



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** September 16, 2021

Staff Contact: Max Cortes

Agenda Title: For Possible Action: Discussion and possible action regarding Carson City's Indigent Defense Services Plan ("Plan"), a plan required by Nevada Revised Statutes ("NRS") 260.070 for the provision of legal services to persons accused of certain crimes who are unable to afford an attorney. (Nancy Paulson, npaulson@carson.org, and Max Cortes, mcortes@carson.org)

Staff Summary: Carson City is required, under NRS 260.070, to provide an annual report to the Nevada Department of Indigent Defense Services ("DIDS"), which must include Carson City's Plan. While the full report is not currently due, DIDS promulgated temporary regulations requiring Carson City's Plan to be submitted to DIDS by September 3, 2021. Carson City received an extension of time from DIDS to submit the Plan by October 31, 2021.

Agenda Action: Formal Action / Motion **Time Requested:** 15 minutes

Proposed Motion

I move to approve the Indigent Defense Services Plan as presented.

Board's Strategic Goal

Efficient Government

Previous Action

N/A

Background/Issues & Analysis

The State of Nevada has been studying the right to counsel of indigent persons provided by the Sixth Amendment of the United States Constitution and Nevada law. Nevada studied the provision of legal services to indigent persons through the Nevada Supreme Court's creation of the Indigent Defense Commission ("IDC"). The IDC recognized that rural counties, including Carson City, faced different needs and issues than Washoe and Clark Counties.

Carson City, in particular, was identified as the "Gold Standard" among the rural counties in providing indigent defense services. Carson City already contracts with the Nevada State Public Defender's Office to represent indigent persons in Carson City. Carson City already contracts with conflict counsel to represent indigent persons in Carson City when the Nevada State Public Defender's Office has a conflict. Carson City already works with private attorneys to represent indigent persons in Carson City when the Nevada State Public Defender's Office and contracted conflict counsel have a conflict. The Plan contemplates continuing these services.

Through the work of the IDC, the Nevada Supreme Court entered an administrative order in Administrative Docket ("ADKT") 411 implementing certain recommendations and standards for the provision of indigent defense services in Nevada, and the Legislature created the Board of Indigent Defense Services ("Board") and DIDS, both codified in NRS Chapter 180, in the 2019 Legislative session. With the creation of the Board and DIDS, the IDC was disbanded, with the Board and DIDS picking up where the IDC left off to ensure effective assistance of counsel to indigent persons in Nevada. The Board has enacted Temporary Regulations requiring Carson City to submit its initial Plan to the Department.

At present, there is limited fiscal impact to Carson City based solely on this Plan. In general, the Plan contemplates continuing services already provided. However, the cost of these services to Carson City is expected to increase in the following areas: (1) conflict counsel costs are expected to increase due to DIDS regulations and requirements--the conflict counsel contracts are before the Board of Supervisors in the consent section of this agenda; and (2) costs will increase for approving compensation and expenses because senior judges or judges pro tempore will be used for that function under this Plan--as of the publishing of the agenda, these costs are not yet estimated. Also included in the Plan, in accordance with DIDS recommendations, is a provision for up to a \$2,500 fund per case to permit indigent defense counsel to spend up to that proposed amount without oversight. Although staff is still compiling an estimate of the costs for this item, the preliminary estimated cost for this portion of the Plan is approximately \$1 Million (approximately 400 cases). Funding for this portion of the Plan, if any, will be sought from the State of Nevada. Any future request for increased funding will come back before the Board of Supervisors.

Applicable Statute, Code, Policy, Rule or Regulation

NRS 260.070; NRS Chapter 180; Temporary Regulations of the Board of Indigent Defense Services.

Financial Information

Is there a fiscal impact? Yes

If yes, account name/number: General Fund, Public Defender Department 1010610-XXXXXX

Is it currently budgeted? Yes

Explanation of Fiscal Impact: The State Public Defender, conflict counsel and outside counsel are budgeted for Fiscal Year 2022 at \$1,649,723. Increases to conflict counsel contracts, if approved, will be augmented in January as discussed under consent. No other increases are expected at this time.

Alternatives

Do not approve the Indigent Defense Services Plan and provide alternative direction.

Attachments:

[Indigent Defense Services Plan 081721g.pdf](#)

Board Action Taken:

Motion: _____	1) _____	Aye/Nay
	2) _____	_____

(Vote Recorded By)

Consolidated Municipality of Carson City

Plan for Indigent Defense Services

Est. September 16, 2021



CARSON CITY INDIGENT DEFENSE SERVICES PLAN

The Carson City Indigent Defense Services Plan (“Plan”) has been developed jointly between the Consolidated Municipality of Carson City (“Carson City”), the First Judicial District Court (“FJDC”), and the Carson City Justice/Municipal Court (“CCJMC”) in all situations in which counsel is required to be appointed for persons under section 180.004 of the Nevada Revised Statutes (“NRS”), or under any other NRS provision. The FJDC and the CCJMC may individually be referred to as a “Court,” or collectively be referred to as the “Courts.” This Plan is designed to meet the requirements of NRS 260.070(2) placed on Carson City, and to comply with the Nevada Supreme Court’s orders in ADKT 411. This Plan is effective once approved by the Carson City Board of Supervisors and adopted by the FJDC and the CCJMC by administrative order.

1. OBJECTIVE

The objective of this Plan is to:

- a. address:
 1. the determination of a person’s status as indigent;
 2. the appointment of counsel for an indigent person in appropriate juvenile, misdemeanor, and felony matters pending before the Courts, including trial and pre-trial proceedings, post-conviction matters, and appeals not subject to Rule 3C of the Nevada Rules of Appellate Procedure; and
 3. the approval of compensation and expenses for appointed counsel, including expert witness fees, investigative fees, and attorney fees; and
- b. ensure an eligible indigent person is provided with qualified counsel to protect his or her constitutional rights.

2. DEFINITIONS

- a. “Conflict Counsel” means a DIDS qualified attorney who has entered into a contract with Carson City to represent indigent persons when the State Public Defender has a conflict and is disqualified from representing an indigent person.
- b. “Counsel” means the State Public Defender, conflict counsel, and a private attorney, unless otherwise defined in a particular section.
- c. “DIDS” means the Nevada Department of Indigent Defense Services.
- d. “DIDS qualified” means DIDS’ placement of an attorney on the list of attorneys who are qualified to represent indigent persons in Carson City.
- e. “Indigent Defense Coordinator” means the person assigned by Carson City to coordinate the selection of counsel and the approval of fees and expenses for counsel, or the person’s designee.
- f. “Indigent Person” means an individual deemed indigent under this Plan.
- g. “Private Attorney” means a DIDS qualified attorney other than the State Public Defender or Conflict Counsel.
- h. “Represent” or “Representation” means legal representation of an indigent person by appointed counsel.
- i. “Services” means services provided to an indigent person during appointed counsel’s representation of that person, and includes investigative, expert, and other services.

- j. “State Public Defender” means the Nevada State Public Defender’s Office established under NRS Chapter 180 with whom Carson City has contracted with to provide representation and services to an indigent person.

3. APPLICABILITY

- a. This Plan covers appointment of counsel for “indigent defense services,” as that term is defined in NRS 180.004. This covers legal representation and services for a person under the Sixth Amendment to the United States Constitution, NRS 7.115, NRS 34.750, NRS 62D.030, NRS 171.180, and for any law imposing criminal liability on a person that requires or permits the appointment of counsel for an indigent person.
- b. In addition to the representation and services required to be covered under NRS 180.004, this plan also addresses NRS 62D.100, NRS 128.100, NRS 432B.420, and NRS 433A.270, or any other law not involving criminal liability that requires or permits the appointment of counsel, whether or not for an indigent person.
 - 1. The appointment of counsel under NRS 62D.100, NRS 128.100, NRS 432B.420(1), and NRS 433A.270 will follow the procedures in this Plan.
 - 2. Carson City has contracted with Washoe Legal Services to represent minors in NRS Chapter 432B actions. Washoe Legal Services will be appointed under NRS 432B.420(2), and if Washoe Legal Services has a conflict, the procedure in subsections 8(c), (d), and (e) will be followed.
- c. This Plan does not cover NRS Chapters 159, 159A, or 253.
- d. Notwithstanding any other section of this Plan, under NRS 180.004 DIDS’ regulations apply only to attorneys providing services in cases under section 2(a). DIDS’ regulations do not apply to attorneys providing services in cases under section 2(b).
- e. This is a holistic plan to address the provision of representation and services to individuals under applicable law in Carson City. The functioning of such representation and services in Carson City relies upon the State Public Defender representing parents in NRS Chapter 432B actions. If the State Public Defender fails to represent parents in NRS Chapter 432B actions or if any part of this Plan is required to be modified, Carson City and the Courts may terminate this Plan or reevaluate indigent defense services in Carson City, or both.

4. CASES IN WHICH COUNSEL MUST OR MAY BE APPOINTED

- a. Mandatory Appointment. Representation must be provided for any indigent person who:
 - 1. is charged with a felony;
 - 2. is charged with a misdemeanor or gross misdemeanor in which the prosecution is seeking jail time (incarceration);
 - 3. is alleged to have violated probation or other supervision and a jail or prison sentence of confinement may be imposed;
 - 4. is seeking relief under NRS 34.724(1) from a death sentence, under NRS 34.750;
 - 5. is a minor alleged to have committed an act of juvenile delinquency, under NRS 62D.030;
 - 6. a minor who has been placed outside of his or her home pursuant to NRS Chapter 432B and is involved in a proceeding to terminate the rights of the minor’s parents, under NRS 128.100(2);
 - 7. is a minor who is alleged to have been abused or neglected, under NRS 432B.420;

8. is a parent of an Indian minor who is alleged to have abused or neglected the minor, under NRS 432B.420(3);
 9. is a person who is facing involuntary commitment, under NRS 433A.270;
 10. is in custody as a material witness;
 11. is entitled to appointment of counsel under the Sixth Amendment to the United States Constitution or any provision of the Nevada Constitution;
 12. is entitled to appointment of counsel because due process requires the appointment of counsel;
 13. is likely to face Court imposed jail or prison time;
 14. faces loss of liberty in a case and Nevada law requires the appointment of counsel;
 15. faces loss of liberty for criminal contempt; or
 16. has received notice that a grand jury is considering a charge against him/her and has requested counsel.
- b. Discretionary Appointment. When a court determines that the interests of justice so require, representation may be provided for any indigent person:
1. who is:
 - i. seeking post-conviction relief under NRS 34.724(1), other than from a death sentence, under NRS 34.750;
 - ii. a parent of a minor who is alleged to be delinquent or in need of supervision, under NRS 62D.100(1);
 - iii. a minor involved in a proceeding to terminate or restore parental rights, under NRS 128.100(1);
 - iv. a parent who is facing a proceeding to terminate or restore his or her parental rights, under NRS 128.100(3);
 - v. is alleged to have abused or neglected a child, under NRS 432B.420;
 - vi. charged with civil contempt and faces loss of liberty; or
 - vii. called as a witness before a grand jury, a court, or any agency which has the power to compel testimony, if there is reason to believe, either prior to or during testimony, that the witness could be subject to criminal prosecution, a civil or criminal contempt proceeding, or face loss of liberty; or
 2. in any other case in which the court determines in the interests of justice appointment of counsel is appropriate.

5. DETERMINATION OF INDIGENCY

- a. A person must be deemed indigent, and is eligible for appointment of counsel to represent the person, if the person is unable, without substantial hardship to himself or herself or his or her dependents, to obtain competent and qualified legal counsel on his or her own.
- b. “Substantial hardship” is presumed for a person who:
 1. receives public assistance, including food stamps, temporary assistance for needy families, Medicaid, or disability insurance;
 2. resides in public housing;
 3. earns less than 200 percent of the Federal Poverty Guidelines;
 4. is currently serving a sentence in a correctional institution;
 5. is housed in a mental health facility, or
 6. is a minor.

- c. If substantial hardship is not presumed for a person, a Court may deem a person to have a substantial hardship based upon the person's particular circumstances, including:
 - 1. the nature, extent, and liquidity of the person's assets;
 - 2. the person's disposable income from all sources;
 - 3. the person's monthly expenses;
 - 4. the seriousness of the charges that the person is facing;
 - 5. whether the person is able to comprehend the proceedings and the charges that the person is facing;
 - 6. the effort and skill required to gather pertinent information about the case;
 - 7. the length and complexity of the proceedings;
 - 8. local private counsel rates;
 - 9. whether discovery is needed in post-conviction proceedings; or
 - 10. any other consideration that bears upon the person's ability to retain and pay an attorney.
- d. The Court may determine that a person is partially indigent if the Court finds that a person can afford private counsel or has retained counsel, but the person cannot be effectively represented due to the person's inability to pay for necessary services.
- e. A finding of indigency is not required under:
 - 1. NRS 62D.030(3), for a minor alleged to have committed an act of juvenile delinquency;
 - 2. NRS 62D.100(1), for a parent of a minor alleged to have committed an act of juvenile delinquency;
 - 3. NRS 128.100(2), for a minor who has been placed outside of his or her home pursuant to NRS Chapter 432B and is involved in a proceeding to terminate the rights of the minor's parents;
 - 4. NRS 432B.420(2), for a minor who is alleged to have been abused or neglected;
 - 5. NRS 432B.420(3), for the parent of an Indian minor who is alleged to have been abused or neglected; or
 - 6. NRS 433A.270, for a person who is facing involuntary commitment.

6. SCREENING FOR INDIGENCY

- a. Screening for indigency and substantial hardship must be conducted by the Carson City Alternative Sentencing Department, the Carson City Sheriff's Office, or other court or law enforcement personnel:
 - 1. within 48 hours, or sooner as required by applicable law:
 - i. for a person who is booked into the Carson City Jail or a juvenile detention facility; or
 - ii. for a person who appears before a Court and requests, or is required to be appointed, counsel; or
 - 2. within the time frame directed by the Court.
- b. The screening results must be provided to the Courts immediately upon completion.

7. TIME FOR APPOINTMENT OF COUNSEL

- a. The Court must review the screening results and the case to determine:
 - 1. if a person has requested representation, whether:

- i. the appointment of counsel is mandatory or the interests of justice require the discretionary appointment of counsel; and
 - ii. the person is indigent or partially indigent; or
 - 2. if a person is required by law to be appointed counsel.
- b. An attorney must be appointed for any eligible indigent person:
 - 1. as soon as feasible after:
 - i. formal charges being filed against a person held in custody;
 - ii. a person's first appearance before a judge; or
 - 2. as required by any other applicable provision of law;
 - 3. when a Court otherwise considers appointment of counsel appropriate; or
 - 4. otherwise as soon as feasible.
- c. An eligible indigent person must be appointed:
 - 1. one attorney, except in a capital case; or
 - 2. two attorneys in a capital case in which a person is reasonably believed to face capital punishment; at least one of the two attorneys appointed in a capital case must meet the minimum standard for lead counsel pursuant to Rule 250 of the Nevada Supreme Court Rules and both attorneys appointed must conform to the performance guidelines or standards for capital cases as adopted by the Nevada Supreme Court.

8. APPOINTMENT OF COUNSEL

- a. Attorneys appointed for co-defendants may not be from the same law firm.
- b. The indigent defense coordinator will generally follow the procedure in this section to select counsel. The indigent defense coordinator may, however, select as counsel for an indigent person the counsel that represented the indigent person in a previous action if it would be in the indigent person's best interests to have the same counsel and would facilitate the indigent person's defense.
- c. Unless the indigent defense coordinator is aware of a conflict in a particular case for the State Public Defender, the indigent defense coordinator must first select the State Public Defender to represent an eligible indigent person.
 - 1. The State Public Defender must determine whether it may accept the representation and conduct a conflict check to determine whether any conflict of interest exists which would prevent representation of the person. If the State Public Defender cannot accept the representation or a conflict is determined to exist, the State must notify the indigent defense coordinator.
 - 2. The assignment to a case of a specific attorney, or attorneys, working for the State Public Defender rests solely within the discretion of the State Public Defender.
- d. If the State Public Defender has a conflict or is otherwise unable to represent an eligible indigent person, the indigent defense coordinator will select conflict counsel.
 - 1. The indigent defense coordinator will use his or her best effort to balance the number of cases assigned to each conflict counsel, and the workload of each conflict counsel, by fairly rotating the case assignments through the list of conflict counsel.
 - 2. Unless the indigent defense coordinator is aware of a conflict in a particular case for a conflict counsel, the indigent defense coordinator will contact the next conflict counsel on the list. The contacted conflict counsel must conduct a conflict check

- to determine whether any conflict of interest exists which would prevent representation of the person. If a conflict is determined to exist, the conflict counsel must notify the indigent defense coordinator. A conflict counsel must conduct the conflict checks and notify the indigent defense coordinator within 1 day of being appointed.
3. If the contacted conflict counsel has a conflict, the indigent defense coordinator will follow the procedure in subsection 1 and contact the next conflict counsel in the rotation until a conflict counsel accepts the case, or all conflict counsel are unavailable or have a conflict of interest.
- e. If no conflict counsel are available, or if all conflict counsel have a conflict of interest, the indigent defense coordinator will contact private attorneys.
1. The indigent defense coordinator will use his or her best efforts to balance the number of cases assigned to each private attorney, and the workload of each private attorney assigned by the Courts, by fairly rotating the case assignments through the DIDS list of private attorneys. Cases will be assigned to private attorneys having an office in Carson City first. If no private attorney on the DIDS list is available in Carson City, cases will be assigned to private attorneys having an office in Douglas, Lyon, Storey, or Washoe Counties. Private attorneys having offices in other counties are deemed to be too remote to Carson City to provide effective assistance of counsel.
 2. Unless the indigent defense coordinator is aware of a conflict in a particular case for a private attorney, the indigent defense coordinator will contact the next private attorney on the list. The contacted private attorney must conduct a conflict check to determine whether any conflict of interest exists which would prevent representation of the person. If a conflict is determined to exist, the private attorney must notify the indigent defense coordinator. A private attorney must conduct the conflict checks and notify the indigent defense coordinator within 1 day of being appointed.
 3. If the private attorney has a conflict, the indigent defense coordinator will follow the procedure in subsection 1 and contact the next private attorney on the DIDS list until a private attorney accepts the case, or all private attorneys on the DIDS list are unavailable or have a conflict of interest.
- f. If no counsel is available to represent the indigent person, the indigent defense coordinator may contact, and the Court may appoint, any attorney who, in the Court's discretion, will provide competent representation to the indigent person. The indigent defense coordinator and the Court will use their best efforts to contact and appoint an attorney who will comply with DIDS' regulations, if applicable. An attorney based in Washoe County who the Courts appoint to represent indigent persons in Carson City must comply with DIDS' requirements for counties whose population is 100,000 or more.
- g. The Court will enter an order appointing counsel or an attorney to represent the indigent person.
- h. Any counsel or attorney appointed in cases involving juveniles must be experienced in juvenile matters, or must otherwise be able to provide competent representation to the indigent person.

9. RECONSIDERATION OF DETERMINATION OF INDIGENCY

If a person or the person’s counsel or attorney is unsatisfied with the Court’s determination of indigency or partial indigency, the person or the person’s counsel or attorney may request reconsideration of the Court’s determination of indigency.

- a. A FJDC department will review a decision made by a CCJMC court.
- b. The department of the FJDC not assigned to the case will review a decision made by a FJDC court
- c. The decision of a juvenile court master may be objected to under juvenile court procedures.

10. CHANGE IN ELIGIBILITY

- a. An appointed counsel must advise the Court if, or when, an indigent person has a change in his or her financial condition that may make him or her ineligible for public payment for indigent representation.
- b. Information that an indigent person provides to his or her appointed counsel that concerns the person’s eligibility as an indigent person for appointment of counsel is not protected as a privileged attorney-client communication.

11. COMPENSATION

- a. Carson City will compensate the State Public Defender as provided by NRS Chapter 180 for representation of indigent persons.
- b. Carson City will compensate conflict counsel as provided in the applicable contract with Carson City. Carson City will compensate private attorneys and other attorneys under this Plan or other applicable law for time that is reasonable and necessary for representation of an indigent person.
- c. Unless otherwise provided in a contract, conflict counsel, private attorneys, and attorneys (collectively “counsel” for this section) may seek compensation for representation of an indigent person through the following procedure.
 - 1. Counsel must submit a request for compensation to the indigent defense coordinator, using a form prescribed by the indigent defense coordinator.
 - i. The request must be supported by a sworn statement specifying time entries rounded to the nearest one-tenth of an hour, a detailed description of the work performed for the representation, a description of the compensation rate applicable to counsel, and any compensation already received from any source for representation in the case. The invoice must comply with the requirements of section 14.
 - ii. Counsel must submit a request for compensation at least quarterly, but in any event within 60 days after the date that the representation is terminated. Requests submitted more than 60 days after representation is terminated will be denied.
 - iii. The indigent defense coordinator will submit the request to a senior judge, if available, or a judge pro tempore, if a senior judge is not available, to review the request for compensation. The senior judge or judge pro tempore will approve or deny the request. The senior judge or judge pro tempore will not hold a hearing regarding the request.
 - 2. If the request is denied, counsel may file a motion for compensation with the trial court within 7 days of service of the denial of compensation. A motion for

compensation must contain the request for compensation, any information accompanying the request, the denial of the request for compensation, and a proposed order. The Court may order counsel to provide further information regarding the motion for reconsideration. A hearing will not be held on the motion unless ordered by the Court.

12. EXPENSES

- a. Carson City will reimburse the State Public Defender, conflict counsel, private attorneys, and any other attorney (collectively “counsel” for this section) for reasonable and necessary expenses for services.
- b. If funding is provided by the State of Nevada, Carson City will provide a fund of up to \$2,500 per case for counsel to spend without prior approval. Counsel may invoice Carson City directly for such expenses. The invoice must be on a form proscribed by the Carson City Finance Department, must comply with section 14, and the invoice or receipt for services must be attached to the invoice. Carson City will pay counsel directly for these expenses unless otherwise requested. The payee must comply with all applicable Carson City requirements for government payees.
- c. Absent funding under subsection 12(b), and unless otherwise provided in a contract, counsel may incur expenses for services costing \$1,000 or less, but must obtain pre-authorization for expenses for services costing more than \$1,000. Expenses for services costing \$1,000 or less must be reasonable and necessary for representation of the indigent person, and may be denied, even if already spent, if it is determined that the services were not reasonable and necessary for representation of the indigent person.
- d. Counsel may seek reimbursement or pre-authorization for expenses through the following procedure.
 1. Counsel must submit a request for reimbursement or pre-authorization of expenses to the indigent defense coordinator, using a form prescribed by the indigent defense coordinator.
 - i. The request must be supported by a sworn statement specifying the services rendered or requested, the cost of the services, why the services are reasonable and necessary for the representation, and any compensation already received from any source for the services. The invoice accompanying the request must comply with the requirements of section 14.
 - ii. Counsel must submit a request for expenses at least quarterly, but in any event within 60 days after the date that the representation is terminated. Requests submitted more than 60 days after representation is terminated will be denied.
 - iii. The indigent defense coordinator will submit the request to a senior judge, if available, or a judge pro tempore, if a senior judge is not available, to review the request for compensation. The senior judge or judge pro tempore will approve or deny the request. The senior judge or judge pro tempore will not hold a hearing regarding the request.
 2. If the request is denied, counsel may file a motion for compensation with the trial court within 7 days of service of the denial of expenses. A motion for compensation must contain the request for compensation, any information accompanying the request, the denial of the request for compensation, and a proposed order. The

Court may order counsel to provide further information regarding the motion for reconsideration. A hearing will not be held on the motion unless ordered by the Court.

13. SEALED AND EXPARTE REQUESTS FOR COMPENSATION AND EXPENSES

- a. Any documents concerning requests for compensation or expenses or reconsideration filed with the trial court under sections 11 and 12 may be sealed at the request of the counsel or attorney until final judgment is entered in the case.
- b. Any hearings under sections 11 or 12 must be held ex parte, without the presence of the prosecution.

14. PAYMENT FOR COMPENSATION AND EXPENSES

- a. Requests for compensation and expenses or for reconsideration will be denied if not timely submitted.
- b. Invoices for requests for compensation and expenses under sections 11 and 12 must conform to government accounting standards.
- c. Invoices for representation or services provided to an inmate of the Nevada State Prison system, or any person acting in concert with the inmate, for an escape, an attempted escape, or a crime committed while incarcerated must state on the invoices that the services are provided to such an inmate of the Nevada State Prison system.
- d. Any person requesting payment from Carson City must be registered with Carson City as a vendor and have a 1099 tax form and a business license on file with Carson City.
- e. The indigent defense coordinator will forward any request or order approving a motion for compensation or expenses to the Carson City Finance Department (“Finance”), or its designee, for payment processing.
- f. Finance may review the request, order and motion, and request clarification of any portion of the request, order or motion, from the indigent defense coordinator, the court, if approved by court order, or counsel or an attorney.
- g. Carson City will pay counsel or a vendor within 30 days after receipt of the approved request for compensation or expenses, or if Finance requested clarification concerning the request, within 30 days after Finance receives clarification. If the expense is time sensitive, counsel or an attorney may request payment sooner.

15. CONTRACTS FOR CONFLICT COUNSEL

- a. Carson City may, in its sole discretion, contract with attorneys for conflict counsel services on an hourly basis, a flat fee basis, or any other basis.
- b. Carson City will comply with the applicable provisions of NRS Chapter 332 for local government purchasing and with the Carson City purchasing policy when soliciting for conflict counsel.
- c. Carson City will solicit letters of interest through a solicitation released to the public and any DIDS qualified attorneys in Carson City.
- d. At a regularly scheduled public meeting, the Carson City Board of Supervisors may enter into a contract for conflict counsel services with none or any or all of the attorneys submitting letters of interest.
- e. The judges of the Courts, DIDS, or any other interested person or entity may submit public comment regarding the selection of conflict counsel.

- f. When selecting conflict counsel, Carson City will consider:
 - 1. the experience and qualifications of an applicant;
 - 2. applicant's past representation of indigent persons;
 - 3. applicant's ability to comply with DIDS regulations;
 - 4. the cost of applicant's proposed services;
 - 5. whether the applicant resides in or has an office in Carson City; and
 - 6. any other criteria that bears upon a conflict counsel contract.
- g. Contracted conflict counsel must be a DIDS qualified attorney.
- h. Conflict counsel contracts must comply with all applicable DIDS requirements.
- i. If Conflict counsel finds that compensation under the contract is not sufficient to permit conflict counsel to adequately represent indigent persons, conflict counsel may seek extraordinary expenses under the contract or may request additional funds from the Carson City Board of Supervisors.

16. DIDS REQUIREMENTS AND INTERACTION

- a. The State Public Defender's Office must independently make arrangements for required caseload and time reporting to the DIDS, as required by the DIDS.
- b. Conflict counsel and private attorneys must individually, or by firm if contracted or appointed by firm, make arrangements for required caseload and time reporting to the DIDS.
- c. The assigned counsel must make accommodations for confidential communication with the indigent person. Jail and courthouse facilities for attorneys' use for discussions with witnesses or clients are generally available to counsel representing indigent persons for attorney/client meetings to the same extent that they are available to other counsel. Such facilities include the attorney meeting rooms outside of each courtroom, and private meeting space within the jail. Counsel who are not familiar with the accommodations at the Courts or the Carson City Jail may ask the Court Clerk's Office or jail personnel for assistance in speaking privately with the indigent person.
- d. Counsel or the Courts must provide client surveys authorized by the Nevada Board on Indigent Defense Services to an indigent person appointed counsel under this Plan.
- e. Complaints about counsel or attorneys must be forwarded to the DIDS and to the Court Administrator.
- f. If counsel or an attorney becomes aware of a complaint concerning representation of an indigent person that rises to the level of interfering with the representation of the indigent person, the counsel or attorney must timely notify the Court.
- g. Counsel and attorneys must comply with all applicable law concerning representation of an indigent person, including, but not limited to: the U.S. and Nevada Constitutions, the Nevada Revised Statutes, the Nevada Rules of Professional Conduct, and the Nevada Indigent Defense Standards of Performance implemented by the Nevada Supreme Court.
- h. Counsel and attorneys must comply with all applicable court rules. This Plan does not supersede court rules.
- i. As has been the historical practice in Carson City, an attorney appointed to represent an indigent person is expected to appear at the person's initial appearance.
- j. As has been the historical practice in Carson City, an attorney appointed to represent an indigent person is expected to represent that person through every stage of the case, at every hearing, and at trial, unless a court order is entered substituting another attorney in place

of the original attorney or otherwise relieving the original attorney of the responsibility of representing the indigent person. This provision does not prohibit another attorney from appearing at a hearing for the appointed attorney to represent the indigent person if the appointed attorney has an unavoidable scheduling conflict, provided that the appointed attorney has sufficiently appraised the other attorney about the case to enable the other attorney to provide effective assistance of counsel.

- k. As has been the historical practice in Carson City, an attorney appointed to represent an indigent person is expected to provide effective assistance of counsel to the indigent person. This includes: meeting with the indigent person before the first appearance; updating the indigent person on his or her case at least every 30 days, unless there are no significant updates in the indigent person's case; and advising the indigent person not to waive any substantive rights or plead guilty at the initial appearance, unless to do otherwise is, in the appointed attorney's professional judgment, in the client's best interest.
- l. Carson City or the Courts may request from DIDS a current list of DIDS qualified conflict counsel and private attorneys. Should an attorney in Carson City become DIDS qualified in between the times that Carson City or the Courts requests a current list of DIDS qualified attorneys, DIDS may, in its discretion, update the Indigent Defense Coordinator with the changes to the list.
- m. Sections 16(a), (b), (d), and (e) apply only to cases under section 2(a) of this Plan.