

Office of the
CHURCHILL COUNTY COMMISSIONERS

Carl Erquiaga
Pete Olsen
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November 24, 2014

FILED

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Nevada Supreme Court
Tracie K. Lindeman
Clerk of the Supreme Court
201 South Carson Street
Carson City, NV 89701

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

RE: Churchill County's comments on the matter of the Supreme Court of the State of Nevada's review of issues concerning representation of indigent defendants in criminal and juvenile delinquency cases (ADKT 0411)

Dear Ms. Lindeman,

Please accept the following comments hereby submitted by the Board of Churchill County Commissioners on the Supreme Court of the State of Nevada's public hearing at 2:00 p.m. on Thursday, December 4, 2014 to consider the Rural Subcommittee's report and proposed recommendations to improve service to indigent defendants.

The Board of Churchill County Commissioners has reviewed and supports the Rural Subcommittee Report On The Status of Indigent Defense In The 15 Rural Counties And Recommendations To Improve Service To Indigent Defendants, with exception. Specifically, Churchill County supports recommendation 2., realizing that with the unlikeliness of the Nevada Legislature to fully fund a State Public Defender's Office for rural counties, the rural counties should have flexibility in determining a method to provide effective legal representation to indigent defendants. The Subcommittee Recommendations 2. state that "This recommendation is made contingent on the counties using a contract method *that does not use a totally flat fee contract*, which have some built in legal issues, but execute contracts for indigent defense that allow for a modification of fees for extraordinary cases, for death penalty cases under the requirements of S. Ct. Rule 250, and allow for investigative fees and expert witness fees." While Churchill County employs a "flat fee contract" with three private attorneys to provide indigent defense services, our contracts allow for additional "reimbursement for extraordinary investigative costs, expert witness fees, or other necessary services if so ordered by a Court, pursuant to NRS 7.135."

Therefore, Churchill County interprets that our current method of flat fee contracting **with provisions** for additional reimbursement of extraordinary investigative costs, expert witness fees, or other necessary services is in line with the Subcommittee Recommendations. However, the recommendation does not define "extraordinary cases", and given the ambiguity of this language, the County finds it nearly impossible to define, as even a simple misdemeanor can

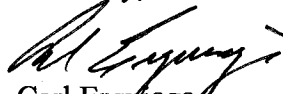
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CLERK OF SUPREME COURT
DEPUTY CLERK

become extremely complicated and time consuming while a serious felony charge may oftentimes be easily resolved by the attorneys. Churchill County's contracts define the types of additional reimbursement allowable, and we ask that the Court take our concerns on this issue into consideration.

Furthermore, Churchill County would like to point out that our current method is working very well, and not only meets the Constitutional obligation set forth in the Sixth Amendment to provide effective legal representation to the indigent criminal defendant, but has the additional benefit of utilizing local qualified attorneys who are familiar with and best understand their clients, and who are vested in this community. With the State of Nevada not providing the financial obligation for this mandatory service, resulting in an unfair financial burden, the ability of the counties to plan for and adequately budget for indigent services is essential. Utilizing a base rate with the provision for extraordinary cases provides the county with a well-defined estimate of the budgetary resources necessary for that year.

Churchill County appreciates the work of the Rural Subcommittee, and the opportunity afforded by this Court to submit comments on improving services for indigent defendants in our State. If you have any questions or require additional information, please contact the Churchill County Manager's Office, at (775) 423-5136.

Sincerely,



Carl Erquiaga
Chairman