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NEWS RELEASE

Nevada Supreme Court study paints grim picture Of indigent defense services in rural counties

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While the nation has been celebrating the 50th anniversary of *Gideon v. Wainwright* – the landmark U.S. Supreme Court decision that guarantees indigent defendants the right to competent legal counsel – a new study indicates the milestone is not cause for celebration in rural Nevada.

The study entitled ***Reclaiming Justice***, commissioned by the Nevada Supreme Court’s Indigent Defense Commission and released today (March 22), concludes that there are serious deficiencies in the ability of rural Nevada counties to meet the Sixth Amendment requirements of the Gideon decision.

In rural Nevada, indigent defendants may sit in jail for several weeks or even months waiting to speak to an attorney while witnesses’ memories fade and investigative leads go cold, the report noted.

Nevada Supreme Court Justice Michael Cherry is calling for a state-funded public defense commission to oversee and administer all right-to-counsel services outside Clark and Washoe counties. The state’s two most populous counties were not the focus of the study because they have public defender offices and sufficient numbers of attorneys for court appointment.

“Nevada’s rural counties simply cannot shoulder the state’s obligations under the Sixth Amendment of the U.S. Constitution any longer,” Justice Cherry said. “The financial burden will only increase as the U.S. Supreme Court continually clarifies and expands the obligations an attorney owes the indigent accused.”

“We need to fix this problem now,” said Justice Cherry, who chairs the Supreme Court’s Indigent Defense Commission.

According to the Nevada Association of Counties, rural counties are stretched to the financial breaking point as they work to provide competent legal representation for indigent defendants. The situation is only going to worsen as a growing number of people qualify for public defense lawyers as a result of the current economic climate.

The limited number of attorneys practicing in rural areas only complicates the indigent defense dilemma.

Even when an attorney is appointed in a rural county, a defendant “may be one of several hundred vying for the time and attention of the lawyer,” the report stated.

In 2008, the Indigent Defense Commission’s Rural Subcommittee concluded that “rural counties are in crisis in terms of indigent defense,” noting that one county in particular has an annual public defense attorney caseload of “almost 2,000 per contract lawyer.”

“Not even the most competent lawyer on earth can effectively open, investigate, and dispose of cases at a rate of nearly five and a half cases per day, every single day of the year, weekends and holidays included,” the report stated.

Justice Cherry said “Judicial, Legislative, and Executive action is needed to restore Nevada’s historic and deep-rooted commitment to equal justice to the poor.”

The report points out that “since 2008, numerous Nevada Supreme Court administrative orders have improved the right to counsel in the state’s urban centers. This is most notable in Clark County (Las Vegas), where public defender caseloads are now reasonable ... and attorney contracts do not impose financial incentives for attorneys to do as little work as possible on a case.”

“But fixing the ‘crisis’ in rural Nevada has proven to be more difficult,” the report continued. “There are a wide variety of reasons for this, including a lack of attorneys to do the work, the geographic expanse of most rural counties, and limited infrastructure to train and evaluate attorneys.”

“Perhaps most importantly, though, most rural Nevada counties have insufficient resources to keep pace with the United States Supreme Court as it continually clarifies and expands the responsibilities that attorneys owe to their clients under the Sixth Amendment,” the report concluded.

HISTORY

The study points out that Nevada has had a “longstanding history of ensuring equal justice to people of insufficient means.”

In 1879, Nevada became the first state in the nation to authorize the appointment of attorneys in all criminal matters, including misdemeanors, and also provide payment for the attorneys' services, the report stated.

But even before the 1879 law – and well before any federal action on the issue – Nevada had a strong commitment to legal representation.

The Gideon decision is named for Clarence Earl Gideon, who challenged a Florida court's decision to deny him an attorney. The case eventually made its way to the U.S. Supreme Court, which, in March of 1963, handed down its landmark decision that requires all states to provide competent representation to poor people facing felony charges and the potential loss of liberty.

Nevada had its own Gideon in 1873 – Shepherd L. Wixom – who was accused of stagecoach robberies in Lander County and fought for the right to have an attorney to advocate on his behalf. Wixom's court challenges did not result in his freedom (as Gideon's did), but it did lead to the 1877 decision by the Nevada Supreme Court to strengthen the state's law supporting a right to counsel.

THE STUDY

The Nevada Supreme Court commissioned the Sixth Amendment Center to research and write the *Reclaiming Justice* report. The Sixth Amendment Center is a non-profit research organization dedicated to ensuring fairness to poor people in the justice system, according to David Carroll, executive director of the Boston, Massachusetts, based firm.

"Reclaiming Justice shows that the people of Nevada have always viewed the right to counsel not as a federal mandate to be resisted, but as a bedrock principle upon which the state was founded," Carroll said.

"Nevadans should embrace this history and this view today," Carroll continued. "We hope the recommendations set out in *Reclaiming Justice* contribute to the restoration of Nevada's deep-rooted commitment to due process and that justice in rural Nevada will – once again – no longer depend on the amount of money one has in his pocket."

To read the full report [CLICK HERE](#).

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Access the report at: www.sixthamendment.org/reclaiming-justice