

# ***Las Vegas Municipal Court***

*Revised & Re-Submitted to the Supreme Court on July 28, 2016*

In response to the Supreme Court Order dated January 4, 2008 titled, “IN THE MATTER OF THE REVIEW OF ISSUES CONCERNING REPRESENTATION OF INDIGENT DEFENDANTS IN CRIMINAL AND JUVENILE DELINQUENCY CASES”

The Las Vegas Municipal Court (LVMC) hereby submits the following Revised Administrative Plan for the selection of attorneys to represent Indigent Misdemeanor Defendants and the process for the determination of a Defendant’s Indigence:

## **Indigent Defense Administrative Plan**

1. The City of Las Vegas Finance & Business Services Purchasing & Contracts Division (Purchasing) in conjunction with City of Las Vegas Human Resources (HR) Department will issue a Request for Proposal (RFP) for the representation of indigent defendants for all matters before the Las Vegas Municipal Court (LCMC).
  - a) Public Attorney Contracts will be offered for each LVMC department with no limitation on the number of contracts an individual applicant may apply for or be awarded.
    - (1) Contract will be awarded at a Base annual amount as determined by the City of Las Vegas City Council.
    - (2) The Base annual amount shall be for a designated maximum number of hours of service during the course of a contract year. Hours of service above the maximum base contract amount shall be subject to such additional hourly compensation as shall be determined in the contract.
2. Independent Selection Committee will determine who is awarded the individual Public Attorney contracts. The Selection Committee will be comprised of 5 members who will make the final determination relative to the awarding of any Municipal Court Indigent Representation contracts, including “mid-cycle” replacements should a vacancy occur.
  - a) Committee will include a Public Defender (County, Federal or any Counsel compensated by a governmental entity to represent indigent persons), an appointee of the Nevada State Bar, an appointee of the Criminal Justice Association, a member of the City of Las Vegas City Manager’s Office, and a judge, a former judge or other person appointed by the Nevada Judges of Limited Jurisdiction Association.
  - b) Court/judicial input relative to potential conflicts of interest, may be provided prior to the selection committee’s review, however, no judicial pre-empt and/or veto of any selection is permitted.
  - c) Committee to be constituted by July 1, 2013, with first order of business to establish their “rules”.

- d) A quorum of this Independent Selection Committee will be three.
  - e) The Selection Committee's duty shall be to select attorneys to represent indigent defendants in the Las Vegas Municipal Court and when requested, to take custody of and/or oversee the orderly transfer of defendant files when a Public Attorney contract is terminated or concluded.
  - f) Any termination of counsel under this Administrative Plan shall be the sole responsibility of the Las Vegas Municipal Court Administrator.
3. City of Las Vegas Purchasing & HR to have responsibility for all Administrative functions including:
- a) Establishing the Scope of Work and Issuing the Request for Proposals.
  - b) Conducting initial review/interview of all applicant firms to ensure they meet all basic criteria (as established by the Supreme Court Order and LVMC) before submitting all qualified applicants to the independent "Selection Committee".
  - c) Writing and Issuing Public Attorney contract(s) and ensuring that all mandated licenses, proof of insurance, etc., are obtained.
  - d) Ensuring that all individual indigent defense attorneys employed by the firm(s) awarded a Public Attorney contract meet all LVMC and Supreme Court Order eligibility criteria both at contract issuance and throughout term of contract.
  - e) Conducting periodic "audits" to ensure contract compliance.
  - f) Payment.
4. Minimum Qualifications for Attorneys/Firms awarded a contract:
- a) 1M Liability/Malpractice Insurance.
  - b) Experience- Sufficient experience and ability to avidly represent indigent defendants.
  - c) Administrative plan to be submitted as part of application process detailing how the Public Attorney will provide appropriate service levels to the department(s) they are awarded, including how they will fill attorney staff vacancies (vacation, illness, etc.).
  - d) List of all attorneys who will practice in the courtroom submitted and approved by the selection committee as part of application process.
  - e) Changes to approved attorney list supporting the contract must be approved by the Selection Committee prior to practicing in the courtroom.
    - (1) Emergency attorney substitution- name must be submitted within a reasonable period of time.
5. Scope of Work to be included in the Request for Proposal will:
- a) Be developed by a committee appointed by the Las Vegas Municipal Court and the Las Vegas City Manager's Office.
  - b) Include full professional defense for all defendants entitled to indigent representation
  - c) Include Traffic Court indigent representation as appropriate
  - d) Include Appeals

- e) Assure compliance with all Supreme Court Orders and Performance Standards relative to the representation of indigent defendants
- f) Include compensation for ancillary defense costs subject to individual judicial department approval upon receipt of appropriate motion, e.g., investigation, laboratory, transcript costs
- g) Establish that upon termination of a Public Attorney contract for any reason, the contracted attorney is to release all records, attorney notes, photos, electronic materials and discovery essential to a defendant's defense to the custody of the Las Vegas Municipal Court Administration in a timely manner, subject to audit, control and dissemination by the Selection Committee.

6. Emergency Provision –

- a) The terms of this plan may be modified on a limited basis in the event of the occurrence of an event which precludes the provision of previously selected counsel under the terms of this plan due to unforeseen circumstances such as death, default or disaster and which makes the use of the Independent Selection Committee impractical to ensure continued protection of the right to counsel for individuals appearing before the Las Vegas Municipal Court.
- b) Should an event such as described in paragraph 6(a) occur, the Chief Judge shall issue an Administrative Order setting forth the circumstances of such an event and Ordering the Court Administrator to Appoint Counsel under the same terms and conditions as currently apply for other existing Public Attorneys.
- c) A Copy of such order shall be provided to both the City of Las Vegas and the Supreme Court.
- d) Such Emergency Appointment shall not extend beyond the end of the next contract year at which time the Independent Selection Committee shall determine a successor Public Attorney. Such successor may be the same as the Emergency Appointment, or different at the discretion of the Independent Selection Committee under the terms of this plan.

## **Las Vegas Municipal Court Plan for the Determination of Indigence\***

### 1. Defendant not in custody:

- (a) The defendant appears in the courtroom, is facing jail time and states that they cannot afford legal counsel for their defense.
- (b) The defendant completes the Declaration, and if the Court determines from the Declaration that the defendant qualifies under the Presumptive Threshold Standard as established by Nevada Supreme Court ADKT #411, a Public Attorney is assigned to the case and represents the defendant.
- (c) If a more rigorous screening is indicated or ordered, the completed Declaration is forwarded within 2 business days to the Las Vegas Municipal Court Judicial Enforcement Unit (JEU) for processing.
- (d) If the defendant disputes a finding of non-qualification for indigent status and court appointed counsel, or the Declaration has discretionary aspects that cannot be resolved by a more rigorous review,
- (e) The case may be continued for a hearing or other action as determined by the Court.

### 2. Defendant in custody:

- (a) Defendants are presumed to be indigent if they are in custody.

\*Determination of Indigence Exhibits A & B attached:

# LAS VEGAS MUNICIPAL COURT

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## DECLARATION AND APPLICATION FOR COURT-APPOINTED COUNSEL

Case/History No. \_\_\_\_\_

Your Name: \_\_\_\_\_ Social Security Number \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Your Address: \_\_\_\_\_

Where you live?

City/State/Zip Code

Home Phone (\_\_\_\_) \_\_\_\_\_ Cell Phone (\_\_\_\_) \_\_\_\_\_

Work Phone (\_\_\_\_) \_\_\_\_\_

Do you live in Public Housing? \_\_\_\_\_ Are you serving a jail sentence? \_\_\_\_\_

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### PERSONAL INFORMATION

Number of children, dependants or others you are legally responsible for living in your home: \_\_\_\_\_

Where do you work? \_\_\_\_\_

How much do you make monthly before taxes and anything else is taken out of your pay check: \$ \_\_\_\_\_

Other monthly Income (Wife/Husband, Partner, Co-habitant, other): \_\_\_\_\_

I and/or my family are currently receiving the following:

AFDC ☐ Unemployment ☐ Worker's Comp ☐ Food Stamps ☐ SSI ☐ Medicaid ☐

Other Public Assistance (Type) \_\_\_\_\_

I, \_\_\_\_\_, am saying that I cannot afford to hire an attorney. If a crime is charged against me and the City Attorney is seeking for me to serve time in jail and I cannot afford to hire an attorney, the court may appoint an attorney only under certain circumstances.

I have given the above information to see if an attorney can be appointed by the court to represent me in court. I understand that this information may be used to see if I can pay for an attorney to represent me in court. I am giving my permission to contact any credit bureau, review my credit report from any credit bureau, investigative agency or any other source. I authorize the Las Vegas Municipal Court to verify any statements made and information provided and obtain any other information needed. I declare under penalty of perjury that the information that has been given is true and correct. I understand that I might have to pay back all or a part of the attorney fees if it is found that I can pay.

\_\_\_\_\_  
SIGN YOUR NAME

\_\_\_\_\_  
Date

## 2016 HHS Poverty Guidelines

<b>Persons in Family or Household</b>	<b>Federal Poverty Guidelines<sup>1</sup></b>	<b>Poverty Guidelines at 200% (Presumptive Threshold as established by ADKT #411)<sup>2</sup></b>
1	\$11,880	\$23,760
2	\$16,020	\$32,040
3	\$20,160	\$40,320
4	\$24,300	\$48,600
5	\$28,440	\$56,880
6	\$32,580	\$65,160
7	\$36,730	\$73,460
8	\$40,890	\$71,780
For each additional person, add	\$4,160	\$8,320

**SOURCE:** *Federal Register*, Vol. 81, No. 4036, January 25, 2016, pp.4036-4037

<sup>1</sup> **Note:** The Federal Poverty guidelines are recalculated and published annually.

<sup>2</sup> **A defendant is considered indigent if all gross income is less than the Presumptive Threshold as established by Nevada Supreme Court ADKT #411 at 200% of the Federal Poverty Guidelines.**