

May 22, 2008

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

**FILED**

MAR 03 2009

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

RE: ADKT No. 411  
Henderson Municipal Court  
Plan for Indigent Defense

Dear Chief Justice Gibbons:

Pursuant to ADKT 411, the following Administrative Plan is submitted by the Henderson Municipal Court for the review and approval by the Nevada Supreme Court. It is the intent of the Henderson Municipal Court to implement the plan within six months of receiving the Court's approval.

#### INDIGENT DEFENSE ADMINISTRATIVE PLAN

1. The City of Henderson Finance Department will issue a Request for Proposal (RFP) for Public Defender Services. The Public Defender contracted through the RFP process will be responsible to provide representation of indigent defendants for all matters before the Henderson Municipal Court (HMC). The Public Defender will subcontract to qualified attorneys. There will be one Public Defender working in each HMC Department. The Public Defender Contract will be awarded at a fixed annual price as determined by the City of Henderson City Council.
2. An Independent Selection Committee (ISC) will recommend a Public Defender to the City Council based on the responses to the RFP. The ISC will consist of the 3 members or their designees as follows: the HMC Court Administrator, the City of Henderson City Attorney and the City of Henderson City Manager. The HMC Judges will no longer be involved in the RFP selection process.
3. The HMC Court Administrator will continue to approve claims for payment and will be responsible for all administrative functions relating to the Public Defender.
4. The minimum qualifications for HMC Public Defenders awarded a contract include:
  - a) \$1.0 M Liability/Malpractice Insurance
  - b) Commercial General Liability and Automotive Liability - \$1.0 M per occurrence for bodily injury, personal injury and property damage
  - c) Workers Compensation in a form acceptable to the Insurance Commissioner, State of Nevada, statutory limits and Employer's Liability of \$1.0 M per occurrence, per accident for bodily injury or disease.
  - d) Licensed to practice Law in Nevada

09-31704

- e) A member in good standing of the State Bar of Nevada
  - f) Three years of criminal law trial experience
  - g) Possession of a valid Nevada driver's license
  - h) Possession of a City of Henderson business license for each attorney
5. Scope of Work in the Request for Proposal will:
- a) be developed by the ISC
  - 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
6. If the Public Defender has a conflict in a case a Conflict Attorney will be appointed through the Henderson Municipal Court Conflict attorney Appointment Policy (attached).

#### PLAN FOR THE DETERMINATION OF INDIGENCE

1. Defendant not in custody or 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 Application for Public Defender form, the Presiding Judge determines from the Application that the defendant qualifies under the Presumptive Threshold Standard, and appoints the Public Defender to represent the defendant in the case.
  - c) If the defendant disputes a finding of non-qualification for indigent status and court appointed counsel the case may be continued for a hearing or other action as determined by the court.

Should the Justices have any questions regarding the Administrative Plan, both myself and/or Chief Judge Diana Hampton, would be pleased to address them with the Court. We can be contacted at 702-267-3359.

Sincerely,

David Hayward  
Municipal Court Administrator  
Henderson Municipal Court

Enclosure  
Cc: Municipal Court Judges  
File

**McCormick, John**

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**From:** David Hayward [David.Hayward@cityofhenderson.com]  
**Sent:** Monday, March 02, 2009 3:56 PM  
**To:** McCormick, John  
**Cc:** Diana Hampton; Jennifer Hauser; Bill Zihlmann; Howard Scow; Debbie Miller  
**Subject:** RE: ADKT 411  
**Attachments:** ADKT No. 411 Indigent Defense Plan.doc

John,

Actually, I was planning to follow up with Ron Titus on this. The Henderson Municipal Court did mail a copy of our plan up to the Court back on May 22, 2008. We sent the plan regular mail. I have attached a copy of our plan.

Please let me know if you have any questions about the plan or require any additional information.

Thank you.

David Hayward  
Court Administrator  
Henderson Municipal Court

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**From:** McCormick, John [mailto:jmccormick@nvcourts.nv.gov]  
**Sent:** Monday, March 02, 2009 3:08 PM  
**To:** David Hayward; MillerD@ci.north-las-vegas.nv.us  
**Subject:** ADKT 411

David and Debbie,

I am contacting you because the Nevada Supreme Court has not received administrative plans from your courts pursuant to the Court's Order of January 4, 2008:

"Each municipal court shall submit any existing administrative plan or formulate and submit to the Nevada Supreme Court for approval by May 1, 2008, and administrative plan that excludes trial judge... hearing the case and provides for: (1) the appointment of trial counsel and appellate counsel; (2) the approval of expert witness fees, investigation fees, and attorney fees; and (3) the determination of a defendant's indigency in each of their courts."

I realize this notice is very late, and intent of this e-mail is not to upset your courts, but rather to help each court in the urban jurisdictions of the State to come into compliance with ADKT 411 and prepare for a potential Supreme Court hearing regarding the aforementioned plans.

You can find all the ADKT 411 documents at:

<http://www.nvsupremecourt.us/ccp/commissions/idc/index.php>

Please feel free to contact me with questions, comments, and/or concerns.

Thanks,  
John

03/03/09

John R. McCormick  
Rural Courts Coordinator  
Administrative Office of the Courts  
(775) 684-1703 / (775) 687-9813 / Fax (775) 687-9811  
jmccormick@nvcourts.nv.gov

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