guidelines	Poverty Guidelines at 200%
1	\$10,400	\$20,800
2	14,000	\$28,000
3	17,600	\$35,200
4	21,200	\$42,400
5	24,800	\$49,600
6	28,400	\$56,800
7	32,000	\$64,000
8	35,600	\$71,200
For each additional person, add	3,600	\$7,200

**SOURCE:** *Federal Register*, Vol. 73, No. 15, January 23, 2008, pp. 3971-3972

A defendant is considered indigent if all gross income is less than the Poverty Guidelines above.



# Las Vegas Municipal Court

## At the Regional Justice Center

P.O. Box 3960 • Las Vegas, Nevada 89127-3960 • Main 702-229-6509 • Fax 702-385-5510 • TTY 702-384-3253

April 24, 2008

**FILED**

FEB 12 2009

TRACIE A. LINDEMAN  
CLERK OF SUPERIOR COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

Judiciary

Judge Bert Brown  
Chief Judge  
Department 4

Judge Cynthia S. Leung  
Department 1

Judge Elizabeth B. Kolkoski  
Department 2

Judge George Assad  
Department 3

Judge Cedric A. Kerns  
Department 5

Judge Martin D. Hastings  
Department 6

Court Administration

James P. Carmany  
Court Administrator

Chief Justice Mark Gibbons  
Nevada Supreme Court  
201 South Carson St  
Carson City, NV 89701-4702

Dear Chief Justice Gibbons:

Pursuant to ADKT 411, "*In the Matter of the Review of Issues Concerning Representation of Indigent Defendants in Criminal and Juvenile Delinquency Cases*", the following Administrative Plan is submitted by the Las Vegas Municipal Court for the review and approval by the Nevada Supreme Court.

It is the intent of the Las Vegas Municipal Court to implement the attached plan within six months of receiving the Court's approval.

Should the justices have any questions regarding this Administrative Plan, both myself and/or our Court Administrator, James Carmany, would be pleased to address them with the court. We can be contacted at 702-229-4673.

Sincerely,

Bert Brown  
Chief Judge

jc  
docs/admin/minutes/Indigent/Supreme Court Cover Ltr 4-08

Enclosures

Cc: Municipal Court Judges  
James Carmany  
Municipal Court Indigent Defense Admin Plan Committee

In Memoriam

The Honorable Seymore H. Brown  
September 2, 1929 - June 16, 2000

Mission Statement

To provide efficient and ethical proceedings through quality service, alternative sentencing, and innovative use of technology.

09-31703

# ***Las Vegas Municipal Court***

In response to the Supreme Court Order dated January 4, 2008 titled, "IN THE MATTER OF THE REVIEW OF ISSUES CONCERNING REPRESENTATION OF INDIGENT DEFENDANTS IN CRIMINAL AND JUVENILE DELINQUENCY CASES"

The Las Vegas Municipal Court (LVMC) hereby submits the following Administrative Plan for the selection of attorneys to represent Indigent Misdemeanor Defendants and the process for the determination of a Defendant's Indigence:

## **Indigent Defense Administrative Plan**

1. The City of Las Vegas Finance & Business Services Purchasing & Contracts Division (Purchasing) in conjunction with City of Las Vegas Human Resources (HR) Department will issue a Request for Proposal (RFP) for the representation of indigent defendants for all matters before the Las Vegas Municipal Court (LCMC).
  - a) Public Attorney Contracts will be offered for each LVMC department with no limitation on the number of contracts an individual applicant may apply for or be awarded.
    - (1) Contract will be awarded at a fixed annual price as determined by the City of Las Vegas City Council.
2. Independent Selection Committee will determine who is awarded the individual Public Attorney contracts. Selection Committee will be comprised of 5 members who will make the final determination relative to the awarding of any Municipal Court Indigent Representation contracts, including "mid-cycle" replacements should a vacancy occur.
  - a) Committee will include representatives from: The Federal Public Defender office, County Public Defender office, Nevada State Bar, Criminal Justice Association (attorney group) and the City of Las Vegas City Manager's office.
  - b) Court/judicial input relative to potential conflicts of interest, may be provided prior to the selection committee's review, however, no judicial pre-empt and/or veto of any selection is permitted.
  - c) Committee to be constituted by July 1, 2008, with first order of business to establish their "rules".
3. City of Las Vegas Purchasing & HR to have responsibility for all Administrative functions including:
  - a) Establishing the Scope of Work and Issuing the Request for Proposals.
  - b) Conducting initial review/interview of all applicant firms to ensure they meet all basic criteria (as established by the Supreme Court Order and LVMC) before submitting all qualified applicants to the independent "Selection Committee".



- c) Writing and Issuing Public Attorney contract(s) and ensuring that all mandated licenses, proof of insurance, etc., are obtained.
  - d) Ensuring that all individual indigent defense attorneys employed by the firm(s) awarded a Public Attorney contract meet all LVMC and Supreme Court Order eligibility criteria both at contract issuance and throughout term of contract.
  - e) Conducting periodic "audits" to ensure contract compliance.
  - f) Payment.
4. Minimum Qualifications for Attorneys/Firms awarded a contract:
- a) 1M Liability/Malpractice Insurance.
  - b) Experience- Three (3) years or more of criminal experience required for all attorneys supporting the contract.
  - c) Administrative plan to be submitted as part of application process detailing how the Public Attorney will provide appropriate service levels to the department(s) they are awarded, including how they will fill attorney staff vacancies (vacation, illness, etc.).
  - d) List of all attorneys who will practice in the courtroom submitted and approved by the selection committee as part of application process.
  - e) Changes to approved attorney list supporting the contract must be approved by the Selection Committee prior to practicing in the courtroom.
    - (1) Emergency attorney substitution- name must be submitted within a reasonable period of time.
5. Scope of Work to be included in the Request for Proposal will:
- a) Be developed by a committee appointed by the Las Vegas Municipal Court and the Las Vegas City Manager's Office.
  - b) Include full professional defense for all defendants entitled to indigent representation
  - c) Include Traffic Court indigent representation as appropriate
  - d) Include Appeals
  - e) Assure compliance with all Supreme Court Orders and Performance Standards relative to the representation of indigent defendants

## **Las Vegas Municipal Court Plan for the Determination of Indigence\***

1. Defendant not in custody:
  - a) The defendant appears in the courtroom, is facing jail time and states that they cannot afford legal counsel for their defense.
  - b) The defendant completes the Declaration, and the Public Attorney determines from the Declaration that the defendant qualifies under the Presumptive Threshold Standard, accepts the case and represents the defendant.
  - c) If the Public Attorney requests a more rigorous screening, the completed Declaration is forwarded within 2 business days by the Public Attorney to the Las Vegas Municipal Court Judicial Enforcement Unit (JEU) for processing.
  - d) If the defendant disputes a finding of non-qualification for indigent status and court appointed counsel, or the Declaration has discretionary aspects that cannot be resolved by a more rigorous review.
  - e) The case may be continued for a hearing or other action as determined by the court.
  
2. Defendant in custody:
  - a) Defendants are presumed to be indigent if they are in custody.

\*Determination of Indigence Exhibits A & B attached:

Case/History No. \_\_\_\_\_

**Exhibit A**

## LAS VEGAS MUNICIPAL COURT

\*\*\*\*\*

### DECLARATION AND APPLICATION FOR COURT-APPOINTED COUNSEL

YOUR NAME: \_\_\_\_\_ Social Security Number \_\_\_\_\_

YOUR ADDRESS: \_\_\_\_\_ Do you live in Public Housing? \_\_\_\_\_

Where you live? \_\_\_\_\_

Are you serving a sentence? \_\_\_\_\_

\_\_\_\_\_  
City/State/Zip Code

HOME PHONE (\_\_\_\_) \_\_\_\_\_ CELL PHONE (\_\_\_\_) \_\_\_\_\_

WORK PHONE (\_\_\_\_) \_\_\_\_\_

### PERSONAL INFORMATION

Number of children or others you are legally responsible for: \_\_\_\_\_

Where do you work? \_\_\_\_\_

How much do you make monthly before taxes and anything else is taken out of your pay check: \$ \_\_\_\_\_

Other monthly Income (Wife/Husband, Partner, Co-habitant, other): \_\_\_\_\_

How much are all of your bills each month (rent, mortgage, utilities, credit cards, loans, car payment)  
\$ \_\_\_\_\_

I and/or my family am currently receiving the following:

AFDC	\$ _____	Unemployment	\$ _____	Worker's Comp	\$ _____
Food Stamps	\$ _____	SSI	\$ _____	Medicaid	\$ _____
Other Public Assistance Type	_____				\$ _____

I, \_\_\_\_\_, am saying that I cannot afford to hire an attorney. If a crime is charged against me and the City Attorney is seeking for me to serve time in jail and I cannot afford to hire an attorney, the court may appoint an attorney only under certain circumstances.

I have given the above information to see if an attorney can be appointed by the court to represent me in court. I understand that this information may be used to see if I can pay for an attorney to represent me in court. I am giving my permission to contact any credit bureau, review my credit report from any credit bureau, investigative agency or any other source. I authorize the Las Vegas Municipal Court to verify any statements made and information provided and obtain any other information needed. **I declare under penalty of perjury** that the information that has been given is true and correct. I understand that I might have to pay back all or a part of the attorney fees if it is found that I can pay.

\_\_\_\_\_  
Date \_\_\_\_\_

SIGN YOUR NAME

## 2008 HHS Poverty Guidelines

Exhibit B

Persons in Family or Household	Poverty Guidelines	Poverty Guidelines at 200%
1	\$10,400	\$20,800
2	14,000	\$28,000
3	17,600	\$35,200
4	21,200	\$42,400
5	24,800	\$49,600
6	28,400	\$56,800
7	32,000	\$64,000
8	35,600	\$71,200
For each additional person, add	3,600	\$7,200

**SOURCE:** *Federal Register*, Vol. 73, No. 15, January 23, 2008, pp. 3971-3972

A defendant is considered indigent if all gross income is less than the Poverty Guidelines above.