

**State of Nevada**  
**Department of Indigent Defense Services**  
**Board Meeting Minutes**  
**Thursday, November 21, 2024**  
**1:00 PM**

**Meeting Location:**

OFFICE	LOCATION	ROOM
Virtual Only (Zoom)		

**1. Call to Order/Roll Call:**

**Chair Fitzsimmons** called the meeting of the Board on Indigent Defense Services to order shortly after 1:00 pm, on Thursday, November 21, 2024.

Cynthia Atanzio conducted roll call. A **quorum was established**.

**Board Members Present:** Chair Laura Fitzsimmons, Vice-Chair Kate Thomas, Joni Eastley, Chris Giunchigliani, Jeff Wells, Angela Cook, Susan Bush, Allison Joffee, Lorina Dellinger, Jarrod Hickman, Dave Mendiola, and Joe Crim.

**Members not present:** Justice William Maupin.

**Others Present:** Acting Executive Director Peter Handy, Deputy Director Brenda Roberts, Professor Eve Hanan, David Schiek, Deputy Attorney General Todd Weiss, Cynthia Atanzio (Cindy), and Judge Mike Coster.

**2. Public Comment:**

**Chair Fitzsimmons** opened the line for public comment.

**Mike Coster** stated he would like to make a public comment and would try and keep it brief. I want to direct the board's attention to two issues of which they have some awareness which is the weekend pay provisions in 7.3 of AB 518. There is still confusion and non-uniform practices in the handling of pay for prosecutors in some of the rural counties. I can tell you firsthand there is known confusion and I believe non-conforming pay for judges in White Pine County. The excess payments are paid and claimed by the county, but not used as I believe they are to be under the statute.

**Chair Fitzsimmons** asked Mr. Coster, what is your position?

**Mike Coster** replied that I am a municipal court judge in Ely. I think this is why the statute itself has a required audit provision, though I have been unable to determine who is charged with this responsibility of the audit in 7.3. I have spoken with authorities, and there is some belief that some legislative clarification may be needed to even out the treatment and to ensure the original legislative intent is made. I would close in saying Mr. Handy has communicated with me, he has records and received complaints from me, and I think from others. Mr. Handy has been forthright in his understanding of what his authorities are, but I think that the board should examine the situation and seek possible correction, whether administrative or legislative. Thank you for the opportunity for public comment as well as your execution of this important duty.

**Chair Fitzsimmons** thanked Judge Coster, and this is obviously important and should be put on the next agenda.

**Acting Executive Director Handy** replied that I am going to punt this one to DAG Todd Weiss.

**DAG Todd Weiss** stated no action can be taken on public comment although I do believe we have a section at the end of our agenda for future agenda items so we can bring this up again at that time.

**Chair Fitzsimmons** asked if Mr. Coster could put this in writing, or should we ask Mr. Handy to. If there is something that you have written that explains this, so we understand it. If Mr. Handy has that, I would ask that Cynthia send it to the board.

**Mike Coster** advised he will discuss with Mr. Handy to find out if the communication in his possession to date is sufficient. I would point out that I think the next meeting of this board is February.

**Chair Fitzsimmons** replied that is correct.

**Mike Coster** said with or without comment today, that becomes a fairly short time going into legislature. If, as pointed out, some believe that a change to the legislative language in 518 is necessary to address this.

**Chair Fitzsimmons** asked who has told you they believe we need an amendment?

**Mike Coster** replied I think Mr. Handy has. The last correspondence I have with him said it is unclear what the authority and the distribution of the money is to be, perhaps it needs a legislative fix. That is what our district attorney has said in White Pine. Most counties are conforming to the documents that are in or accompanied the legislative action in 518. There is a lack of legal clarity in the minds of those that deal at the state level. I do not want to over speak my authority, but I believe the money is being claimed by White Pine County and not used consistent with the statute. They are claiming more money than they are spending under the statute. There are other counties where there is confusion not in over claiming but in the scheduling of and the payments to prosecutors. The point I was trying to make is February gets to be kind of late. Everything involving legislation has a calendar and clock on it.

**Chair Fitzsimmons** replied you are correct. Unfortunately, that ship may have already sailed. Our board must go through the governor's office for any bill draft requests.

**Mike Coster** explained he understands. It may be unfixable and there may be nothing to fix but I believe there is. Mr. Handy believes it is not administratively fixable at the agency level.

**Chair Fitzsimmons** stated if you would like to speak to me directly, Mr. Handy will email you my cell phone number. This sounds important and it is something the White Pine County manager has not been able to address.

**Mike Coster** commented if all judges work on weekends but there is no mandate to pay the municipal court judges in the city of Ely even though we operate the same weekends as the justice court.

**Chair Fitzsimmons** stated she appreciated that and if you want to talk to me directly, please do so. Okay, is there any other public comment? Moving to agenda item 3, approval of the minutes and has everyone had an opportunity go through them are there any corrections?

**Allison Joffe** I would move to approve. The minutes are fabulous, and they go on and on, but necessarily so.

**Jeff Wells** stated I will second the motion.

**Dave Mendiola** said the only change is the minutes do not reflect that I was present on October 17, 2024. I emailed Cindy and asked her to add me.

**Chair Fitzsimmons** asked Cindy if you have got that. It is very important.

**Cindy Atanazio** replied that the correction had already been done.

### **3. Approval of the Minutes: (For possible action)**

**Motion: Approve the Meeting Minutes of the October 17, 2024, Minutes**

**By: Allison Joffee**

**Second: Jeff Wells**

**Vote: Passed Unanimously**

**Chair Fitzsimmons** said the next agenda item 4 is Nevada State Public Defender update.

### **4. Nevada State Public Defender Update: (For discussion)**

**Acting Executive Director Handy** advised the Nevada State Public Defender resigned from her position and it became effective on November 1<sup>st</sup>. That position right now remains vacant. The governor has not made an appointment decision yet. We will notify the board when we are notified who will fill the position. I would like to take the opportunity to thank Ms. Cafferata for her decades of service to the State of Nevada.

**Chair Fitzsimmons** stated I thought that you got an email from Ryan Cherry stating specifically that he wanted someone in the governor's administration to be appointed. I am surprised to hear what you said I thought it was a done deal.

**Acting Executive Director Handy** replied that is correct. I have not received any other information other than that email chain that you sent to me. As of today, I have not heard of any appointments.

**Chair Fitzsimmons** asked do we know of any other applicants?

**Acting Executive Director Handy** responded that both deputies in the NSPD have applied and Ms. Pickering indicated an intention to apply.

**Chair Fitzsimmons** asked what is the name of the person Ryan Cherry wants?

**Acting Executive Director Handy** replied that is Mr. Andrew Coates. He is currently deputy general counsel in the governor's office. He was previously a contract attorney in Nye County.

**Chair Fitzsimmons** inquired as to what his qualification level is.

**Acting Executive Director Handy** responded my recollection of those qualifications, he is qualified to handle up to low B's. That is gross misdemeanor through low B felony cases. My understanding is he was not qualified to handle category A, high B felonies or death penalty cases.

**Brenda Roberts** replied you are correct and what I was able to verify.

**Chair Fitzsimmons** stated so this is a man who worked on contract in Nye County. Does he have trial experience, any that we know of?

**Acting Executive Director Handy** stated I would leave that up to Brenda to answer. I am not aware of any, but I do not know.

**Chair Fitzsimmons** explained that Ryan Cherry had wrote to her and said he wanted Peter to apply for director. I wrote back and advised we have no role in this appointment.

**Acting Executive Director Handy** advised that he did indicate in a conversation with the governor's office I would recommend that somebody be category A qualified to fill the PD position.

**Chair Fitzsimmons** moving to agenda item 5, DID's fifth anniversary.

**Acting Executive Director Handy** said before that, I will start with 4B if we could. Humboldt County has opted in to receive services from the Nevada State Public Defender's Office beginning fiscal year 2026. We have been working with ASD and GFO to build a budget for this. This funding would still be in the budget because it was budgeted in the last biennium because Carson City opted out.

**Chair Fitzsimmons** stated she had a question. When do you have to have state public defenders? We have had public defender positions advertised now probably for what, two years?

**Acting Executive Director Handy** replied for quite some time.

**Chair Fitzsimmons** said we have no applicants. What makes you think people are going to want to do this and go to Winnemucca?

**Acting Executive Director Handy** responded he did not know except there are some attorneys in the area. It is a little closer to Reno than Ely is to Las Vegas and the commuting distance is substantially less. It may be practical to hire people on a contract basis like we did in White Pine County.

**Chair Fitzsimmons** wanted to know when we need feet on the ground in Humboldt County.

**Acting Executive Director Handy** responded ideally, on July 1, 2025. The date could probably be pushed back to some degree if the county understands. In any case, the cost is going to have to be covered and the needs of clients especially need to be met July 1<sup>st</sup>.

**Dave Mendiola** stated he had a comment that there have been some ruffled feathers locally relative to a firm that I think is based out of Fallon. There are folks in Winnemucca, and they really wanted to be doing this work. They would love to be doing these contracts for Humboldt County while they try to find somebody to go back to an institutional type of situation.

**Chair Fitzsimmons** asked if the firm was doing a good job.

**Acting Executive Director Handy** replied as far as I know, the reports from the office have been good. I worry about how spread out they are. I think that firm is handling cases in Lyon and Humboldt County.

**Chair Fitzsimmons** thanked Peter and asked if that would be John Kadlick who is monitoring them.

**Acting Executive Director Handy** replied that would be John Kadlick and Derek Lopez.

**5. DIDS' 5<sup>th</sup> Anniversary: (For discussion).**

**Acting Executive Director Handy** acknowledged the department has now been around for five years which is a milestone of what this board and department have accomplished. Most of you have been along for this ride since the beginning and we appreciate your service, all your assistance and all your input. I want to recognize the staff that has been with us for a substantial period. They are doing a fantastic job and providing invaluable support to the agency.

**Chair Fitzsimmons** said absolutely. Moving to Agenda item 6 the monitor's report.

**6. Fourteenth Report of the *Davis* Monitor: (For discussion).**

**Professor Hanan** stated the report was submitted to the parties on Monday. One of the things I noted, I talked to the Sixth Amendment Center, and I reviewed the revised ABA 10 principles for the public defender systems. An important point is they recommend an independent board and that the board picks the director of the Department of Indigent Defense, and the director picks the State Public Defender. That is not how our statutory scheme looks and I would leave that to the lawyers in this matter to figure out because there is a good cause requirement. The consent judgement requires the independence of the defense function and our statutes do not really provide that at. There has been no funding for any stopgap measures like more reprieves for attorneys whose caseloads are too high. The request for 10 contract attorneys to fill in was not approved. The salaries for the state PD are not substantial enough to attract applicants and there are no incentives that are built in there that might. Are there any questions?

**Chris Giunchigliani** asked how much longer do you have to do reports?

**Professor Hanan** responded this was supposed to be three years. The judgment says at least three years or until there is substantial compliance. If the budget moving forward for the department were enough to ensure that oversight, training, qualification activities plus getting enough lawyers to meet the workload standards there would have been compliance. I do not anticipate this as a forever monitorship. It could have ended quickly, but now we are on a different course.

**Chris Giunchigliani** stated I thought we were almost there in compliance. It is disappointing and disturbing that there seems to be the shift just regarding funding issues. Is it more internally the governor's staff are not aware of what our responsibilities are and how we even got here to creating the department or is it a lack of knowledge on their part or is it just arrogance.

**Allison Joffe** commented that I think that the governor's staff has taken a wrong turn. I thought it was very important and the board did a great job in telling everybody what a fabulous job our director had done. Marcie Ryba was amazing, and I cannot believe what she accomplished. We do not have anybody who wants to come and take the helm because the governor's office will not let us have the helm. There is a big wall with Mr. Cherry, and we need to get to the governor. I think we do have an option especially with the report from the monitor by going to the court. We are in a show cause situation and if we are going to stay which is our job then we take a bigger step which is my recommendation.

**Chair Fitzsimmons** stated one thing that struck me in the report was the money is there for compliance with *Davis*. Seven million dollars was set aside by Interim Finance Committee (IFC) and Marcie had been trying to get for pay parity to increase public defender staffing. There were three different attempts to get funds right before she was fired. She was terminated without cause for trying to get money that was just sitting there. I really believe it is not the governor but, Mr. Wells, Mr. Cherry, and Ms. Cafferata. We have a scheduled call Tuesday, for a half hour with the governor at 10:00 a.m. If any member of the board wants to attend or something said email me and I will make sure it is said. The main thing I am intending to

articulate is everything this board feels, and we are not in compliance with the consent judgment because of the actions of his staff which is the monitor's report.

**Chris Giunchgliani** wanted to know when IFC set aside the funds, if there is a reason they cannot release it? It must go through the governor's office.

**Chair Fitzsimmons** replied yes, it must go through Jim Wells. I think our monitor is saying we have those funds in our budget.

**Professor Hanan** stated 518 authorizes the funds set aside but, then it says the approval must come from the governor's office to release the funds. In this case, the consent judgment and special issues of independence are important to public defense, and it is not working right now.

**Chris Giunchgliani** commented that we have identified at least two potential statutory changes that need to come about. We as a board get to hire versus through the governor's office and is there legislation coming forward and are we pursuing that?

**Chair Fitzsimmons** explained that all roads lead through the governor's office.

**Jeff Wells** commented as one of the original members here, I would like to get back to professor's structural difference. To have legislative change for the board to appoint the executive director, the executive director to appoint the state public defender and I realize that ship has sailed. I am wondering if we know the Judiciary Committee chairman well enough, we might be able to get a committee bill to go forward. Doing that would at least allow the discussion to be had in the legislature and give the professor and you chair, the opportunity to go testify on why this board is different than others and we would need that. That seems to be to me the best avenue we have left, and committee bills do not have to get permission of the governor.

**Chair Fitzsimmons** stated it is my understanding that we as a board cannot do anything. If we have someone, we think cares, we could go to them and see what we can do in terms of remedying these. We are talking about two issues the independence of the executive director and getting out from under the stranglehold of Governor's Finance Office having our budget.

**Joni Eastley** wanted to confirm that chair is talking about in terms of legislation, correct?

**Chair Fitzsimmons** replied she agreed. Our board unfortunately cannot do a bill draft request or anything else and the governor is not going to do it. I believe we have a legislature that is in tune with this and if there is a way to get our foot in the door perhaps, we could get somebody to amend the current bill draft.

**Chris Giunchgliani** stated I think individually someone could go to either Steve Yeager or Nicole. Steve Yeager, I think is at least aware and being an attorney himself, I think he would follow along as well as Nicole. If that is an opportunity, we should pursue that swiftly, even with newbies coming in, they are going to have to figure out their bill drafts quickly.

## **7. Status of *Davis* Litigation: (For discussion).**

**Chair Fitzsimmons** stated I think there is a consensus in our board that something needs to be done if we are going to save our mission and comply with *Davis* and it is going to start Tuesday.

**Jeff Wells** stated that is why I suggested it might be you and the professor. The professor is not on the board, and she plays a clear role in the *Davis* consent decree.

**Professor Hanan** explained that I report to the court for the parties and my role is a little bit circumscribed. My reports are available to any lawmaker who would like to look at them and I am available to answer questions that are within the scope of those reports. I do not think I can do advocacy outside of that.

**Chair Fitzsimmons** asked if there is anything more on item six, the monitor's 14<sup>th</sup> report.

**Jarrold Hickman** stated I want to circle back around to Ms. Joffe's points because I tend to agree with them. Considering the recommendation on page 12 regarding judicial or legislative clarification on the limits of the governor's discretion. There was a lot of discussion in our last meeting about the board being able to explore judicial remedies with unconflicted counsel. If a conflict existed and whether we had the ability to consult with outside counsel. I am not sure who can answer but I just wanted to see if there was any follow up on that and where we stood.

**Chair Fitzsimmons** stated thank you for reminding me of that. I totally dropped the ball and Todd Weiss sent me a reminder email. Apparently there needs to be a draft sent to the solicitor General requesting a formal AG opinion. There are bureaucracies everywhere and I can get it done this weekend. I will send out the formal request for an AG opinion. How long does this take generally for a response.

**DAG Todd Weiss** replied that it generally depends on the complexity of the question, but we try and get them out within 30 days. You should have it by the next meeting.

**Chair Fitzsimmons** stated that she would get it done and thanked Jarrod for reminding her.

**Jarrold Hickman** advised that he is available for help, and I apologize but I will not be able to attend the next meeting due to previous work commitments.

**Chair Fitzsimmons** responded and said you are more measured and intelligent than I am so maybe you and I could work on the request. One more thing, ideally, we will have the opinion by the next board meeting and this board will take up whether or not we have a right to go in on our own and see if we can save our mission. Peter, can we put on the next agenda?

**Acting Executive Director Handy** replied yes, definitely.

**Laura Fitzsimmons** stated this may be a good time for me to announce and certainly by the next meeting in February, I will be resigning from the board. I am the only pure governor appointment and I do not know who the governor will appoint in my place. Hopefully, before the February meeting someone who is willing to take this on being the chair of this incredibly important board. Moving on to item 8 oversight update.

## **8. Oversight Update: (For discussion).**

**Acting Executive Director Handy** explained in light of the monitor's report, the foundation kind of got laid before we get to the next several items. Back in the summer we talked about adding forms to make reporting more uniform from the oversight professionals. I have given them the authority to address any issues that arise and notify us. We are changing the reporting structure that when reports come to the department and passed directly to the monitor creating more transparency. We want to make sure that it is clear to the attorneys, the courts, and other participants in the courtroom that this oversight is occurring. Reports will be reviewed and scrutinized as appropriate and with the assistance of the professionals we can collaborate on solutions.

**Chair Fitzsimmons** asked how did the attorneys or anyone else not understand that the monitor's work product was public.

**Acting Executive Director Handy** responded that the reports were being sent to Thomas Qualls, the prior deputy director, who was organizing those for his quarterly report. They were not being submitted to the monitor and she was only getting filtered revisions. There will be no more filtering and we are going to be meeting to address those issues and any trends that are occurring. Once we are back to full staff, we will have better ability to monitor it in a more holistic way than we currently can.

**Chair Fitzsimmons** stated Thomas Qualls only did one report back in May and if it was not for quest for information based on the events at the end of August, we would not know anything. I would say in addition to the monitor getting the raw reports they should be given to the board as well.

**Acting Executive Director Handy** commented this could be something we add to future agendas just as a standing item as a report and discussion of oversight. If any members have opinions based on reporting it might be something we have not considered, and the insight would be invaluable.

**Chair Fitzsimmons** asked if there was anything else on item 8? Moving on to item 9 post-conviction payment update.

#### **9. Post-Conviction Payment Update: (For discussion).**

**Acting Executive Director Handy** stated we have a work program in progress to move funds to replenish the category 12 post-conviction fund. We are requesting the amount we added for the last fiscal year. We are not sure it will be enough because of the increased hourly rate change halfway through the fiscal year. If additional funding is needed the GFO has been very supportive of these requests.

**Chair Fitzsimmons** replied that is because this issue was the first one to hit the newspaper. The bulk of the bills are from Clark County and Susan would be hearing if they were not getting paid.

**Susan Bush** confirmed she approved them and requested that the attorneys get the billing in early because the state is updating the billing system. We received a substantial amount of bills in the last 10 days.

**Chair Fitzsimmons** asked to confirm if we have enough money to pay everybody?

**Acting Executive Director Handy** replied we should at least this calendar year. Not sure if my projections from last year will make it through the fiscal year. It should make it through the third quarter and additional funds will be requested if needed.

**Chair Fitzsimmons** asked if Ms. Bush had anything else.

**Susan Bush** advised Clark County sent close to \$350,000 since October 7<sup>th</sup>.

**Chair Fitzsimmons** commented that sounds like Peter is on this.

**Acting Executive Director Handy** stated this topic is part of our standing monthly meeting with our fiscal people. This is brought up frequently.

**Chair Fitzsimmons** said moving to item 10 I believe is Brenda for training and pipeline update.

#### **10. Training and Pipeline Update: (For discussion).**



**Deputy Director Roberts** explained that if you recall we updated you on our October 10<sup>th</sup> event at Boyd Law School. It was a LASSO event and we had three dozen attendees come to hear Professor Steven Bright talk about his experience as an indigent defense provider. It was really an inspiring presentation and at least one rural public defender office found an intern at the event. For the pipeline I have been in touch with Boyd about conducting a rural road trip with some law students. You cannot love what you do not know and if you have not been to rural Nevada, they might not know what they are missing. This would probably occur in spring 2026 and will take some time to put together. Moving on to item B, the annual conference is scheduled for April 2<sup>nd</sup> to the 4<sup>th</sup> at the Atlantis hotel in Reno and we have contracted with Nevada Public Health to put the conference on. For item C the virtual training update, we have put on five CLEs covering various issues. Next year, Jennifer Fraser of Clark County Public Defender's Office has agreed to put one on regarding new juvenile law CLE for us in January. Westlaw will be putting on a research CLE in February and we are looking forward to getting more classes. We did a push on emails to let folks know if they need to make up CLEs we can provide them with video recordings of prior CLEs to catch up.

**Chair Fitzsimmons** stated I would like to break in about my firsthand experience on what you and Peter are doing with online CLEs. I have taken probably eight of them now and they are fabulous. I am so impressed as I have taken a lot of online CLEs, and these are fabulous.

**Deputy Director Roberts** stated we have three externs from Boyd that will be starting in January primary focusing on the legislature and will be helping us with any policy issues we may have.

**Chair Fitzsimmons** questioned whether they would be working remotely out of Las Vegas.

**Deputy Director Roberts** replied they would be and they have worked together before, and they should be a good team.

**Chair Fitzsimmons** asked if there were any comments or questions about agenda item 10. Let us move to our favorite, item 11, workload compliance.

#### **11. Workload Compliance Update: (For discussion and possible action).**

**Acting Executive Director Handy** stated starting with the good news White Pine have finalized a contract with Julie Cavanaugh Bill who will be handling all the juvenile cases there. We are hoping she may look at the opening in Humboldt County as she already does some work there. Now moving on to the less exciting counties, Nye County is still short six attorneys and Ms. Dellinger released a notice that they are going to be inquiring to hire more attorneys. We have sent it out to our attorney list, posted it on our website and are encouraging attorneys to spread the word that these contracts are becoming available soon. For each of the counties that do not have sufficient staff, we are looking at initiating the corrective action programs to start corrective action planning. While the counties are making substantial efforts to comply, they really have not. They have not met compliance in the time allocated in the *Davis* consent judgment and we are taking steps to reconcile that. We will be sending out notices to the counties in order of need and we will be working with those boards to try and develop what the plan needs to say and then start securing funding from IFC. It is going to be another attempt at getting those funds from IFC into the department's budget and utilize them to get the counties to hire where the need is.

**Chair Fitzsimmons** stated she has some questions. My understanding is some of counties are just shinning us on.

**Acting Executive Director Handy** responded while each of them said they intend to comply we have not seen a lot of movement from the counties in terms of hiring new staff. Churchill County has built a new building and spent substantial resources on that. As their own attorneys indicate, the salaries are not

competitive enough to hire. They have looked for attorneys for several months and have not received qualified applicants to fill the positions.

**Chair Fitzsimmons** wanted to know if the only remedy would be to force them into the State PD system, which is non-existent.

**Acting Executive Director Handy** replied that is not correct. It is really a collaborative effort. We will work with the county boards or their designees. It could be their county manager, fiscal personal. It would be whoever is able to create a solution that is going to work for that county. For example, in Nye County it would not be effective and try to open an office of the public defender because there are no funds or people. It should be effective to hire more contractors and secure funding from IFC to add six contracts and maybe increase the rate. Then the counties are assured that there are funds in the DID's budget to cover those costs and they will be reimbursed. Then the clients get the benefit of having an attorney that are not overworked or underpaid to provide those services. There have been complaints from several counties about the workload study. Based on the numbers that we have been tracking from the beginning of the calendar year and beginning of the fiscal year, it looks like the workload study numbers are aligned with the current need based on 1,392.6 hours. It is difficult for a lot of these county financial people to understand these are attorney hours and more like billable hours. I think a lot of this is just messaging to those counties.

**Chair Fitzsimmons** stated when you said request funds, does that mean we have to go through the governor.

**Acting Executive Director Handy** responded they all go through the same thing. We work with ASD to build a work program. The work program goes through approvals. We approve it at the department level, then it goes to ASD level, then the GFO level. The GFO would transmit to the IFC for them to approve transferring the funds to our department.

**Chair Fitzsimmons** stated there is no way to get those funds without going to IFC. Did you request that this big amount money be put in your budget, so we do not have to go to IFC.

**Acting Executive Director Handy** replied what we asked for in the budget was to incorporate all the things we have already received from IFC to be incorporated into our base budget. The additional amounts are according to the way the law is written. We must ask for those as an enhancement. Some may request or might require a financial kind of review. Those are all part of the governor's budget, and I will not find out until it is released what is governor wants to include in our budget.

**Chair Fitzsimmons** commented that once Marcie was terminated, we learned at the last meeting, and you have not reiterated her request for 3.2 million dollars for *Davis* compliance. That is just off the table.

**Acting Executive Director Handy** answered yes, that work program was turned down. At a point now it is no longer proactive measure to beat the deadline for *Davis* compliance. Now we are looking at reactive measures and seeking corrective action using that mandatory seeking of funds from IFC that is provided for in the corrective action process.

**Chair Fitzsimmons** asked if there are any questions or concerns. Moving to Item 12, Executive Director position vacancy.

## **12. Executive Director Position Vacancy: (For discussion and possible action).**

**Chair Fitzsimmons** stated she wanted to provide some background. DAG Todd Weiss advised the position would not be filled by the governor until we got three applications. We never got three applications. My

understanding is there was an application by a non-licensed person that applied. Our DAG has decided that we have one application, and we can submit to the governor's office and that is Peter's application.

**DAG Todd Weiss** stated just as background, my opinion is the statute says you have to submit at least three names. I also know it is the absurd result to have a never-ending search for any Executive Director that we may never get three applications for. It does not make sense so that is the reason I slightly amended my advice on the issue. You could go ahead and submit the one application. I would recommend at some point between now and the next meeting set a hard deadline and whatever applicants we have at that point is who we send to the governor. That would be my best advice.

**Chair Fitzsimmons** responded I think we are going to not ignore your advice. It is duly considered but, in my opinion, we know we have one applicant, and it has been posted now for two months. Peter is doing the work of the ED and he is not getting paid. We have seen his resume; we have worked with him. The only issue is he does not have in the trenches criminal defense experience and that is a problem Peter recognizes. We have talked and he is the first person to acknowledge that, but he is seeking mentoring, and he has done an incredible job being put in the position. We are not going to get a seasoned criminal defense attorney to apply. I would suggest and I want everybody to weigh in that we acknowledge the reality and send Peter's resume to the governor.

**Jeff Wells** stated my only suggestion would be you make this a topic in your meeting with the governor and then everything you said I agree with.

**Chair Fitzsimmons** explained that I have an email and they say they want Peter.

**Susan Bush** stated Peter does not have a criminal background, but he does have the internal knowledge of how the Department of Indigent Defense Services works. We need to move forward and do important work and I do not want to sit around just stalling when we need to fill positions. I am okay with sending Peter forward too.

**Joni Eastley** stated I absolutely agree with what she said because I was going to offer a similar comment. The position Peter is being considered for is basically an administrative position and he has in-depth working knowledge of how the department operates. I have no problem recommending him for the appointment and the fact he does not have any criminal defense experience does not bother me.

**Allison Joffe** expressed that she agreed completely and recommended there be funds be made available for mentoring him. She had firsthand knowledge how beneficial mentoring can be.

**Susan Bush** wanted to point out that one of the reasons I feel comfortable is we have the monitors that have a wealth of experience that assist the department in what needs to be done in these counties. If we did not have people like David Schieck or the monitors, then that would be a concern, but because they have those people, I am comfortable.

**Jarrod Hickman** stated that Ms. Bush took the words right out of my mouth. Between Mr. Schieck, Mr. Kadlick, and Mr. Lopez there is a wealth of experience. I think I can assist in providing mentorship and some of the board members have been in Peter's position or in the courtroom as a public defender and I think can assist as well.

**Chair Fitzsimmons** said one of the things that really impressed me, Peter, about your resume was the breadth of contacts that you know. You have made a concerted effort to reach out nationally to mentoring defenders. So, I agree you know our field observers, we have the members of this board and you have taken

the initiative to reach out nationally to others. If all the people in place to mentor is not sufficient, I know you are going to bring that up, right?

**Acting Executive Director Handy** replied he would. Like you said I have reached out to the NAPD, and I have worked with Ed Monahan and other capacities in the past.

**Vice Chair Kate Thomas** said I was going to echo what Susan and Jarrod had said about the monitors and the fact that it takes a village and I think you have a supportive village behind you.

**Chair Fitzsimmons** stated that we jettison all of that and send Peter Handy's name to the governor for consideration for our executive director.

**Motion: To Move Peter Handy's Name Forward to the Governor for Executive Director**

**By: Joni Eastley**

**Second: Jarrod Hickman**

**Vote: Passed Unanimously**

- 13. Upcoming Meetings.** (For discussion and possible action).  
a. February 6, 2025, at 1pm. Board Meeting Virtual.  
b. June 19, 2025, at 1pm. Board Meeting. In Person and Virtual. Location: TBD

**Chair Fitzsimmons** asked if there was any public comment.

**14. Public Comment.**

No Public Comment.

**15. Adjournment.**

**Motion: Motion to Adjourn Board Meeting on Indigent Defense**

**By: Dave Mendiola**

**Second: Allison Joffe**

**Vote: Passed Unanimously**

**Chair Fitzsimmons** adjourned the meeting at approximately 2:31 p.m.