

Reno Justice Court

SCOTT E. PEARSON
Justice of the Peace

P.O. Box 30083
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June 20, 2012

John McCormick
Administrative Office of the Courts
Supreme Court of Nevada
201 South Carson Street, Suite 250
Carson City, NV 89701

Mr. McCormick,

I am in receipt of your invitation to the Indigent Defense Commission meeting scheduled for June 22, 2012. Your invitation also solicits information regarding this Court's Mandatory Status Conference (MSC) program. I am making plans to attend the meeting. I am providing the information you have requested in case I am detained in Court during the meeting.

I have briefly addressed each of your inquiries below and provided a detailed explanation of each item following the summary. A spreadsheet of the savings is attached separately.

In your invitation you ask for the following information:

1. Details of the MSC program.

- a. The MSC program was created by a committee comprised of members of the Washoe County District Attorneys Office, Public Defenders Office, Alternate Public Defenders Office, Appointed Counsel group, private bar, Sheriff's Office, Pretrial Services and court administration of RCJ and the Second Judicial District Court.
- b. The mission of the MSC program is to enhance the quality of justice and eliminate all unnecessary delay and expense in the processing of criminal cases in RJC.
- c. Under the MSC program the time for appointment of counsel has been shortened from days to hours.
- d. Through considerable efforts from the DA's office discovery and offers are provided within days of the arrest. The discovery has led to early conflict checks by the PD.
- e. The PD's office has adopted a policy of conveying offers within 48 judicial hours of receiving discovery which has led to early meaningful discussions with their clients, earlier investigation of the case and evaluation of the custody status of the defendant.
- f. All felony and gross misdemeanor are set for an MSC seven days from the initial appearance. Through the MSC program we have also shortened the time for pretrials on all in custody misdemeanor cases to seven days after the initial appearance.
- g. The DA, PD and defendant must attend the MSC where the status of the case is discussed including discovery issues and possible resolution if appropriate.

- h. The MSC program provides indigent defendants meaningful conversations with their appointed attorney days after their arrest with an attorney armed with the discovery and time to investigate issues in the case so the client can make an informed choice to contest the case or enter into negotiations. Under the old system the accused often was afforded only a few minutes with an attorney he just met to decide his fate.
 - i. Victims and witnesses are no longer needlessly subpoenaed to Court at great cost and inconvenience just to be told the case is continued for discovery, conflict, or simply time for the Defendant to consider the offer.
- 2. Savings of the Program.
 - a. The MSC program has reduced the witnesses subpoenaed by the DA's office for RJC cases by approximately 60% and officer overtime for RJC cases by more than 60%.
 - b. We believe by shortening the first appearance from 15 days to 7 days the MSC program reduces the average stay of a defendant who could not bail and did not qualify for release by pretrial services by 8 days on average for an estimated annual savings of approximately \$750,000.00 when combined with the witness savings.
- 3. Connection of change in custody status/bail to a guilty plea.
 - a. The MSC is simply a status conference. Bail reduction and own recognizance request hearings occur on separate occasions. There is no connection between the defendant's custody status and a guilty plea in the design of the MSC program.
- 4. Compliance with NRS statutes.
 - a. Under the MSC program defendants with criminal cases in RJC's jurisdiction are screened for a public defender at the time of booking. These applications are usually reviewed by a JP within 24 hours and in no cases more than 72 hours. If the defendant is without means of hiring an attorney the Washoe County Public Defender is appointed to represent the defendant in compliance with NRS 171.188.

In cases where the Washoe County Public Defender is disqualified from representing a defendant, pursuant to the Model Plan, the Alternate Public Defender undertakes representation. Therefore the MSC program is also in compliance with NRS 7.115.

There are many other statutes developed over the past one hundred years which set forth the rules of criminal procedure in Nevada. The MSC program does not change or run afoul of any of these laws.
- 5. Compliance with the Model Plan.
 - a. The Second Judicial District Court – Indigent Defense Report (Model Plan) sets forth several requirements regarding the appointment and monitoring of counsel for indigent defendants. The MSC program is in compliance with the Model Plan.

I hope this material answers your questions. If I am available I plan to attend the hearing to answer any remaining questions from the Commission members.

Sincerely,

Scott E. Pearson
Justice of the Peace

I. Details of the MSC program.

A. The need for the program.

I was a prosecutor in the Washoe County District Attorneys Office from July 6, 1999 until January 2, 2011. During that time I handled thousands of felony cases in the justice courts of Washoe County. It was my frustration with the inefficiencies of the processing of these cases and the quality of the representation often received by indigent defendants which led to the MSC program.

On average this Court receives five hundred new criminal cases every month. Historically less than five percent of these cases were ever contested in Court yet they were set for a contested hearing and the victim, police officers and witnesses were subpoenaed to Court and forced to stand around, often for hours, while the attorneys negotiated the case. This was usually the first time the attorneys would discuss the case and the first time the defendant would meet their attorney.

The typical defendant under the pre-MSC system would wait weeks after his arrest before even meeting his attorney. When he did meet his attorney it was at the preliminary examination, often after the time set for the hearing if the PD had many cases to handle at that time. After a short introduction the defendant was told of the offer and often advised he must decide at that moment because the DA had there witnesses and they will proceed to the preliminary hearing if he did not accept the offer. Often through this conversation the PD would learn of a possible defense but the client would be forced to forgo the defense or allow the offer to expire. Obviously defendants in this situation would have little confidence in their attorney as would his loved ones and other observers of this process. There were also frequently issues at the entry of plea during the canvass of the defendant in District Court based upon these circumstances.

Under the pre-MSC system witnesses were frequently told the case was continued because of a conflict or discovery had not been provided. The witnesses lost time at work and tax payers paid hours of overtime to subpoenaed police officers. You can further appreciate my frustration when you consider the experience of the typical victim, witness or loved one of the accused under the pre-MSC system. First we must understand the citizen, whether a victim, witness, or friend of the accused, has likely already been through significant stress as a result of the commission of the crime and arrest of the defendant. Now they receive a subpoena or notice of the court date and set about making arrangements with their employment, childcare and other daily responsibilities. On the day of Court they struggle to find a parking space then attempt to discern the difference between Reno Municipal Court and Reno Justice Court as they try to find the place they need to be. After asking several people they finally find the clerk's counter and check in for the Court hearing.

When the typical citizen checks in they naturally ask which courtroom will be holding the hearing. Under the old system the clerks could only reply they were not sure because the cases usually did not actually go into court for a contested hearing. When asked when they would know the clerks would have to answer honestly that it could be hours before they would know if the case was going into court that day. Over ninety-five percent of the time these people were at some point informed the case was resolved or continued because of discovery, attorney conflict, further investigation, or often the defendant simply wanted to consider the offer he was just provided. Obviously these experiences did not reflect well upon the judicial system.

Courts around this country realized some time ago the need to address the high percentage of civil cases that were being resolved on the eve of trial. The result was the implementation of mandatory settlement conferences and other pretrial procedures to ensure only those cases which are not likely to be resolved will be set for trial. No other topic has dominated discussions regarding improvements to the judiciary as case management and the critical role the bench plays in the process. As you can see from the above statistics the same need exists for our criminal cases.

This is of course not a problem unique to our area. The 2006 ABA Criminal Justice System Standards including Standard 12-1.5 calls for “timely case resolution from a systemic perspective” that will “assure fairness and due process of law.” The Standards urge each jurisdiction to adopt case flow systems “that will enable timely resolution of all criminal cases . . . including the large proportion of cases not resolved by trial” by enabling “an early assessment of the complexity and prospects for non-trial resolution of cases, and seek to facilitate the early resolution of cases not likely to be tried.”¹ Rule 1 of the Criminal Rules of Practice for the Second Judicial District Court (LCR 1) and Rule 2 of the Federal Rules of Criminal Procedure call for “simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.” There are also numerous articles and lectures which have recently focused on this critical need for improvement.²

¹ 2006 ABA Criminal Justice System Standards - Standard 12-4.3 - Jurisdictional plans for effective criminal case flow management: essential elements.

Elements of a plan for effective overall criminal case flow management in a local jurisdiction should include:

- (a) rapid preparation and transmission, to the prosecutor, of good quality police incident/arrest reports;
- (b) rapid retrieval of prior record information about the arrested person, using speedy and reliable identification and record retrieval technology;
- (c) rapid preparation of pretrial investigation reports on arrested defendants by a pretrial services agency, and utilization of these reports by judicial officers in promptly setting release conditions for arrested persons;
- (d) rapid turnaround of forensic laboratory test results, especially for the testing of suspected drugs seized pursuant to an arrest;
- (e) effective early case screening and realistic charging by prosecutors;
- (f) early appointment of defense counsel for eligible defendants; for other cases, court procedures that ensure prompt participation by counsel for the defendant;
- (g) early provision of discovery, consistent with the provisions governing discovery set forth in the ABA Criminal Justice Standards on Discovery;
- (h) early discussions between the prosecutor and the defense counsel concerning possible non-trial disposition of the case;
- (i) early case scheduling conference conducted by the assigned judicial officer to:
 - (1) review the status of discovery and negotiations concerning possible non-trial disposition;
 - (2) schedule motions; and
 - (3) make any orders needed;
- (j) case scheduling practices that use techniques of differentiated case management to facilitate expeditious disposition of simple cases, enable rapid identification of cases likely to require more attorney time and judge attention, and make good use of limited courtroom and lawyer preparation time;
- (k) case timetables addressing the time periods allowed for completion of discovery, filing of motions, and other case events that are set at an early stage of the case by the judge in consultation with the prosecutor and defense counsel;
- (l) early filing and disposition of motions, including motions requiring evidentiary hearings;
- (m) close monitoring of the size and age of pending caseloads, by the court and the prosecutor’s office, to ensure that case processing times in individual cases do not exceed the requirements of the speedy trial rule and that case processing time standards are being met for the overall caseload;
- (n) a policy of granting continuances of trials and other court events only upon a showing of good cause and only for so long as is necessary, taking into account not only the request of the prosecution or defense, but also the public interest in prompt disposition of the cases;
- (o) procedures enabling resolution of all charges pending against a defendant, whether in the same case or in different cases and whether in the same court or a different court of the state, provided that defense counsel and the prosecutor(s) who filed the charges agree to the consolidation of the cases; and
- (p) elimination of existing case backlogs (i.e., cases pending longer than the established case processing time standards), following a backlog reduction plan developed collaboratively by the court, the prosecutor’s office, the defense bar, and law enforcement and other criminal justice agencies involved in and affected by criminal case processing.

² Berkson, Hays, and Carbon, eds., *Managing the State Courts*, “The central theme of most reform proposals is the elimination of court delay. No other topic commands as much attention from the judiciary, the bar and the public at large.”; Ernest C. Friesen, *The Delay Problem and the Purposes of Courts*; National Center for State Courts, Institute for Court Management, *Caseflow Management Principles and Practices: How to Succeed in Justice* “The study of delay is not the study of inefficiency, but is the study of the very purposes for which courts exist. . . . Justice is lost with the passage of time. . . .”

More than twenty years ago this issue was addressed by Judge Steven McMorris of Douglas County. Judge McMorris designed pretrial procedures for all misdemeanor cases and pre-prelim procedures for all felony and gross misdemeanor cases. Under Judge McMorris' programs attorneys were required to meet on every criminal case before the matter was set for a contested hearing so they could discuss the status of the case including discovery, negotiations, potential conflicts, or any other issue which may result in the resolution or continuance of the case. No longer did these conversations occur with victims and witnesses needlessly standing around.

Soon Judge McMorris' programs were adopted by Judge James Mancuso here in Washoe County. Judge Mancuso operated a very popular and successful pretrial and pre-prelim procedure for more than fifteen years in Incline Justice Court. Both Judge McMorris and Judge Mancuso have retired from their courts but their programs continue in their absence in Douglas County and Incline Justice Court under the leadership of judges Richard Glasson and Alan Tiras. In the late 1990s Sparks Justice Court implemented the pretrial procedures on all misdemeanors and they were followed thereafter by the Reno Justice Court. While these programs meet the need for pretrial procedures on misdemeanor cases they do nothing to alleviate the problems with the two hundred and fifty or so felony and gross misdemeanor cases we receive each month.

Having worked for nearly twelve years in each of the programs in Incline, Reno and Sparks justice courts I was convinced it was far passed the time the pre-prelim procedure was implemented in the Reno and Sparks Justice Courts. I had experienced too many victims and witnesses repeatedly inconvenienced by being compelled to rearrange their lives to come to court only to be told the case was continued or resolved. Far too often I observed appointed counsel meet their client for the first time on the date of the preliminary examination which gave the defendant mere minutes to consider an offer from the State. Often I would be forced to continue the case to avoid the defendant receiving ineffective assistance of counsel. I had also seen the economy sour to a point where the government could no longer afford officers standing around for hours in the lobby of the Court. It was not unusual for there to be more officers in Court than there were out on patrol at a given time.

In my first few weeks on the bench I set up a committee with leading defense lawyers, prosecutors and the staff of the Court and Sherriff's office to create a pre-prelim procedure that would work for the citizens, the Court and the agencies served by the Court. Despite the initial resistance from some members of the committee they soon began to see the inequity and inefficiencies of the current system.

We spent the better part of six months balancing the concerns of each of the committee members and developed several new procedures to alleviate those concerns including a process to shorten the time for the appointment of the public defender from days to hours. Now attorney conflicts are discovered days earlier and defendants are not languishing in jail without representation. We were also able to provide increased access for the PD's to their clients so they could meet with them in a timelier manner. The MSC program was put in place in mid-August of 2011.

The MSC committee continues to meet to fine tune the system. I believe the system has not yet reached its full potential. There are still improvements necessary in the production of police reports to the DA's Office, systems to ensure the PD's are meeting their 48 hour performance goal, and a more expedited procedure for addressing the defendant's custody status. The seven day period can also be reduced as these issues are resolved.

I am pleased to report we are receiving very positive feedback from members of each of the participating agencies. That said, as those who have implemented new case flow managements

systems know there will always be some resistance to new procedures, even among those who claim to be champions of efficiencies. As Louis L'Amour has observed, "even those who fancy themselves the most progressive will fight against other kinds of progress, for each of us is convinced that our way is the best way."

B. The Details of the Program

With the implementation of the MSC program every criminal case filed in RJC is set for a status conference seven days after the initial appearance in all cases except out of custody misdemeanor defendants. The DA's Office has agreed to provide discovery and offers on cases they are willing to negotiate prior to the MSC settings. The PD has agreed his attorneys will convey all offers within 48 judicial hours of receiving discovery. At the MSC then the defense attorney and a representative of the DA's office meet and discuss the case. The defendant must be present. If he is in custody he is transported by the Sheriff. If the defendant has decided to accept the negotiations the matter is then either resolved by a preliminary hearing waiver, misdemeanor plea or dismissal. If the case is not resolved counsel may stipulate that it be set for another MSC or either party may request it be set for a "go" preliminary hearing at a date agreed to by counsel with the clerks at the counter. The parties will go on the record at the MSC only if they are requesting a speedy preliminary hearing which will be set for a date and time certain on the record 8 days from the date of the MSC so the defendant still receives his preliminary hearing within the statutory 15 days.

The Court makes judges available to take pleas out of the MSC that must be on the record. If the offer is to resolve the matter as a misdemeanor which does not need to be on the record the DA can pre-sign a counterplea which obviates the DA's appearance if the negotiations are accepted the counterplea is presented to the Court and filed if agreed to by the judge. Of course if the offer is for a plea in District Court and the DA conveys his offer before the MSC date and the defendant accepts before the MSC date the preliminary hearing waiver may be filed before the MSC.

A corollary of the MSC program is the timely commencement of all preliminary hearings. After August 15, 2011 all matters set for a preliminary hearing represent an actual preliminary hearing as the parties have already met and resolved all pre-prelim issues including negotiations and have asked for a "go" preliminary hearing. In order to accommodate the requested hearings in a timely matter all preliminary hearings set for 1:30 p.m. must be ready to commence at 1:30 p.m. The parties and their witnesses must be in the assigned courtroom therefore before 1:30 p.m. so when the judge takes the bench and calls the case the matter will proceed on time or be continued to another date if good cause appears.

II. Savings of the Program.

Reno Justice Court averages 3,500 new criminal complaints containing at least one felony or gross misdemeanor charge each year. Prior to the MSC program all of these cases were set for a preliminary hearing. Therefore, we averaged 292 new preliminary hearing settings per month, the vast majority of which witnesses were subpoenaed to attend. Because preliminary hearings were frequently continued (there were approximately 3542 preliminary hearings that were continued in 2010) the Court averaged 612 preliminary hearing settings per month; most of the additional 300 settings however did not have witnesses subpoenaed to attend. Regarding

witnesses, based upon our witness sign in sheets we averaged 72 witnesses checking in with the Court each week on criminal matters (felony, gross misdemeanors and misdemeanors were not tracked individually).

The MSC program was implemented in mid-August of 2011. The old cases however set under the previous system were still found frequently on our calendar until December 2011. In December 2011, after full implementation of the MSC program, there were only 38 cases set for a preliminary hearing for the entire month. In January there were 55, February 43, March 36 and in April there were 44 for an average of 43 per month. This represents a 93% decrease from the total average preliminary hearing settings per month before the MSC program (612) and an 85% decrease from the minimum possible preliminary hearing settings (294) prior to the MSC program implementation. We also know approximately 10% of our post-MSc preliminary hearing settings (known as go- prelims) were continued from a previous go-preliminary hearing setting. Thus, the number of new felony/gross cases set for a preliminary hearing is actually 39 each month and therefore only 13% of our felony/gross cases are ever set for a preliminary hearing.

Regarding witnesses, we now average 16 witnesses per week, a 78% reduction from the pre-MSc average of 72 witnesses per week. According to the reports from the DA's Office the number of people paid the statutory \$25 fee for RJC cases has decreased over 60% since the implementation of the MSC program. The overtime reports for RJC court appearances from the Reno Police Department and Washoe County Sherriff's Office show similar decreases.

Regarding actual cost savings the annual savings in the \$25 witness fees is over \$70,000 and the officer overtime savings is approximately \$200,000. We also know there are considerable costs to serve these subpoenas and opportunity costs each witness incurs when compelled to come to court whether that be lost time at work or other productive endeavors. These savings are in addition to this \$270,000 figure.

Jail day savings calculations for case management systems are unreliable in a criminal justice system. There are simply too many variables in each case. You may have two cases with one charge of burglary that may take very different periods of time to reach resolution based upon many different factors including the presence of witnesses and the potential conflicts, credibility, and reliability issues they may present including cross racial identification. There may also be forensic evidence in the case which may take time to obtain or there may be other follow up investigation by law enforcement, the DA, or PD. Simply studying jail populations and length of stay does not account for ever changing crime trends, rehabilitation opportunities or judicial philosophies. There simply is currently no accurate means of evaluating jail day savings for these types of programs. That said, the MSC program should result in shorter lengths of stay for most defendants with estimated savings of almost \$500,000.

In setting any significant degree of reliability to the \$500,000.00 estimate we must first note the number of actual preliminary hearings conducted by this Court has not changed under the MSC program. In 2010 this Court heard 110 actual preliminary hearings and we are on pace to match that figure this year (January 9, February 14, March 12). We also know the number of continuances has decreased. Prior to the MSC program we averaged 153 preliminary hearing settings per week. Now we average 142 MSC settings per week. Thus we know the same percentages of cases are being resolved with fewer settings.

Now that we know 87% of our felony cases filed are never set for a preliminary hearing, the number of cases going to preliminary hearing is unchanged, and the number of settings has not

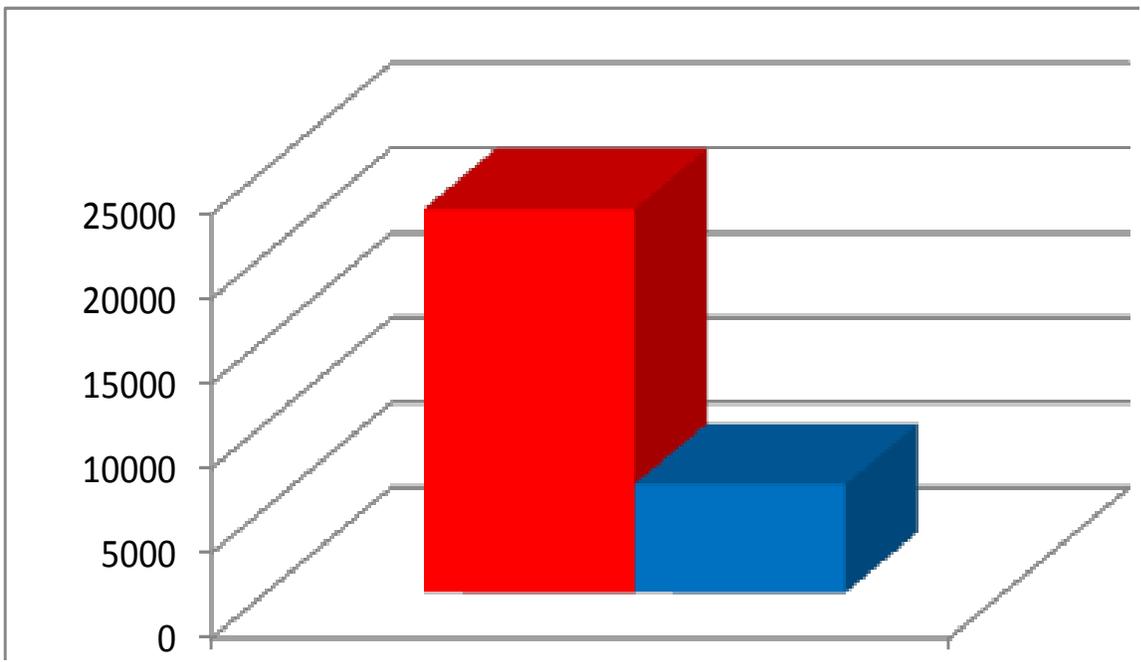
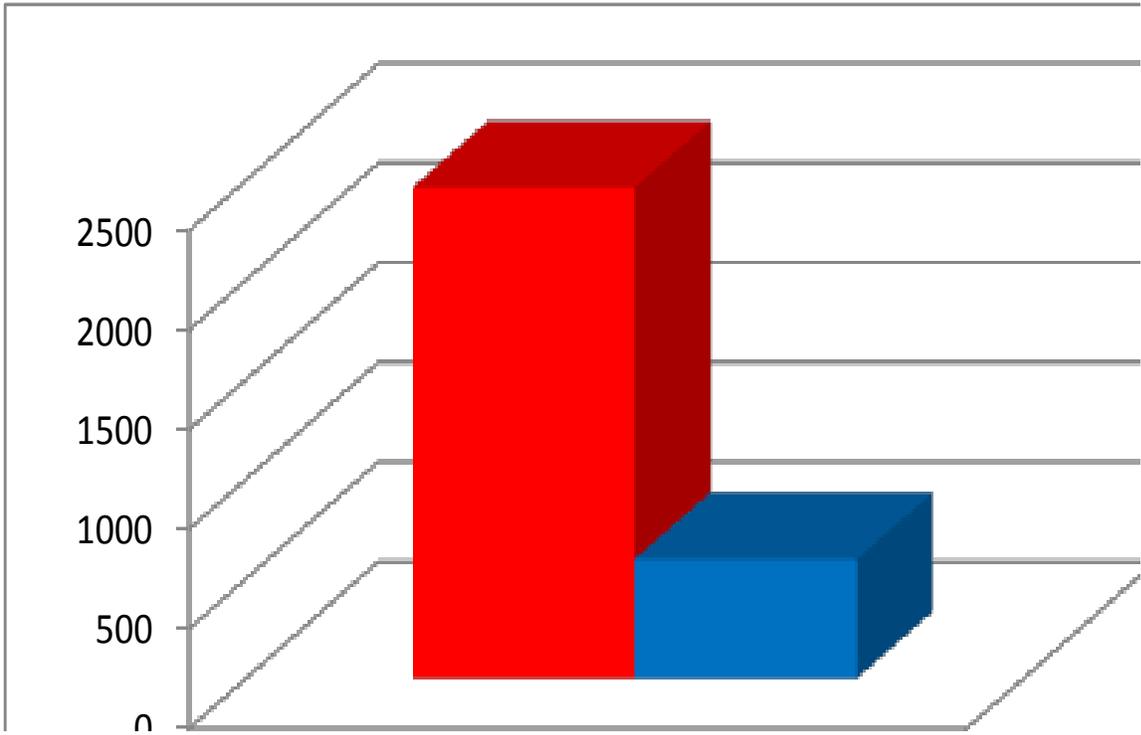
increased the degree of probability regarding the cost savings estimates is somewhat reasonable. Preliminary hearings are set 15 days from the arraignment of the defendant in justice court. Under the MSC program all new felony cases are set for an MSC seven days after the arraignment. From our records we know that 56% of the defendants are in custody at the MSC. Moving the first setting up eight days and resolving the same number of cases in the same time period results in the in-custody defendants being in custody at the Washoe County Jail eight days less regardless if the defendant is released on a time served negotiation at the MSC, released on his own recognizance by stipulation or motion, waived to be released on his own recognizance at entry of plea in District Court, released on probation at sentencing in District Court or sent to prison at sentencing. All of these will occur eight days sooner under the MSC program. By resolving the 3,500 cases eight days sooner with 56% of them being in custody the MSC program saves \$454,720 in jail day costs ($3,500 * .56 = 1,960 * 8 = 15,680$ jail days at \$29 a jail day = \$454,720).³ If we then add the estimated \$72,410 savings in the \$25 witness fee ($2,896$ witnesses * \$25 = \$72,410) and the estimated \$200,000 officer overtime (\$3,000 per month decrease for WCSO and more than 280 hours per month for RPD so far for January – May) and costs for personnel to subpoena nearly 3,000 witnesses that no longer need to be subpoenaed we see the program saves approximately \$750,000.00 per year. These are net savings as there are no annual expenses associated with operating the program.

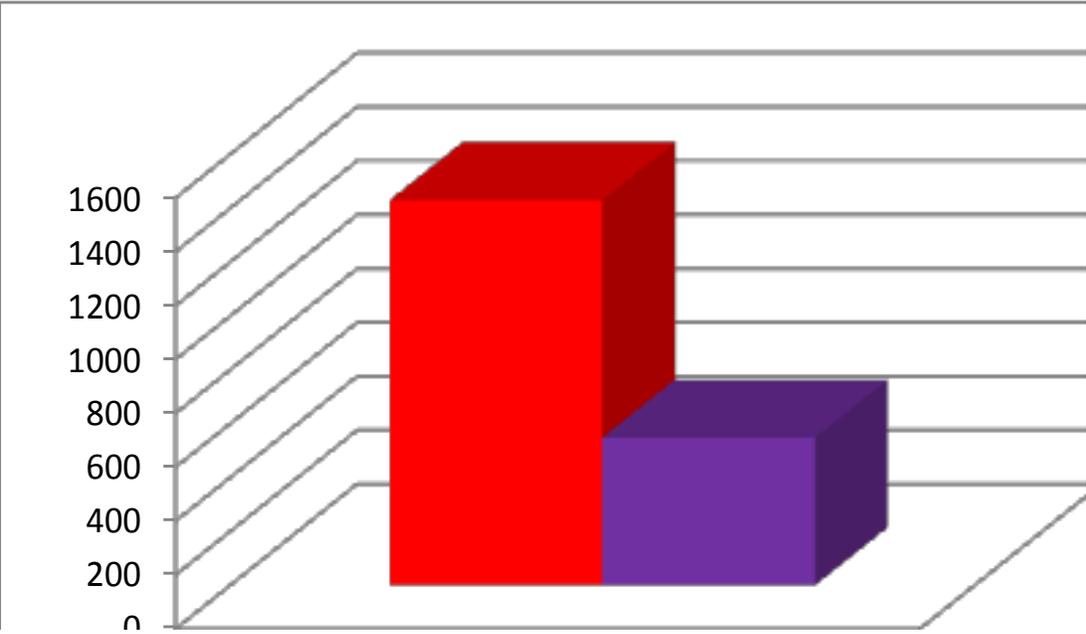
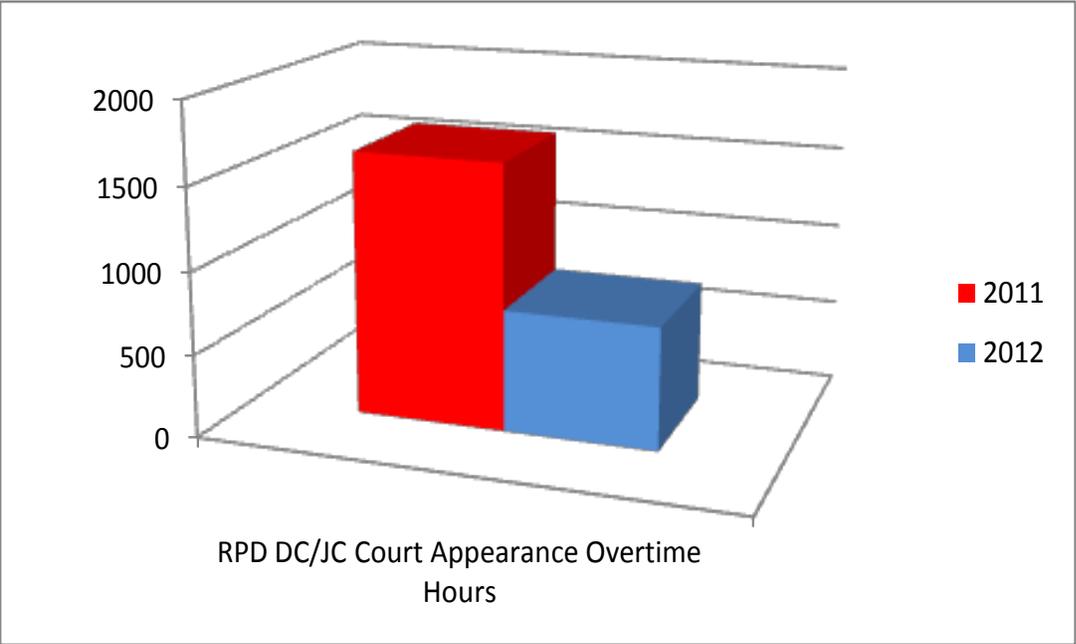
There are still inefficiencies in our system. Through the MSC system we have greatly reduced the number of days a defendant sits in jail until he speaks to his attorney and begins the process of resolving his case. Through the MSC committee the Washoe County Public Defender has adopted a performance goal of conveying all offers within 48 judicial hours of receiving the offer from the DA. I believe the recent Supreme Court cases strongly encourage this policy. Through the MSC committee we have been working to ensure the Iwebvist system at the jail makes this a realistic goal.

We know the defendants spend on average 4 days waiting for the criminal complaint to be filed in our Court. They then spend up to seven days waiting for the DA to make an offer and for that to be conveyed within 48 judicial hours by the PD. There are still considerable days which can be saved by shortening these time periods. Hopefully electronic filing will provide the tools to eliminate these inefficiencies. Speeding up the filing of these documents and delivery of discovery to the DA's office from the agencies will yield considerable additional savings. What the MSC has accomplished is to eliminate any unreasonable delay caused by the PD not meeting their client and discussing the case in a timely manner and the needless presence of witnesses in the vast majority of the cases. With these improvements the only days the defendant spends in the Washoe County Jail while a justice court defendant are spent considering an offer, making and awaiting word on a counter offer, investigating the case to determine the reasonableness of the offer, awaiting the completion of the investigation including lab results or supplemental interviews, police reports, business records or other discovery.

Below are some charts which summarize the data attached as an Excel file to this email.

³ The NRS 211.2415 cost of incarceration for an inmate per day at the Washoe County Detention Facility in 2011 was \$29 per day.





III. Connection of change in custody status/bail to a guilty plea.

The MSC program expedites the appointment of counsel, the production of discovery and thereby the opportunity for the defendant to seek a bail reduction or own recognizance release. The MSC program keeps bail and OR hearings separate from the hearing where the negotiations are discussed.

IV. Compliance with NRS statutes.

NRS 171.188 states the judicial officer “shall forthwith consider the application” and if the defendant is “without the means of employing an attorney” the judicial officer “shall designate the public defender of the county . . . to represent the defendant.” Under the MSC program defendants with criminal cases in RJC’s jurisdiction are screened for a public defender at the time of booking. These applications are usually reviewed by a JP within 24 hours and in no cases more than 72 hours. If the defendant is without means of hiring an attorney the Washoe County Public Defender is appointed to represent the defendant in compliance with NRS 171.188.

NRS 7.115 is titled “Appointment of attorney other than public defender prohibited unless public defender disqualified” and states, “[a] magistrate, master or a district court shall not appoint an attorney other than a public defender to represent a person charged with any offense or delinquent act by petition, indictment or information unless the magistrate, master or district court makes a finding, entered into the record of the case, that the public defender is disqualified from furnishing the representation and sets forth the reason or reasons for the disqualification.” Under the MSC program the Washoe County Public Defender’s Office is appointed for all indigent defendants. Only in those cases where the Washoe County Public Defender is disqualified is an attorney outside the Washoe County Public Defender’s Office appointed and in those cases, pursuant to the Model Plan, the Alternate Public Defender undertakes representation. Therefore the MSC program is also in compliance with NRS 7.115.

There are many other statutes developed over the past hundred years which set forth the rules of criminal procedure in Nevada. The MSC program does not run afoul of any of these laws including the following applicable to felony and gross misdemeanor cases.⁴

⁴ a. The right to be brought before “the nearest available magistrate” . . . “without unnecessary delay” and that “a complaint must be filed forthwith”.⁴

b. At this hearing the defendant is advised of the charges against him, his right to remain silent, his right to counsel, his right to a preliminary examination within 15 days, and that he is entitled to “reasonable time and opportunity to consult counsel” before making a decision to waive the examination.⁴

c. The MSC program also maintains the requirement that discovery be provided “[a]t the time a person is brought before a magistrate pursuant to NRS 171.178, or as soon as practicable thereafter, but not less than 5 judicial days before a preliminary examination . . .”⁴

d. The MSC program also affords ample opportunity for compliance with the rights of victims of crimes set forth in the Nevada Constitution and Nevada Revised Statutes.

V. Compliance with the Model Plan.

Section III(C) of the Model Plan requires Counsel be provided to eligible persons with 72 hours of formal charges being filed. Under the MSC program this occurs usually within 24 hours after arrest.

Section IV(A) states the JP having jurisdiction of the case “shall appoint the Washoe County Public Defender to represent a party”. Under the MSC program only the Washoe County PD is appointed for indigent defendants.

Section IV(B) of the Model Plan sets forth the procedure for representation of indigent defendants in those cases where the Public Defender is disqualified. The MSC program follows each of these procedures in Section IV(B).

Section IV(C) prohibits the judicial officer from playing any role in the determination of the attorney who will represent the indigent defendant. The Section requires the specific assignment be made by the PD, APD or Appointed Counsel Administrator. Under the MSC program no judge of RJC plays any role in the assignment of any particular counsel to a case.

Section V sets forth the system for selecting and monitoring attorneys for defendants who must receive representation by an attorney outside the PD or APD’s office under the Model Plan⁵. The MSC program does not violate these provisions.

Section VI sets forth a system for training attorneys for defendants who must receive representation by an attorney outside the PD or APD’s office under the Model Plan⁶. The MSC program does not violate these provisions.

VI. Compliance with ADKT 411

Standard 1 is titled “Function of Performance Standards” and sets forth that “these performance standards are designed to improve the quality of indigent defense representation in Nevada.” The MSC program improves the quality of “the quality of indigent defense representation” by expediting the appointment of counsel, production of discovery and plea negotiations with an opportunity to investigate and evaluate this information .

Standard 1(d) states “[t]hese standards are intended to facilitate the efficient and effective operation of indigent defense programs and are to be used as a guide to professional conduct and performance.” The MSC program facilitates the efficient operation of indigent defense. The program costs nothing to operate and significantly reduces the costs to the community associated with the criminal justice system. It also removes unnecessary delay fro the processing of indigent defense cases. It also facilitates the “effective operation of indigent defense programs” by expediting the appointment of counsel, production of discovery and plea negotiations with an opportunity to investigate and evaluate this information .

⁵ Section V(B)(1)(b)(2) states, *inter alia*, an attorney outside the PD and APD may be appointed “only after attorney the attorney has been qualified . . . by the Appointed Counsel Selection Committee.

⁶ Section VI(B) “requires an intensive training program”

Standard 2-7 Relationship with client. The MSC program facilitates a much earlier meeting between counsel and client and a more effective meeting with discovery before any contested hearings are even set.

Standard 2-9 Investigation (a) “Counsel at every stage has an obligation to conduct a thorough and independent investigation relating to the issues of both guilt and penalty.” Under the MSC program indigent defense counsel has more time and is better prepared “to conduct a thorough and independent investigation relating to the issues of both guilt and penalty.”

Standard 2-10 – Duty to Assert Legal Claims “consider” and “thoroughly investigate” . . . “each potential claim”. Under the MSC program indigent defense counsel has more time and is better prepared to “consider” and “thoroughly investigate” . . . “each potential claim”.

Standard 11 Duty to Seek Agreed-Upon Resolution. Under the MSC program the DA’s office provides discovery and an offer for an agreed upon resolution in an expedited manner.

Acknowledgements

By all measures the MSC program is a tremendous success and it would not have been possible without considerable efforts by the Washoe County District Attorney Dick Gammick and his assistant John Helzer. They have expended more time and resources than any other participant in the program. Pretrial Services also revamped their procedures to enable the appointment of counsel within hours of arrest. Finally, the judges and staff of this Court who have supported this program from the inception deserve a great deal of appreciation for their handwork and patience.