



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: April 16, 2024

DATE: March 21, 2024

TO: Board of County Commissioners

FROM: James Conway, Court Administrator, Reno Justice Court
775-325-6543, jconway@washoecounty.gov

THROUGH: Chief Judge Ryan K. Sullivan, Reno Justice Court

SUBJECT: Recommendation to approve a payment of \$752.56 per day, retroactive to July 1, 2023, to Reno Justice Court judges who preside over pretrial detention hearings on Saturdays, Sundays, and holidays and to authorize Budget, Comptroller, and Human Resources to make any corresponding changes or adjustments. [Net fiscal impact of \$88,563] (All Commission Districts).

SUMMARY

With the enactment of Assembly Bill 424 (AB 424) passed in the 81st Legislative Session (2021), courts are required to operate seven days a week, 365 days per year in order to provide a pretrial detention hearing within 48 hours of a criminal defendant's arrest. Washoe County has previously approved funding to compensate public attorneys who cover pretrial detention hearings on weekends and holidays and, in direct response to AB 424, created 28 new full-time positions across various criminal justice entities including nineteen combined positions for the District Attorney's Office and Sheriff's Office. The State Legislature (through the enactment of AB 518 in 2023) has now approved funding to compensate judges outside of Washoe County who preside over pretrial detention hearings on weekends and holidays.

However, to date, no funding has been allocated to compensate Washoe County judges who preside over weekend pretrial detention hearings. Accordingly, this item respectfully requests the Board of County Commissioners to create a mechanism to compensate the Reno Justice Court judges who preside over pretrial detention hearings on weekends and holidays. Specifically, the Court requests that the County compensate a Reno Justice Court judge who covers pretrial detention hearings on Saturdays, Sundays, and holidays at a rate equivalent to eight hours of work at their base rate of pay. At their current base rate of pay (\$94.07 per hour) this would equate to \$752.56 for every Saturday, Sunday, or holiday (approximately 116 total days within any given year). Since RJC only assigns one judge per week to cover weekend and holiday bail hearings, only one judge would receive this amount on any particular weekend or holiday. Finally, the Court requests the

AGENDA ITEM # _____

County to apply this compensation retroactively to the beginning of the current fiscal year, consistent with the effective date of AB 518.

Washoe County Strategic Objective supported by this item: Economic Impacts
(Meet the Needs of Our Growing Community).

PREVIOUS ACTION

September 20, 2006, the Board of County Commissioners established minimum compensation for the Justices of the Peace for Reno, Sparks, Incline, and Wadsworth Townships per NRS 4.040 and approved a memorandum of understanding regarding the process for future salary adjustments.

On February 23, 2016, the Board of County Commissioners rescinded the November 2006 Memorandum of Understanding (MOU) between the Justices of the Peace and the Washoe County Board of County Commissioners, which recognized the National Center for State Courts (NCSC) judicial compensation study every even-numbered year and aligned the Justices of the Peace salary schedule increases with elected officials listed in NRS 245.043 pursuant to Senate Bill 482 (2015 Legislature).

On October 12, 2021, the Board of County Commissioners approved a salary adjustment for seated justices of the peace during any time the Court is operating with fewer than the full complement of judges authorized by NRS 4.020(1)(b).

On July 19, 2022, the Board of County Commissioners approved an additional increase to Reno Justice Court justice-of-the-peace salary when the Court is operating with two or fewer justice of the peace positions than what is authorized by NRS 4.020(1)(b).

On May 23, 2023, the Board of County Commissioners rescinded the February 23, 2016 decision to tie increases to the base salary of Justices of the Peace to increases to the salaries of elected officials listed in NRS 245.043. This decision was made in conjunction with approving a comprehensive classification and compensation study of all justice court positions, including the justices of the peace.

BACKGROUND

The Nevada Legislature enacted Assembly Bill 424 (AB 424) during the 2021 Legislative Session. The bill requires courts to hold a pretrial detention hearing within 48 hours of a defendant's arrest.

AB 424 took effect on July 1, 2022. Since that time, the RJC judges have presided over thousands of pretrial detention hearings seven days a week, 365 days per year including all holidays such as Thanksgiving and Christmas. More than 100 new criminal cases are filed into RJC every week. Most of them will require a 48-hour bail hearing, and all of them will require a judge to review the arrest report and other supporting documents as soon as they are transmitted to the Court, including on weekends and holidays.

Specifically, each day between approximately 7:00 a.m. and 8:00 a.m. the assigned judge receives a packet of documents on each recent arrest. The packet includes a probable cause narrative (PC Report), a pretrial services report (PS Report), a Nevada Pretrial Risk Assessment (NPRA), and (typically) an application to appoint a public defender. The

judge must determine if there is probable cause to support the defendant's arrest and (if there is not) release the defendant. The judge must also determine if the defendant qualifies for the appointment of a public defender. The judge then reviews the information in a defendant's PC Report, NPRA, and PS Report and applies it to the legal standards established by Chapter 178 of the Nevada Revised Statutes and *Valdez-Jimenez v. Eighth Judicial District Court*. The judge also reviews the defendant's prior history in the Court's case management system, which often entails a review of their history of compliance in several prior cases in the justice courts of Washoe County.

The judge must then release all defendants who are determined eligible for release, establish conditions of release, document this in a written order, and transmit all of this information to court staff. For those who are not released on this review, the court must prepare for and preside over court hearings starting at 9:30 a.m. each weekend and holiday. Barring unusual circumstances the judges travel to the courthouse for these hearings, as they are conducted from the bench at the Reno Justice Court, with other participants appearing remotely. Between 2:30 p.m. and 4:00 p.m. each day the judge receives a new batch of arrest documents and must determine if there is probable cause and, if not, release the defendants. The judge must also review the facts of the case and the NPRA as well as the PS Report and the factors in NRS 178 as well as the *Valdez-Jiminez* factors and the defendant's prior history in the Court's case management system, which often entails review of history of compliance in several prior cases in the justice courts of Washoe County. The judge must then release all defendants who are determined eligible for release, establish conditions of release, create a written order, and transmit all of this documentation to court staff. For those defendants who are not released on this review, the judge must prepare for and preside over a court hearing the next day starting at 9:30 a.m. each weekend and holiday. The assigned judge must also be available to field phone calls from Pretrial Services throughout the day in order to address any emergencies or questions they may have regarding the Court's release orders.

This time-sensitive work is performed in addition to the after-hours, on-call work performed in conjunction with law-enforcement requests for after-hours search warrants and arrest warrants. Therefore, the judge who is assigned to cover the morning weekend/holiday docket frequently does so after being awoken multiple times during the previous night to issue warrants and seizure orders pursuant to the request of law enforcement officers.

The County recognized the significant fiscal impact of AB 424 in its FY23 budget, stating as follows on page 11 of the FY23 Budget Book:

Of particular note this year is the County's implementation of the requirements related to Assembly Bill 424 (AB424) passed in the 81st Session (2021) of the Nevada Legislature. AB 424 represents significant bail reform and requires pretrial release hearings within 48 hours of arrest. This legislation requires the Courts, District Attorney, Public Defender, Sheriff's Office, and others to operate 7 days a week. Significant resources have been allocated to meet this mandate including additional budget of \$4 million, including 28 new positions.

Importantly, of the 28 new positions created in response to AB 424, only two positions (Court Clerks) were created at the request of RJC, with the remaining 26 positions going to the District Attorney's Office (10), Sheriff's Office (9), Second Judicial District Court

(3), Sparks Justice Court (3), and the Alternate Public Defender (1). FY23 Budget Book at page 98.

In addition to creating 28 new positions in response to AB 424, the County – through the approval of a new labor agreement with the Washoe County Public Attorneys Association – created Bail Reform Pay for attorneys who appear at pretrial detention hearings on Saturdays, Sundays, and holidays. Specifically, Article 17(B)(1) of the Agreement provides that on “any Saturday or Sunday that does not constitute a holiday, each attorney covered by this agreement... who is not regularly scheduled to work on a Saturday or Sunday shall be compensated at their hourly rate for actual hours worked... plus \$250 per day.” The non-holiday weekend pay does not apply to attorneys “who are designated by their respective department head to a specific team and/or group and/or unit who is responsible for the preparation and coverage of the pretrial release hearing docket.”¹ However, Article 17(B)(2) of the Agreement creates holiday pay in the amount of \$500 per day for any attorney who covers a pretrial detention hearing on a holiday, regardless of whether or not they are part of a specific team or unit that covers pretrial release hearings. If a holiday falls on a Saturday or Sunday, attorneys are paid the \$500 bonus on both the actual holiday and the date that the holiday is observed by the County.

Furthermore, during the 2023 Legislative Session the Nevada Legislature enacted AB 518, which (effective July 1, 2023) appropriated \$982,800 to rural Nevada counties for the purposes of funding a stipend of \$450 per day for rural judges and district attorneys who make themselves available to cover pretrial detention hearings on weekends and holidays. The legislation appears to authorize the payment of the stipend for simply being available to cover a hearing, regardless of whether a hearing actually takes place.

Thus, millions of dollars of state and local funding have been allocated to cover personnel costs associated with implementing AB 424. However, to date no funding has been allocated to compensating the judges in Washoe County who preside over pretrial detention hearings on weekends and holidays.

Accordingly, this item requests the BCC to create a mechanism to compensate the Reno Justice Court judges who preside over pretrial detention hearings on weekends and holidays. Specifically, the Court requests that the County compensate a Reno Justice Court judge who covers pretrial detention hearings on Saturdays, Sundays, and holidays at a rate equivalent to eight hours of work at their base rate of pay. At their current rate of base pay (\$94.07 per hour) this would equate to \$752.56 for every Saturday, Sunday, or holiday.

Since RJC only assigns one judge to cover weekend and holiday bail hearings, only one judge would receive this amount on any particular weekend or holiday. Finally, the Court requests the County to apply this compensation retroactively to the beginning of the current fiscal year, consistent with the effective date of AB 518.

FISCAL IMPACT

¹ The ten positions created for the District Attorney’s Office is apparently the result of that office’s election to create a specific team that is responsible for covering pretrial detention hearings seven days a week. However, those team members would apparently still be entitled to receive holiday pay pursuant to the labor agreement.

The approximate fiscal impact for fiscal year 2024 is \$88,563. The cost will be absorbed in the adopted budget, as salary savings otherwise realized are sufficient to cover the increase. Future fiscal impacts to be included as part of the annual budget process.

RECOMMENDATION

Recommendation to approve a payment of \$752.56 per day, retroactive to July 1, 2023, to Reno Justice Court judges who preside over pretrial detention hearings on Saturdays, Sundays, and holidays and to authorize Human Resources and Budget to make any corresponding changes or adjustments . [Net fiscal impact of \$88,563] (All Commission Districts).

POSSIBLE MOTION

Should the board agree with staff's recommendation, a possible motion would be:

Move to approve a payment of \$752.56 per day, retroactive to July 1, 2023, to Reno Justice Court judges who preside over pretrial detention hearings on Saturdays, Sundays, and holidays and to authorize Human Resources and Budget to make any corresponding changes or adjustments. [Net fiscal impact of \$88,563] (All Commission Districts).