

EXECUTIVE SUMMARY

The United States Supreme Court guaranteed counsel to those of insufficient means under the Sixth and Fourteenth amendments of the U.S. Constitution, while reaffirming the states' responsibility to provide representation in *Gideon v. Wainwright*, 372 U.S. 335 (1963). Despite this, Nevada remains among the shrinking minority of states that still rely primarily on county funding to ensure its citizens' constitutional right to assistance of counsel. The extent to which Nevada relies on county funding for indigent defense services and the inadequacies of services it produces was extensively detailed in the joint U.S. Department of Justice and American Bar Association report *Indigent Defense Services in the State of Nevada: Findings and Recommendations* (December 2000). It was the professional opinion of the DOJ/ABA team that the issues raised throughout the state justified further study through county-by-county public defender audits.

In March 2002, Clark County issued a Request for Proposal (RFP) to evaluate current practices and recommend alternatives for improving the efficient use of attorney and staff in the Clark County Public Defender Office (CCPDO). Additionally, the RFP solicited proposals to study and recommend the best management structure to allow CCPDO to monitor its performance. After a competitive bid process, the National Legal Aid & Defender Association (NLADA) was awarded the contract. NLADA is a national, non-profit membership association dedicated to quality legal representation for poor people and has played a leadership role in the development of national standards for indigent defense functions and systems for decades.

During the week of July 8th, 2002, an NLADA assessment team conducted one-on-one interviews with CCPDO management, attorney supervisors, staff attorneys, investigation management and staff, legal support staff, and operations personnel. NLADA also reviewed numerous public defender case files, visited public defender clients in the County Jail and conducted in-court observations. Finally, NLADA reviewed CCPDO assignment and disposition statistics, budget requests, job descriptions, annual reports, and county policy/procedure manuals.

Chapter I (pages 1-7) of this report is an overview of indigent defense funding from a national perspective and serves as an introduction to the current study. Chapter 2 (pages 8-12) explains the county's criminal justice system in which the county's indigent defense system operates and details the organizational structure and current practices of the CCPDO.

Although the report identifies areas within the current management structure that need improvement, the NLADA assessment team determined that the majority of the problems preventing the office from providing adequate representation in an effective and cost-efficient manner were created in years past. The discussion of two of these issues, related to organizational culture and workload, are set apart in Chapter III and IV (pages 13-37) to underscore the seriousness of the issues and to emphasize the immediate need to address these operational deficiencies.

Our finding in Chapter III states that the CCPDO has a longstanding institutional culture that places a priority on attorney autonomy over the collective health of the organization. This has fostered organizational isolationism that limits accountability, support and professional development of staff, and inhibits interactions between attorneys

in the office, between attorneys and support staff, between the organization and its client base, and between the organization and the national indigent defense community -- all of which has hindered the organization's ability to implement effective change.

Chapter IV finds that CCPDO attorney caseloads are in serious breach of national workload standards. The office has been historically understaffed and there is a serious crisis in adult felony and misdemeanor representation. Juvenile representation is beyond the crisis point and requires immediate attention to avert constitutional challenges of ineffective assistance of counsel. Since 1983, the juvenile facility has been staffed with only two attorneys. The current Chief Public Defender added a third in 2002. From 1993 until 2001, the CCPDO juvenile new assignments increased over 397% (from 576 to 2,867) without a single new attorney being added to help with the workload. At the close of 2001, CCPDO's juvenile attorneys were expected to handle more than *seven times* the number of cases recommended by standards promulgated by the American Bar Association (ABA) and NLADA.

The report concludes that Clark County has many assets that can support positive change, including, among other things, dedicated, talented CCPDO staff and leadership, strong County leadership, an engaged community that desires good performance and accountability, and competitive salaries to recruit and retain qualified staff. However, no management team or structure will be able to institute the performance-based accountability system desired by the County without a serious recommitment of resources to CCPDO and some significant changes. Chapter V (pages 38-74) details NLADA recommendations needed to bring Clark County into compliance with national indigent defense standards. They include, among others, the following:

- * Clark County must increase the number and type of CCPDO staff positions;
- * CCPDO should redefine its management structure;
- * CCPDO must develop and implement a performance plan that includes clear performance guidelines and expectations, training and other appropriate means for promoting staff development and consistent processes for assessing development needs as well as performance;
- * CCPDO must develop training programs and opportunities for all staff and should consider creating a specialized training unit;
- * CCPDO should create a separate appellate unit incorporating NLADA's *Standards and Evaluation Design for Appellate Defender Offices*;
- * CCPDO should consider alternative methods of attorney assignment and the composition of teams;
- * The Chief Public Defender should immediately design and implement an agency-wide communications plan;
- * CCPDO must begin active community outreach to promote positive relations in the community-at-large and its client base; and,
- * Clark County and the CCPDO should use national standards and guidelines when considering the most appropriate process for determining financial eligibility.

Though Clark County policymakers must balance other important demands on the County's resources, the Constitution does not allow for justice to be rationed to the poor due to limited funding. The issues raised in this report serve to underscore the failure on the part of the State of Nevada to adhere to the *Gideon* decision. Though *Gideon* vests the responsibility for funding indigent defense services with the state, the County must continue to bear the brunt of providing adequate defender services until such time as the State accepts its constitutional responsibilities.

The report's conclusion (Chapter VI, page 75) recommends that Clark County work in partnership with CCPDO management to address the problems facing the organization that were created over the past decades but which continue to jeopardize the constitutional rights of its people.