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MEMBERS PRESENT: Chairman Bremner
Vice Chairman Hickey
Mr. Bergevin
Mr. Brady
Mr. Coulter
Mr. Glover
Mrs. Hayes
Mr. Horn
Mr. Marvel
Mr. Rhoads
Mr. Robinson
Mr. Vergiels
Mrs. Westall

MEMBERS ABSENT: None

ALSO PRESENT: Bill Bible, Fiscal Analyst; Judy Matteucci,
Deputy Fiscal Analyst; SEE ATTACHED GUEST LIST.

Chairman Bremner called the meeting to order at 8:00 a.m.

ATTORNEY GENERAL

Mr. Richard Bryan, Attorney General of the State of Nevada, addressed the committee and stated that there are 186 boards and agencies represented by the AG's office at this time. He said that 1700 cases are pending, and between the Civil and Criminal Divisions, there are more than \$100 million in claims pending. Mr. Bryan distributed an organizational chart and discussed it for the committee. (EXHIBIT A)

He stated that billings to the nongeneral fund agencies represented by them has been successful since being implemented during the last biennium. He added that some of the agencies do not have the capacity to respond to the billings; however, in general it has been successful. He added that it is realistic to anticipate the receipt of \$20,000 in billings during the next biennium.

Mr. Bryan stated a great inefficiency that exists in the structure of the Department is the failure to have all of the legal counsel in a central location. He stated it is very difficult to monitor the case load and provide the most efficient delivery of services when the bulk of the staff are housed out of the main office.

He said another inefficiency is the billing system. He pointed out when the agency payments amount to nothing more than a budget transfer, an enormous amount of paper work is created. He stated that the greatest vice with the agency payment system is the possessiveness of the department heads over the Deputy Attorney General assigned to their department. He said this causes conflict and an improper and inefficient use of time within the Department.

Mr. Bryan pointed out that the legal secretaries are frequently not used as such. He said that if the deputy and secretarial positions can be centralized under the Attorney General, a more realistic budget will be created.

Chairman Bremner asked if a letter of intent from the Legislature would help solve the discrepancies that exist with regard to the duties of the deputies and secretaries. Mr. Bryan stated that this would be very helpful.

Mr. Hickey asked how many vacancies exist in the Department at this time. Mr. Bryan stated that there are 3 vacancies, 1 in the DMV, 1 in Highway, and 1 in Gaming, all deputy positions.

Mr. Glover questioned the economic feasibility of having all deputies housed in one central office. Mr. Bryan stated that in making the most efficient use of service, it is better to have the deputies housed in a central location. He added that the counter argument is that it will cost more for transportation and telephone services to provide the representation to the various agencies, but in the long run the savings and efficiency of the Department is increased by having the deputies centrally located. 723

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Additionally, Mr. Glover asked what the level of experience is of the deputies at their time of hire. He asked if the quality of representation would improve if experienced attorneys were hired. Mr. Bryan stated that it is difficult to hire highly experienced attorneys at the salary level offered by the State. He added that it is impossible to compete with the wages that attorneys receive in the private sector. He directed the attention of the committee to a handout (EXHIBIT B). He stated that if, on a serious and complicated case, great expertise is required, the State will contract with an individual from the private sector instead of taking a chance on an inexperienced staff member handling the case.

Mr. Bryan addressed the handout (EXHIBIT B) and stated that this proposal would create 5 classifications ranging from the least experienced entry level positions to the most experienced. He added that only 2 lawyers would be at the Attorney 5 classification. He stated that this classification system would authorize a maximum salary of \$40,386 and a minimum salary of \$26,001.

Mr. Bryan stated that with this proposal, the salaries would attract more experienced and better qualified personnel who would stay in the positions. He added that experienced personnel are hard to attract to the positions because of the present salary levels.

Mr. Glover asked if the State contracts very often to bring in special help to assist with special cases. Mr. Bryan stated that it does not happen very often, but it does occur occasionally with the approval of the Interim Finance Committee. He stated that the Division of Colorado River Resources will be appearing before Interim Finance soon to make just such a request.

Mr. Hickey asked how the classifications were determined. Mr. Bryan stated that they were determined internally within the office on the five proposed levels. He added that seniority or personal selection by the Attorney General do not enter into the plan. He stated that the entry classification depends on the speciality of work that the attorney does.

One Shot Request

Mr. Bryan addressed the request and stated that the sum of \$14,195 is needed to get the Central Data Processing capability for the office. He stated that the CDP functions would be primarily used for docket control. He added that this will help them keep accurate track of deadlines for documents due in different cases pending in the office.

Mr. Glover asked if the office has ever missed a deadline. Mr. Bryan stated that deadlines have been missed, fortunately they have been deadlines that could be corrected. He added that the staff has been reduced on occasion when deadlines have been missed.

Administrative Budget

Mr. Bryan stated that the staff level in the Department of Transportation should be decreased by one Deputy Attorney General. He stated that there are 8 deputies assigned presently and this should be reduced to 7.

Mr. Robinson asked if the position is currently vacant. Mr. Bryan stated that the position is vacant at this time and it is the lowest position at the Department. He added that the present salary is \$21,386.

Mr. Bryan stated that the main office is requesting a civil deputy, 1 Department of Conservation and Natural Resources deputy, 1 Prison deputy, 1 Central legal researcher, 1 Criminal legal researcher and 1 legal secretary.

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As a priority, he stated that the Prison deputy is greatly needed because of the large increase in criminal litigation.

Mr. Marvel asked if \$26,000 would be adequate salary for a full time deputy. Mr. Bryan stated that this would be adequate for an entry level attorney.

Chairman Bremner asked if there are other positions in the Department that could be traded. Mr. Bryan stated that it is not known at this time if any other positions exist that could be traded.

Chairman Bremner asked if it would be possible to generate a salary savings to partially pay for the additional positions being requested. Mr. Bryan stated that it is possible especially since the authority has been given for the agency to become a nongeneral fund department. He added that all the positions being requested are general fund positions.

Mr. Robinson asked if the central researcher would be located in Carson City. Mr. Bryan stated that this position would be housed in the Central Office in Carson City.

Mr. Bryan addressed the need for the deputy for the Welfare Division in Las Vegas. He stated that the case load and the frequency of termination of parental rights matters has increased drastically. He added that deleting this position would cause a great burden on other deputies in the Department.

Chairman Bremner asked that the committee be supplied with a statement from the Department justifying the need for all of the positions requested.

Mr. Bryan pointed out an error in the lease figure on page 38. He stated that the category of Other-Building Rent under the Department request, is the amount needed to pay for the lease. Mr. Alastuey stated that General Services provided the lease cost only, and there is an additional assessment for utilities.

Mr. Hickey asked for information on other contract services. Mr. Bryan stated that this is for maintenance of the Xerox machines, IBM machines and the requested figures reflect an increase for inflationary purposes only.

Special Litigation

Mr. Bryan stated that this is a special account set up for cases such as TRPA. He said that many departments do not budget for legal matters. As an example, he cited the Beatty Dump case and said that expenses for witnesses and costs of transcripts are paid from the special litigation fund.

Mr. Glover asked for the philosophy of the Administration and the Budget Office in the special litigation area. Mr. Alastuey stated that agencies that have a cost of the Deputy AG built into it usually include a legal services line item. He stated that this reserve should be maintained and not allocated to individual departments because the departments receiving it may not need it and others that receive the small allocation may need more than the sum allocated.

Chairman Bremner asked if the TRPA funds were still active. Mr. Bryan stated that these funds are still active and are in a special account, not the special litigation account. Chairman Bremner asked if there would be any problem reverting the funds at this time. Mr. Bryan stated that he would recommend that the funds be reverted with the understanding that the special litigation funds could be used if anything comes up on the TRPA claims.

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Private Detectives

Mr. Bryan stated there is no general fund money in this fund and under the statutes the AG serves as the Chairman of the Private Investigators Licensing Board. He stated that the Board licenses private investigators, private patrolmen, process servers, polygraph operators, repossessioners, K-Nine security handlers and trainers. He added that the budget request is simply to authorize the Department to receive the funds derived from examination fees, renewal fees and investigation fees to operate for the next biennium.

Extradition Coordinator

Mr. Bryan stated the request is \$312,000 and has been recommended. He stated that this is principally used for travel and per diem costs incurred by local law enforcement agencies bringing back people under the Uniform Detainer Act or extraditing them based upon a request from the State of Nevada for a Governor's Warrant.

He stated that previously the Extradition Coordinator position has been in the administrative budget and it is recommended that it be chargeable to this budget.

Anti Trust

Mr. Bryan stated that the only request is that the Legislature allow the Department to continue receiving the Federal grant funds previously approved. He added there are no general fund monies in the request.

Medical Malpractice

Mr. Bryan stated that the Board, as established during the last biennium, has provided services in the areas of malpractice insurance to the Nevada physicians. He stated there are presently pending some 13 cases being investigated before the Board of Medical Examiners. He added that several physicians have voluntarily surrendered their license as a direct result of investigations of the Medical Malpractice Board.

Chairman Bremner asked how many cases are investigated during a year. Mr. Bryan stated that it probably amounts to 50 or 60 cases during a year.

Mrs. Hayes asked if services of this agency have helped the malpractice situation in the state. Mr. Bryan stated that the services performed are worthwhile. He added that it may not appear to have a direct statistical effect, but he stated that it is a self-policing method of maintaining the high standards of Nevada physicians.

PUBLIC DEFENDER

Mr. Norm Herring, State Public Defender, addressed the committee and distributed a handout (EXHIBIT D). He stated that since his appointment to the position of State Public Defender, this is his first opportunity to address the Legislature. He stated that since January 1979 there has been a 100 percent turnover in employees at all levels. He stated that in 1980 the trend reversed and only 1 position changed during the last year.

He stated that the handout consists of a management study report done by ABT Associates of Cambridge, Massachusetts in August of 1980. He stated that this was done at no cost to the State of Nevada and is a project funded by the American Bar Association and the National Legal Aid and Defenders Association. He stated that a complete copy of the report has been placed with the Chairman.

He stated that 7 new positions are requested for the upcoming biennium. He stated that the 6 full time Deputy Public Defenders handled more cases per year than all 50 Deputy Attorney Generals. He said this includes court time, travel time, and time at the prisons on investigations. He stated that the case overload on

the attorneys places them in the situation of "walking the malpractice tightrope" at all times. He added that it is difficult for the staff to maintain proper case control and process all of the appeals as well as the defenses that are assigned to them by the courts. He stated this more than justifies the need for the special investigator to assist the attorneys in their defense of cases. In addition, he stated that the malpractice liability to the state would lessen with the approval of this position.

Mr. Herring addressed the need for a deputy for the Tonopah area. He stated that the deputy that has been servicing this area is from Carson City and is required to be on the road 2 to 3 days per week. He cited an example of the attorney sleeping in the car and shaving in a service station because no motels were available when he got to Tonopah. He emphasized the need for the deputy to be a resident in the Tonopah area to fill the increasing demands in the court there.

He addressed the need for a full time legal secretary position in Tonopah. He stated that the part time position in Winnemucca should be made full time because they have paid a great deal of overtime to the existing secretary during the last biennium.

He addressed his request to upgrade the supervising legal stenographer position. He stated that the responsibilities of the position are such that she does very little legal work but instead does a great deal of office management and administrative work.

Mr. Herring addressed the handout and pointed out the percentages of case load per county and the prorata share paid by the county and state.

Chairman Bremner asked why the prorata share was going down on the county portion and the state portion going up. Mr. Herring stated that the study done by ABT Associates indicates that the state has not been paying its fair share. He pointed out that the counties are presently paying as much as they can.

Chairman Bremner pointed out that there are 3 counties providing their own services at their own expense: Elko, Clark and Washoe. Mr. Herring stated that his office has received an increasing number of appeals from these counties, almost 1/3 of the total appellate work.

Chairman Bremner pointed out that the budget calls for a 189 percent increase in general fund support. Mr. Herring stated that the Ways and Means Committee has not been fair, first of all to the Public Defender's Office, and secondly to the people that work in that office. He pointed out that the salaries in his office are the lowest in the state for public defenders, adding that there are 5 public defenders in Clark County that make more than he does as State Public Defender. He added that there are 17 Deputy Attorney Generals that make more than he does. He stated that the Assistant Public Defender in Washoe County makes \$10,000 per year more than he does as the State Public Defender. He said that none of these positions handle any more cases than he does.

Mr. Robinson asked if the state contributes anything to the payment of the public defenders in Clark, Washoe and Elko Counties. Mr. Herring said the state pays nothing and also those counties receive no support from the State Public Defenders Office in services. He added that these areas are mandated to have their own public defender systems because of the population in those areas.

Chairman Bremner asked about Mr. Herring's time spent in various areas of the state lobbying for the Governor's Public Service Commission Plan. Mr. Herring stated that in the 2 years that he has worked as the State Public Defender, he was called on by the Governor on one occasion to do research. He stated that over a period of 5 months, he spent 50 hours doing this research in addition to his duties as State Public Defender. He said he did not neglect his duties as State Public Defender.

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Mr. Glover asked if the public defenders follow through with people they are appointed to defend after those individuals are committed to the State Prison System. Mr. Herring stated that public defenders are appointed for some types of post-conviction procedures, but the same attorneys are not necessarily appointed to represent the same defendants. He added that the public defenders have to represent criminals in parole revocation proceedings if the courts so appoint them.

Mr. Glover asked if the influx of MX would add to the already heavy case load or would the Federal government provide their own officials to service the MX facility. He asked also if any Federal money would be received to supplement State Public Defender programs if MX did not provide their own officials. Mr. Herring stated that probably the main impact would be in the Clark County Public Defender's Office. He added that if the MX system is placed near Ely, this would greatly impact his Department. He stated that he has indicated to the Air Force that for every 15,000 increase in population, another public defender is required. He stated that the Air Force has not indicated that they would help pay for these services, adding that there is a question as to whether the areas on which MX is located will be under Federal jurisdiction.

Mr. Glover asked what impact the proposed strict drunk driving laws would have on his case load. Mr. Herring stated that it would greatly impact the case load because people are not going to want to go to jail and will insist on a trial. He added that the MX construction forces that enter the state will increase the incidence of drunk driving.

Mr. Glover asked what criteria is used to determine when an individual is qualified to receive the services of the public defender. Mr. Herring stated that an individual asks for the appointment of a public defender through the courts. He added that the court must determine if the individual is indigent and if he is, then the appointment of the public defender is made.

Mr. Robinson asked why Elko County withdrew from the State Public Defender System. Mr. Herring stated that it was strictly a matter of finance. He stated that Elko County chose to contract with an individual for less money. He added that they have been asked to step back in because the quality of legal services in Elko County has gone downhill.

Mr. Bergevin stated that the Nevada Revised Statute should be examined carefully and the requirements for appointment of public defenders should be tightened up. Mr. Herring concurred in this observation. Mr. Bergevin asked for the logic in the proposed legislation to prevent counties from withdrawing from the State Public Defender system during a biennium. Mr. Herring stated that the overall state plan is based upon careful study of the different areas. He added if a portion of one of the distant outlying areas withdraws from the system, he still has to maintain the others in that area. He said it lessens the economic feasibility of servicing an area if he is only doing part of it as opposed to all of it.

OFFICE OF LIEUTENANT GOVERNOR

Mr. Myron Leavitt addressed the committee and stated that his budget reflects a request for a salary raise from \$8,000 to \$15,000 beginning January 1, 1983. He added that the Chief Assistant to the Lt. Governor position is requesting an increase in salary to \$17,577 and the Governor recommends \$16,059. He addressed this request and stated that this position performs additional duties and functions as a Chief Assistant, not merely as a secretary.

Mr. Leavitt addressed the out-of-state travel requests. He stated that there is very little out-of-state travel required by the office. He indicated that the reduction proposed by the Governor may not be sufficient to cover attendance at the National Conference of Lieutenant Governors.

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Mr. Leavitt commented on the Attorney General's recent opinion that the office is not entitled to Acting Governor's salary unless he takes some type of emergency action in the absence of the Governor.

Mr. Glover asked how many times the Governor was out of the state last year. Mr. Leavitt stated that he is not notified at all times when the Governor is out of state and hence could not give a figure on the number of times the Governor was out of state last year. Additionally Mr. Glover asked what would happen if both the Governor and the Lt. Governor were absent from the state at the same time. Mr. Leavitt stated that this happened once during the last biennium and the President Pro Tem of the Senate filled in during their absence.

Mr. Glover asked how much money would the budget need if the \$60 in-state travel funds were returned to the position. Mr. Leavitt stated that it is not his intention to take the matter to court so there will be no need to do this. He pointed out that if he was required to take action in an emergency situation, then perhaps the matter would have to go to the Supreme Court.

RISK MANAGEMENT DIVISION

Ms. Mary Finnell, Chief of the Division, addressed the committee and stated that the goals of the Division are to minimize the adverse effects of loss at minimum costs consistent with the other goals and objectives of the state.

She pointed out a major difference in the budget is that the Department feels that self insurance should be obtained in the areas that can afford it, such as purchasing large deductibles and retain losses to a certain level. She stated that insurance should be purchased to cover catastrophes rather than small losses. She stated that to implement this she would need additional personnel in terms of an Assistant Director. Ms. Finnell stated that the additional positions requested are needed to help control the large increase in work that has been coming into the Department. She added that the Agency was established in July of 1979 and the work load has steadily increased since that time.

She addressed the request for data processing and stated that this would remove some of the work load in the analysis portion of her duties and also loss control statistics would be available in less time.

She stated that a special loss fund would be established to take care of the many small losses that occur. She stated that they may have to come to Interim Finance to request additional funds if they sustain any form of large loss.

Mr. Glover requested further information on the revenue items. Ms. Finnell stated that the \$18,000 goes into the insurance recovery account and sits there until the Agency repairs or replaces the damaged property and then the money is transferred to their account. Additionally, Mr. Glover asked what was anticipated under the \$10,000 item. Ms. Finnell stated that they were anticipating to self insure for physical damage. She said the money should go back into the pot to help defray some other costs that cannot be collected from the uninsured sources.

Mr. Glover asked why the Governor did not recommend the new positions. Mr. Alastuey stated that the Governor is more inclined to go along with maintaining the present status quo and just allow minimal staff increases to assist with the present work load. He did not recommend implementation of the new self insuring system.

Mr. Marvel asked how this was handled before the Risk Management Office was implemented. Ms. Finnell stated that the insurance needs of the state were handled mostly by independent insurance agents. She stated that \$70,000 has been saved to the state thus far since the Office was established.

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Chairman Bremner asked if all regular appropriations were charged back to the Agency, would funds be saved. Ms. Finnell stated that this would be a redistribution of the funding. Mr. Alastuey stated that the administrative function of the Risk Manager is general funded and it would remain the same; the other alternative would be to take this amount and spread it throughout the insurance line items in the budgets. He stated if the latter were done, it would require communication with the Federal government to ensure that this could be implemented in the cost allocation plan. Chairman Bremner asked that this information be provided to the committee. Mr. Alastuey stated that he would provide the information.

CLEAR CREEK YOUTH CENTER

Mr. Alastuey addressed the budget and stated that it is available to the state from the Federal government and is renewable at 5 year intervals. He stated that the Young Adult Conservation Corps use the facility and many of those living there work on various state projects out of that facility. He stated that the requested sums are for the state's share of the funds to run the program. He stated there are no new positions requested or recommended in the budget.

Chairman Bremner asked how many square feet the janitors are responsible for maintaining. Mr. Alastuey stated that he did not know the actual total but added that it is substantial.

Mr. Hickey asked if there are any vacancies in any of the positions. Mr. Alastuey stated that he is not aware of any.

VETERANS AFFAIRS

Mr. Bill Hatifield, Commissioner for the Veteran's Commission, addressed the committee and stated there is a total salary increase proposed of \$23,000 for all staff members. He added there are 8 1/4 positions in the budget.

He stated that the line items are "bare bones" items and reflect very little increases. He added that the rent increase is for the Las Vegas Office.

Mr. Robinson asked about the contract services that are not being requested. Mr. Hatifield stated that this money was used in the office for secretarial work. He pointed out that it was granted to each Veteran's Service Organization on the basis of \$.95 per veteran in the organization. Chairman Bremner stated that this \$20,000 appropriation was to be used to provide counseling for some of the veterans and widows.

Mr. Vergiels asked if the Department would be coming to the Legislature to try to get the mortgage money for the veterans. Mr. Hatifield stated that it would not be asked for this year.

BILLS

Chairman Bremner addressed 3 bills that needed introduction. He stated one is for a supplemental appropriation for the Department of Human Resources for payment of claims*, one is for an appropriation of approved compensatory time for employees of the Department of Prisons** and one makes an appropriation for the State Highway Fund for the cost of moving the DMV in Carson City.†

It was moved by Mr. Hickey and seconded by Mr. Glover that the bills be introduced to the committee. The motion was unanimously carried by the committee.

* A.B. 215 (S-189)

** A.B. 214 (S-1089)

† A.B. 213 (S-1087)

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Chairman Bremner addressed Senate Bill 100 and stated that this bill has no fiscal impact, has been reviewed by the committee and should be rereferred to the Government Affairs Committee. It was moved by Mr. Rhoads and seconded by Mr. Vergiels that the bill be rereferred to Government Affairs.

Mr. Glover stated that the bill is incorrect in what it tries to do and it should be addressed by Government Affairs.

It was unanimously passed that the bill be rereferred to Government Affairs.

The meeting was adjourned at 10:30 a.m.

ATTORNEY GENERAL - RICHARD BRYAN

Chief Deputy-LV Office
Robert Peccole

Chief Deputy - Larry Struve

Supvr. Ofc. Svc.
M. Lockard

Investigation Div.
W. Teglia-Chief

Admin. Asst.
Roz Parry

Dep. LV
J. Eskin

Dep. TCab Auth-1/2
(Bd Med Ex-Med Mal
1/2) M. Hyer

Dep. CRC
J. Lavelle

LV Agency Deputies
See below

DMV-Dep-LV

Office Secretarial Staff

Inv. CC
R. McGowan

Inv. LV
E. Lattin

LV-Ofc-Mgr
J. DesVaux-Oaks

Equal rts-1/2

Dep-CRC (1/2
time) F. Schmidt

Ofc. Secty
Staff

Human Resources Div.
Chief Dep. B. Nelson

Consrvn. Natl
Res. Div.

Tax Div.
Chief Dep
T. Hay

PSC Div. Chief
Dep-H. Young

Comm. Div.
Chief-Dep
J. Barnes

Gaming Div
Chief-Dep
P. Becker

Trans. Div
Chief Counsel
M. Beauchamp

Welfare Div
Legal Staff
Supv. Dep
T. Marren
Reno Ofc Dep
W. Sprinkle
C Ofc. Deps
C. Cormier
S. McDonald
LV-Ofc Deps

MH/MR Div.
S. McGowan
Dep

Chief Dep
S. Bodeau

D. Norris
Dep

Z. Kaplan

CC-Office
Ins. Div-Dep
W. Wilson

CC-Office
S. McMullen
T. Chirila

Asst. Chief Cnsl
W. Raymond

Legal Research
Unit

Water Res-Dep
G. Campbell

Env. Prot-Dep
S. Balkenbush

Real Estate
C. Hoover-Dep

Housing-Dep
R. Jost
LV-Office

N. Robison-Dep
R. Callaway-Dep
L. Stewart-Dep

Researcher
L. Bailey

Researcher

V. Ochoa

CENTRAL OFFICE

Civil Division-Chief Deputy
Donald Klasic

Antitrust Unit
W. Hammer Dep

DMV Unit-CC
L. Bernard-Dep

Criminal Division-Chief Deputy
R. Manley

Summary
Attorney General
Chief/Supv. Deputies 1
Staff Attorneys 6
Total Attorneys 5

Public Land &
Water Lit. Unit
H. Swainston
Dep

Central Ofc. Staff
Asst. Chief-Dep
W. Isaeff

Investigator

DLEA-Dep
B. Hutchins

Parole & Probation
T. Wright - Dep

Legal Researchers
Investigators
Special Investigators
Admin. Asst.
Supvr. Ofc. Svcs.
L.V. Ofc. Mgr.
Secretarial Staff

P. Bugge-Dep

GSA-Psnl-Div
R. Ulrich-Dep

Prisons
E. Adler-Dep

E. Sansing-Dep

M. Hyer-1/2
time)-Dep(LV)

Medical Malpractice Investigator
B. Pike

C. Cockerill-Dep

ATTORNEY GENERAL

CLARK COUNTY

WASHINGTON COUNTY ATTORNEY U.S.

CLASSIFICATION	# of ATTORNEYS	* PROPOSED	# of ATTORNEYS	* PRESENT	# of ATTORNEYS	* PRESENT	* PRESENT
ATTORNEY VI	2	\$ 40,386	2	\$ 47,500	4	\$ 43,004	\$ 44,900
ATTORNEY IV	8	\$ 37,000	15	\$ 46,808	2	\$ 39,832	\$ 37,605
ATTORNEY III	25	\$ 35,000	12	\$ 43,280	10	\$ 36,868	\$ 35,316
ATTORNEY II	15	\$ 30,000	21	\$ 35,572	7	\$ 31,722	\$ 33,027
ATTORNEY I	5	\$ 26,000	5	\$ 29,232	21	\$ 28,834	\$ 30,738

* MAXIMUM SALARY WITHIN CLASSIFICATION

** HIGHEST SALARY NOW BEING PAID INCLUDING LONGEVITY PAY.

xxx AT THE COUNTY LEVEL RETIREMENT IS PAID BY THE EMPLOYER RESULTING IN AN ADDITIONAL SALARY INCREASE

EXHIBIT B



STATE OF NEVADA
EIGHTH JUDICIAL DISTRICT
JUVENILE DIVISION
3401 EAST BONANZA ROAD
LAS VEGAS, CLARK COUNTY, NEVADA 89101
(702) 649-3611 EXT. 325

JOHN F. MENDOZA
DISTRICT JUDGE

JACK E. BUTLER
CHIEF REFEREE
FRED L. FISHER
REFEREE

22 January 1981

Richard H. Bryan
Attorney General
Capitol Complex
Carson City, Nevada 89710

Dear Richard:

It has been called to my attention that there is a possibility of reduction of legal staff for the Department of Human Resources in the Southern region of Nevada.

The Office of the Attorney General is vital to the District Court; especially in the handling of the matters for Nevada State Welfare. The sensitive areas of Termination of Parental Rights, Child Abuse and Neglect cases consumes a great portion of the District Court's time, and the mandatory appearances in representing the State by the Attorney General's Office cannot be overlooked.

Our Court records indicate an average 150 termination cases being handled a year and an open case load of abuse and neglect of an excess of 450. The legal advice given to Nevada State Welfare workers in this area plus the necessary drafting of legal documents, orders and Court appearances, in addition to the many cases presented from out-of-state jurisdictions does, in my opinion, occupies more than the time of two deputies.

The expeditious termination of parental rights and getting children into adoptive homes, the enforcement of treatment plan programs to get children out of State supported foster care and back into their own home environment, and the collection of child support payments, are all cost factors of utmost importance which should be considered.

RECEIVED

JAN 23 1981

Office of the Attorney General

EXHIBIT C

CHAPTER 316

AN ACT authorizing the state public defender to collect certain amounts from the counties for the use of his services; and providing other matters properly relating thereto.

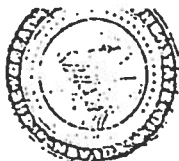
[Approved May 10, 1979]

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

Section 1. The state public defender may collect not more than the following amounts from the counties for use of his services:

	For the fiscal year ending June 30, 1982	For the fiscal year ending June 30, 1983
20%---CARSON CITY	\$ 79,822.80	\$ 84,977.60
8%---CHURCHILL COUNTY	31,929.12	33,991.04
18%---DOUGLAS COUNTY	71,840.52	76,479.84
2%---ESMERALDA COUNTY	7,982.28	8,497.76
2%---EUREKA COUNTY	7,982.28	8,497.76
10%---HUMBOLDT COUNTY	39,911.40	42,488.80
5%---LANDER COUNTY	19,955.70	21,244.40
3%---LINCOLN COUNTY	11,973.42	12,746.64
11%---LYON COUNTY	43,902.54	46,737.68
5%---MINERAL COUNTY	19,955.70	21,244.40
5%---NYE COUNTY	19,955.70	21,244.40
5%---PERSHING COUNTY	19,955.70	21,244.40
2%---STOREY COUNTY	7,982.28	8,497.76
4%---WHITE PINE COUNTY	15,964.56	16,995.52

EXHIBIT D



THIRD JUDICIAL DISTRICT COURT
CHURCHILL, EUREKA AND LANDER COUNTIES
STATE OF NEVADA

STANLEY A. SMART
DISTRICT JUDGE

73 NORTH MAINE STREET
FALLON, NEVADA 89406

May 29, 1980

RECEIVED

JUN 3 1980

Norman Y. Herring, Esq.
Nevada State Public Defender
Capitol Complex
Carson City, Nevada 89710

Nevada Public Defender

Dear Norm:

I have received your letter of April 7, 1980, concerning plans for streamlining procedures in the Nevada State Public Defender's Office. I realize that a number of changes will be required to enable you and your staff to handle the increased volume of work now being assigned to you by the various courts. This increase is reflected even in the Third Judicial District.

With respect to the setting of cases for various attorneys in your office and resulting conflicts on their calendars, I do not believe that that has been a problem in the Third District, since the responsible attorney is ordinarily present at the time of setting and I avoid such conflicts to the extent possible. If a conflict should occur as a result of any matter set by me or my office, please contact me and I am sure we can resolve it somehow.

Finally, I certainly support your intended application to the 1981 Legislature for the funding of additional regional offices. I know these are necessary and will become increasingly so in coming months and years. The concept of a central appellate agency in your office for handling all appeals to the Supreme Court certainly appears to me to be a sensible approach. If I can be of any assistance in regard to the above matters during the 1981 session, please let me know.

Very truly yours,

Stanley A. Smart

SAS/pb

EXHIBIT C

Norm Herring

SUPREME COURT OF NEVADA
NOEL E. MANOUKIAN, JUSTICE
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



RECEIVED

MAY 15 1980

ds

Nevada Public Defender

May 12, 1980

Norman Y. Herring
State Public Defender
Capitol Complex
Carson City, Nevada 89710

Re: Appellate Agency for Indigents

Dear Norm:

This letter is written in regards to your April 11, 1980 correspondence to the court addressing your planned bill draft request for an appellate indigent agency.

I have discussed this matter with Jane Nelson, the Court's supervising staff attorney. Jane has provided me with some of her thoughts in the matter. I correspond with you relative to those thoughts, as well as my ideas in the matter.

I would personally favor the creation of such an agency or division, and although I do not speak for the remaining members of the Court, they should be receptive, particularly in light of NRAP 46(b), which prohibits pro se appeals. This is, of course, without regard to any arguable constitutional infirmity of 46(b). The advantages and benefits perceived by Jane and myself, in addition to those set forth in your letter, which have obvious validity concerning such agency are that such agency:

1. Would afford the opportunity to develop "appellate specialists" more knowledgeable about appellate rules, procedures, and case law. The advantages would be compounded with the creation of the intermediate court of appeals, the November 1980 voters permitting.

EXHIBIT D

Norman Y. Herring
May 12, 1980

2. Would result in the expediting of the appeals as a result of the elimination of presently justified frequent requests for extensions of time in the filing of records and briefs.

3. Has the potential for the central statewide handling of appeals. Your letter states in part that you have conversed with Morgan Harris and Bill Dunseath about the possibility of creating an appellate agency and they are desirous of keeping those appeals which were "generated by their offices." The letter also states that "they would not be opposed to a central office to represent those who were not originally represented by a county public defender, or when the county public defender has been disqualified at the appeal level." Although I am aware that that responsibility would be added to those already represented by the State Public Defender, pursuant to NRS 180.060 (4) in post-conviction relief matters, it would seem more desirable that, at a minimum, the central agency would also absorb any backlog for Clark and Washoe Counties. This would add more flexibility. Tentatively, I would prefer the central agency's handling of all indigent appeals because of that office's expertise, law indexes, and expected uniformity in the preparation of briefs and related materials. This would be a plus from the Court's standpoint and would provide significant budgetary relief to the Clark and Washoe governments, with of course, more state funding being required with a broader base to spread that cost.

4. Will minimize the would be pro se trap. Although I was aware of a number of such instances, Jane further advises that most of the pro per papers come from convicted defendants dissatisfied with their trial counsel. The central agency may well be better equipped to raise such issues as inadequacy or ineffectiveness of counsel without the need for appointment of private counsel.

Norman Y. Herring
May 12, 1980

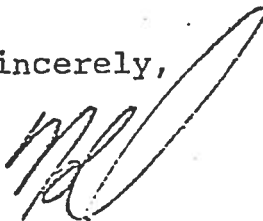
5. Would eliminate disqualification situations. Disqualifications of attorneys resulting from staff transfers between attorney general, district attorney or public defender offices could be resolved by appointing counsel from the central agency, rather than private counsel.

6. Prisoners desirous of filing petitions for extraordinary relief such as mandamus, prohibition or habeas corpus, would have the assistance of the central agency, instead of proceeding in proper person.

Possible partial alternatives to the central appellate agency concept, are, of course, the increase of your staff with "appellate specialists," this court's considering the repeal of the limiting language in NRAP 46(b), or our modifying the rule to provide that the court make a preliminary determination whether the appeal or extraordinary proceeding has probable merit, and if that finding is in the affirmative, require further briefing, if desirable and have the matter submitted without argument, or appoint counsel and have the case either submitted or argued. The proposed central appellate agency, if used to its maximum potential, would, in my opinion, be the panacea for just about every complained of ill.

Norm, I am well aware of your staff limitations and deficiencies within the system as presently constituted. Certainly if there is any other way that Jane or I can be of further assistance, do not hesitate to be in touch.

Sincerely,



NOEL E. MANOUKIAN

NEM/sb

cc: Ms. Jane Nelson, Supervising
Staff Attorney

Norm



SEVENTH JUDICIAL DISTRICT COURT

P. O. BOX 729
ELY, NEVADA 89301

April 9, 1980

MERLYN H. HOYT
DISTRICT JUDGE

WHITE PINE AND LINCOLN COUNTIES
STATE OF NEVADA

RECEIVED

APR 14 1980 *dy*

Nevada Public Defender

MR. NORMAN Y. HERRING
Nevada State Public Defender
Capitol Complex
Carson City, Nevada 89710

Dear Mr. Herring:

This will reply to your letter of April 7, 1980. I am most familiar with your workload problems. We recently had to conduct a Juvenile hearing by telephone. Your deputy was in Eureka County. The Juvenile, District Attorney and myself were in Lincoln County. We could not continue to hold the Juvenile in custody for a long period to await available counsel.

I assume Mr. Steven McGuire, the local Deputy, will go to Texas for training. We will work around that problem and encourage the additional training of deputies. Steve is conscientious and will benefit greatly from the training.

We will support your efforts for a permanent regional office here and I believe the deputy should be full time, not contractual in Ely. The area is in a period of substantial growth. The criminal caseload is greatly increased and the need for the permanent regional office is demonstrable in terms of man hours, travel time and case filings.

Very sincerely yours,

Merlyn H. Hoyt
MERLYN H. HOYT
District Judge

MHH:mk

xc: Steven G. McGuire, Esq.

EXHIBIT E

SUPREME COURT OF NEVADA
JOHN MOWBRAY, CHIEF JUSTICE
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



April 30, 1980

Norman Y. Herring, Esq.
State Public Defender
Capitol Complex
Carson City, Nevada 89710

Dear Norm:

This is to acknowledge receipt of your letter of April 11 regarding your interest in the establishment of an appellate agency in the Defender program to handle the indigent appeals to the Nevada Supreme Court. I am very much in favor of a Central Appellate Public Defender and would be glad to support anything you have in mind.

Sincerely,

A handwritten signature in dark ink, appearing to read "John Mowbray".

John Mowbray

JM:pp

cc: Morgan Harris
William Dunseath

EXHIBIT F

RECEIVED

APR 30 1980

Nevada Public Defender



RECEIVED

APR 14 1980

Nevada Public Defender

FIFTH JUDICIAL DISTRICT COURT
ESMERALDA, MINERAL AND NYE COUNTIES

WILLIAM P. BEKO
DISTRICT JUDGE

April 9, 1980

PLEASE RESPOND TO:
Tonopah OFFICE

Norman Y. Herring, Esq.
Nevada State Public Defender
Capitol Complex
Carson City, Nevada 89710

Dear Mr. Herring:

Thank you for your letter of April 7, 1980.

I appreciate the problems you have regarding scheduling when you have a limited number of lawyers to spread out over such a wide area.

The number of requests for calendar changes which I receive from your deputy assigned to my district have been few and far between. I have rescheduled a trial in June in order to allow Gary to attend school, and, to the best of my recollection, there has been only one occasion in the past year when a court commitment elsewhere necessitated a change in my calendar. I only wish I had such a record with private counsel!

Chapter 62 of NRS requires counties having a population of 20,000 or more to provide separate juvenile facilities. With the growth in Tonopah and the surrounding area, I anticipate reaching this figure in the near future. If we vacate our present juvenile probation offices - situated adjacent to the Tonopah Justice Court and the Nye County Jail, I intend to reserve that space for your use if possible.

The suggestion of establishing a central appellate agency for appeals to the Supreme Court, or the new appellate level if adopted, is excellent. An experienced staff of appellate counsel, plus computerized or word processing capability, will reduce time and substantially increase

EXHIBIT G

ESMERALDA COUNTY: (702) 445-6347	P. O. BOX 209	GOLDFIELD, NEVADA 89013
MINERAL COUNTY: (702) 945-2446	P. O. BOX 1457	HAWTHORNE, NEVADA 89415
NYE COUNTY: (702) 432-3341	P. O. BOX 393	TONOPAH, NEVADA 89049

Norman Y. Herring, Esq.
April 9, 1980
Page 2

production. Law clerks or paralegals can be utilized to good advantage in this function.

Needless to say, I would be pleased to have a regional office in this judicial district because it would expedite the movement of cases through our courts. The elimination of the present travel requirements would result in better utilization of the defender's time. The growth of this area will undoubtedly affect this need.

Best personal regards.

Very truly yours,



William P. Beko

WPB/dk

Figure 4

CHANGE IN CASES OPENED FOR REPORTING COUNTIES

<u>Counties</u>	<u>76/77</u>	<u>78/79</u>	<u>% change</u>
Carson City	191	232	+ 21%
Churchill	35	53	+ 51%
Douglas	174	215	+ 23%
Esmeralda	6	6	0
Humboldt	66	95	+ 43%
Lyon	39	49	+ 26%
Mineral	45	45	0
Nye	70	53	- 24%
Pershing	22	51	+131%
Storey	<u>9</u>	<u>1</u>	<u>- 88%</u>
	657	800	+ 24%
*Juvenile Cases	<u>0</u>	<u>69</u>	
	657	869	+ 32%

*The 1977 legislature designated the State Public Defender to represent juveniles in proceedings held pursuant to NRS Chapter 62, The Juvenile Court Act.

4.0 CHANGES AND IMPROVEMENTS UNDER THE HERRING ADMINISTRATION

Even though the Public Defender does suffer from several major problems--inadequate funding, too few regional offices, no appellate unit, and lack of support staff--Mr. Herring and his staff have effected substantial improvements in office organization and casehandling in less than two years. Outlined below are the major changes Mr. Herring has initiated, and the problem areas that still remain.

PERSONNEL

Improvements:

- hired committed, aggressive attorneys
- reduced turnover
- increased morale (through better supervision, more support, improved communication)

Remaining Problems:

- no investigators
- no social service workers
- judges control funds for expert witnesses and investigators

OFFICE AND CASE MANAGEMENT

Improvements:

- instituted accountability procedures for regional offices
- applied for and received LEAA grants for outside training
- developing in-house training (still limited at the present time)
- encouraging support staff to enroll in criminal justice classes and sit-in on court
- boosted morale and productivity by replacing old system of pooling secretarial assistance with new system of assigning secretaries to particular attorneys
- developed research file for motions and briefs
- opened regional offices in Winnemucca and Ely
- looking into the possibility of renting or buying more spacious offices closer to the courthouse in Carson City
- increased percent of cases going to trial
- instituted recordkeeping procedures (for cases, calendaring, travel, etc.)
- designed law school externship program, which will begin in the fall of 1980

Remaining Problems:

- late case entry (especially in juvenile cases)
- judges determine eligibility (insufficient independence from the judiciary)
- inadequate coverage in southern and western parts of the state; expensive and time-consuming travel
- no appellate unit

FUNDING

Improvements:

- designed and instituted recordkeeping procedures that will provide documentation for budget requests
- applied for and was awarded an \$11,000 grant from the Law Enforcement Assistance Administration to open a regional office in Winnemucca
- presently applying to the court for funding for the representation of municipal ordinance violations

Remaining Problems:

- insufficient level of funding (more money is needed for staff positions and additional regional offices; no money is provided to cover the cost for juvenile proceedings, municipal ordinance violations and appeals)
- complicated planning due to biennial funding cycle
- complicated planning due to local county option that allows county commissioners to opt out of the state-wide system at any time in the funding cycle
- dependence on the judiciary for funds for expert witnesses and investigators

Reviewing this outline, we can appreciate that Herring and his colleagues have made significant progress in redesigning and improving the organization and quality of defense services. Our interviews suggested that most of the remaining problems are linked to the lack of funding, rather than poor management policy or staff performance.

5.0 RECOMMENDATIONS

The following recommendations are based on the materials provided by the Public Defender (including the relevant sections of the Nevada Revised Statutes; the Nevada State Public Defender 1978-79 Annual Report; the 1979-81 Public Defender Budget; and the 1979-80 caseload figures), and the information gathered during our two days of interviews on site. Some of these recommendations address administrative issues while others concern political and legislative issues. Obviously, implementation of some of these recommendations will be more difficult than others, but each is grounded in the experience of other public defender offices and would, in our judgment, ultimately improve the quality of representation for indigent defendants in the State of Nevada.

5.1 Appellate Division

The State Public Defender should consider developing a separate appellate office. Many states, as diverse as Indiana and California, have statewide appellate defender offices funded and operated separately from defender offices working in the lower courts. The benefits of a separate appellate office include the expertise which accrues to attorneys who specialize in appeals; the efficiency resulting from the development of an appellate brief bank which can be continuously updated and refined; and the elimination of the potential for intra-office conflict when a public defender case is appealed.

Because of the added administrative costs of setting up an entirely separate appellate office, a distinct appellate division might be initially developed within the State Public Defender's Office. However, if it is part of the same office as the trial court division, the appellate division should be as functionally separate as possible--using lawyers and support staff who do not participate in trial court activities. Although such a division is less optimal than a separate appellate defender office, it would represent a significant improvement over the current method of handling appeals in the Nevada Public Defender Office. As detailed in section 4.3 of the 1976 National Study Commission of the National Legal Aid and Defender Association:

The appellate and post-conviction functions should be independent of the trial function in order to accomplish free and unrestricted review of trial court proceedings.

Where the appellate office is part of a defender system which includes both trials and appeals, the appellate function should be as organizationally independent of the trial function as is feasible.

(a) Counsel on appeal should be different from trial counsel and capable of exercising independent review of the competence and performance of trial counsel.

(b) An appellate defender should not have responsibility for any trial work while in an appellate capacity and should remain in appellate work for a substantial period of time in order to provide continuous representation to a client throughout the appellate process.

Wisconsin presents an example of a statewide public defender system which incorporates both a trial and appellate division in one office. The divisions are kept distinct with no overlap in staff or functions. Further, whenever an appeal from a public defender case has even the potential of raising "adequacy of counsel" issues, the case is assigned out of the office to private counsel.

According to the Nevada State Public Defender, if an appellate division were created in his office its responsibilities would include:

- Direct appeals from the State Public Defender's Office;
- Direct appeals in cases involving indigent appellants who were represented at trial by private counsel or pro se;
- Appeals from counties in which the county public defender is in operation pursuant to Nevada Revised Statutes Chapter 260 and the county defender has been disqualified or when there is an issue regarding adequacy of counsel;
- Habeas corpus appeals and extraordinary writs from inmates of the Nevada Department of Prisons;
- Representation of indigents before the Nevada Board of Pardons Commissioners;
- Post-conviction appeals.

These appellate responsibilities would be pursuant to the duties of the State Public Defender as detailed in NRS 180.060 (4):

In cases of post-conviction proceedings and appeals arising in counties in which the office of public defender has been created . . . , where the matter is to be presented to the supreme court, the state public defender shall prepare and present the case and the public defender of the county shall assist with the state public defender.

From July 1, 1978 to June 30, 1979 the Nevada Public Defender handled 32 appeals. Based on the National Advisory Commission report (1973) the Public Defender Office should not exceed 25 appeals per attorney per year. Thus an adequate appellate division staff would appear to be one full-time attorney, one full-time law clerk and one full-time secretary/word processor.

5.2 County Participation

The State Public Defender should work toward a total statewide system encompassing all counties except Clark and Washoe (which are not presently included in the state public defender trial system because of their unique political and economic circumstances). By providing such coverage the statewide public defender can more feasibly ensure quality services in a cost effective manner. Each county which elects to provide its own public defender service reduces the efficiency of the statewide system and duplicates administrative and support services available through the State Public Defender Office.

Because NRS 260.010 and 260.020 allow for counties to opt out of the statewide defender system, it is difficult to develop long term planning regarding staff and support needs. While hiring decisions must be based on the two year budget established at each state legislative session, counties can withdraw at any time, thereby causing an imbalance between revenues and staff. Recently Elko County, for example, decided to withdraw from the statewide public defender system. While there has been some discussion regarding Elko County's return to the system, such decisions make planning and budgeting extremely difficult. In an effort to remedy this problem and still afford the counties the authority to opt out of the statewide system we recommend that the State Public Defender take the following steps:

- Recommend to the legislature that counties be required to commit themselves to the State Public Defender System for at least two years. If this legislation gives the counties the option of establishing their own defender system, that option must be acted upon at the end of each regularly scheduled legislative session. If a county does not provide its own defender services it should be obligated to join the state system until the following regularly scheduled legislative session. This will allow the State Public Defender to plan and provide security to staff for two years.

• Seek to have the state allocate a greater proportion of Public Defender funds. The state currently provides approximately \$92,000 to the statewide public defender office and the counties, \$277,000. By increasing the state's share and reducing the burden on the counties, each county would have a greater incentive to join the statewide system and the public defender would be less dependent on county commissioners who may seek to impose unrealistic demands on the statewide office as a condition of their participation. Ideally the state should provide all the funds necessary to operate the statewide system. Indeed, as illustrated below, most statewide public defender systems are exclusively funded out of the state budget.

STATEWIDE PUBLIC DEFENDER PROGRAMS FUNDED
EXCLUSIVELY FROM STATE FUNDS

<u>State</u>	<u>Budget (Year)</u>
1. Alaska	\$ 2,900,000 (1979)
2. Colorado	\$ 3,600,000 (1979)
3. Connecticut	\$ 4,800,000 (1979-1980)
4. Delaware	\$ 1,400,000 (1980)
5. Hawaii	\$ 1,500,000 (1979-1980)
6. Maryland	\$ 7,300,000 (1980)
7. New Jersey	\$14,200,000 (1979)
8. New Mexico	\$ 2,500,000 (1980)
9. Rhode Island	\$ 800,000 (1980)
10. Vermont	\$ 1,200,000 (1980)
11. Wisconsin	\$ 8,600,000 (1979-1980)

Further, we have identified fifteen additional states* that are evidencing an interest in combined statewide funding and administration. The degree of interest and support varies substantially among these states, but a definite trend toward state funding is obvious.

In states with a statewide public defender system funded partly by participating counties, the state's share is substantially larger.

*These states include Alabama, New Hampshire, Georgia, Indiana, Iowa, Michigan, Montana, North Dakota, Oklahoma, Mississippi, Massachusetts, Tennessee, North Carolina, Virginia, and West Virginia.

STATES WHICH RELY UPON STATE FUNDING BUT WHICH ALSO
REQUIRE A SUPPLEMENT FROM THE COUNTIES WHICH ARE SERVED

<u>State</u>	<u>Budget</u>	
	<u>State</u>	<u>County</u>
1. Florida	\$15,800,000	\$4,000,000 (1979)
2. Kentucky	\$ 2,900,000	\$ 300,000 (1980)
3. Ohio	\$ 8,500,000	\$4,500,000 (1979-1980)
4. Wyoming	\$ 1,200,000	\$ 200,000 (1979-1980)

If Nevada does not move to a fully state-funded system, we recommend a substantial increase in state funds which would bring the counties' share to 15% or less.

- Set up regional offices around the state which afford adequate representation to the rural counties without imposing excessive travel demands on staff attorneys. The regional office in Winnemucca could be replicated in a city like Tonopah (a centrally located city housing the District Court). Each of these offices should have a full-time lawyer and secretary. The contract arrangement with Steve McGuire in Ely seems to be adequate, but hiring a full-time attorney and secretary to cover Eureka, White Pine and Lincoln Counties would allow some flexibility for that attorney to assist in the anticipated increase in caseload in Nye County.

The development of regional offices would reduce the extraordinary travel burden as well as give the associated counties a sense of commitment from the public defender office. If regional office space could be arranged in a county building, the additional cost of a branch office in Tonopah would be limited to a secretary's salary. This would be mitigated by savings resulting from the significant reduction in travel costs now incurred in covering the four county regions which the Tonopah office could serve.

5.3 Juvenile Representation

Representation of juveniles by the public defender raises several problems discussed in section 2.0. This is an area that needs further study since we were unable to observe the juvenile justice process in the short time we were on site. The public defender reports that the legislature recently expanded the scope of his office to include juvenile representation without a commensurate increase in funds necessary to provide this service. In addition, the courts have traditionally treated juvenile cases informally, appointing counsel only at the sentencing stage.

While the juvenile caseload does not appear to be heavy (11 juveniles charged with delinquent offenses in Carson City in 1979), this additional burden should not be met by taking necessary resources from the adult cases. The public defender should examine the court records in each county served by his office for the past two years to determine the actual juvenile caseload. Based on the results of that effort he should then apply to the state legislature for an appropriation sufficient to provide whatever fraction of a full-time equivalent lawyer is necessary to adequately represent the juvenile defender population.

The Public Defender Office should whenever possible schedule cases so that one lawyer is responsible for all juvenile cases in a district. Such specialization results in increased effectiveness and expertise. This attorney could also develop a working relationship with the juvenile court masters which would help to encourage these masters to appoint counsel at the earliest possible stage in the proceedings. In the absence of such an appointment policy it is the responsibility of the Public Defender to appeal adverse decisions on grounds of inadequacy or lack of counsel.

5.4 Investigative Services and Expert Witnesses

One of the most serious deficiencies of the Nevada State Public Defender Office is the lack of investigative services. The Office should seek funds for two investigators--one for Carson City and Douglas County and one for the remainder of the state. The need for well-trained, experienced investigators is documented in each of the major studies of the public defender function (1973, National Advisory Commission Sec. 13.14; 1976, NLADA National Study Commission Sec. 4.1; 1978, The American Bar Association Sec. 5-1.4). The NLADA Study Commission concludes that "a minimum of one investigator should be employed for every three staff attorneys in an office. Every defender office should employ at least one investigator."

The Nevada Public Defender also suffers from lack of funds to employ expert witnesses. Although this is somewhat mitigated by funds made available from the court, the public defender should not have to request funds for expert witnesses from the court and the court should not be put in the position of assessing the appropriateness of the defense strategy resulting in the need for expert witnesses. This relationship impinges on the independence of defense counsel and forces the court out of its role of disinterested

third party. The situation is particularly egregious in Carson City where, according to those interviewed, funds for defense expert witnesses come from the District Attorney's budget. We have not heard of this situation existing anywhere else and we strongly recommend that these resources be transferred to the public defender office.

In developing his annual budget the Public Defender should include a line item account for both investigative services and expert witnesses. The latter should be based on previous experience including all requests (successful and unsuccessful) for expert witnesses during the previous year. It should be made clear that the funds appropriated for these functions are not extraordinary funds but rather funds which would otherwise be paid out of different budgets.

5.5 Training and Inter-office Communication

While the State Public Defender staff appears to consist of highly motivated attorneys committed to delivering high quality representation to indigent defendants, the staff is relatively inexperienced in the practice of criminal law. The Public Defender has been successful in finding grant money with which to send several of the staff to various training courses. However, a more consistent ongoing training effort should be incorporated. In the absence of additional funds for a training supervisor, the following practices might be implemented:

- Regular (monthly) staff meetings at which specific cases and questions are discussed.
- Assignment of a specific topic to an individual staff person (e.g., search and seizure; death penalty; cross-examination strategy; hearsay rule, etc.) for presentation at a staff meeting. If each of six attorneys is assigned to research one such topic a year, a presentation can be scheduled once every two months.
- Assignment of a new staff attorney to a senior attorney for a period of time. Under this mentor system, new attorneys can watch and learn from the more experienced attorneys and gradually take on more responsibilities.
- Collaboration with the Clark and Washoe County Public Defenders in bringing in training specialists from NCCD and other organizations, and purchasing or leasing video cassette tapes of mock trials and other learning tools.

In addition to training it is important for the State Public Defender to ensure that regional office staff have adequate support. It is important

for regional office staff to communicate regularly with the central office and to identify themselves with the Public Defender Office. This is particularly important in one-attorney offices where isolation and lack of professional contact can be debilitating and demoralizing. Typically, one-lawyer offices should be discouraged even if the caseload will not support two full-time lawyers. Whenever possible, two or more lawyers (even if one is part-time) should be hired for each office. Not only does the second lawyer provide the professional contact and collaboration necessary on difficult cases, but the second lawyer can provide the essential services which are needed when the other lawyer is ill or on vacation. In sparsely populated areas like much of Nevada, however, there simply may not be more than one lawyer available to a public defender office. In this situation the Public Defender should require daily phone contact and at least bi-monthly visits to the central office. A Watts telephone line may also prove cost-effective in protecting against the isolation of rural single-attorney offices.

6.0 CONCLUSION

The Nevada Statewide Public Defender Office has substantially improved during the administration of its current director, Norman Herring. As detailed in sections 2.0 and 3.0, Mr. Herring inherited an office riddled with major problems regarding personnel, office and case management and funding. In the short time (19 months) that Mr. Herring has been in office he has remedied many of the immediate operational problems and has begun to take the necessary steps to solve the more long-term problems. Staff morale is high and all those we interviewed had a uniformly high regard for Mr. Herring and the job he is doing.

Several problems still remain, some of which threaten to jeopardize the advances made in the past year and a half. The most significant problems are the need a) for additional state funding necessary to open a regional office serving Nye, Esmeralda, Mineral and Lyon counties; b) to hire staff necessary to provide adequate representation on appeal and for indigent juvenile defendants; and c) to reduce the level of funding currently imposed on the counties.

Based on our interviews and observations during our two days on-site, it appears that Mr. Herring and his staff are highly dedicated and competent. With the support of the state legislature in assisting Mr. Herring to carry out the recommendations set forth in section 5.0, the Nevada Statewide Public Defender system could serve as a model for other similar states. Upon request and approval by the Government Project Monitor, the Criminal Defense Technical Assistance Project will be available to provide short-term technical assistance to the state of Nevada or the Nevada Statewide Public Defender Office in furtherance of these recommendations.

DATE: 2/23/81

WAYS AND MEANS COMMITTEE

GUEST LIST

NAME (PLEASE PRINT)

REPRESENTING:

Richard Bryan

A.G.'s ofc.

Marlene Lockard

" "

Larry Struve

" "

Maryl Ferguson

Health Planning & Resources