

State of Nevada
Department of Indigent Defense Services
Board Meeting Minutes

Thursday, February 6, 2025

1:00 PM

Meeting Location:

OFFICE	LOCATION	ROOM
	Virtual Only (Zoom)	

1. Call to Order/Roll Call:

Vice Chair Thomas called the meeting of the Board on Indigent Defense Services to order shortly after 1:00 pm, on Thursday, February 6, 2025.

Cynthia Atanazio conducted a roll call. A **quorum was established**.

Board Members Present: Vice Chair Kate Thomas, Joni Eastley, Chris Giunchigliani, Jeff Wells, Angela Cook, Joe Crim, Lorina Dellinger, and Dayvid Figler.

Members not present: Susan Bush, Allison Joffe, Jarrod Hickman, Dave Mendiola, and Justice William Maupin.

Others Present: Executive Director Peter Handy, Deputy Director Brenda Roberts, David Schiek, Deputy Attorney General (DAG) Todd Weiss, Cynthia Atanazio (Cindy), and Nevada State Public Defender Andrew Coates.

2. Public Comment:

Vice Chair Thomas opened the line for public comment.

Cynthia Atanazio stated there was no public comment.

Vice Chair Thomas moved to the discussion and approval of the minutes. She asked if there were any questions on the minutes.

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

Motion: Approve the Meeting Minutes of November 21, 2024

By: Joni Eastley

Second: Chris Giunchigliani

Vote: Passed Unanimously

4. Department of Indigent Defense and Board Updates: (For discussion).

a. Governor Lombardo's Appointment of Peter Handy to Executive Director.

Executive Director Peter Handy shared he was appointed to be the Executive Director of the Department. He advised DIDS was still looking for his replacement for Deputy Director. There are hopes with a couple of upcoming interviews for those who have shown interest.

b. Resignation of Board Member Harriet Cummings.

Director Handy advised the board of the resignation of Harriet Cummings and he was notified that Laura Fitzsimmons resigned her position as Chair. He shared he was not aware how the next election to fill this Governor's appointed seat would happen. Director Handy welcomed new member Dayvid Figler, congratulating him on his appointment by the Supreme Court.

c. Governor Lombardo's Appointment of Andrew Coates to Nevada State Public Defender.

Director Handy said Andrew Coates was appointed to serve as the Nevada State Public Defender.

Chris Giunchigliani asked for some background, including having criminal, on Mr. Coates.

Director Handy stated he thought Mr. Coates was licensed in 2019, previously held a contract in Nye County, and comes directly from the Governor's Office where he was a Deputy Counsel to the Governor. Mr. Coates is on DIDS' list and qualified to take up to low B felonies. During conversations with Mr. Coates, it was understood that Mr. Coates will not be taking or handling category A felonies himself, but he should take the opportunity to learn from the qualified persons in his office.

d. New Appointed Counsel Rates

The attorney rate increased at the CJA level on January 1, 2025. The standard rate is now \$175 an hour for non-death penalty cases and \$223 an hour for capital cases.

e. Promulgation of DIDS Billing Guidelines

The department has been working with attorneys to develop new billing guidelines. There have been a lot of questions since we started review billing for attorneys on what is appropriate to bill for and what is not. We intend to reach out to create some uniformity so they understand what things will be approved and what might require additional information or details. This should expedite the billing process in our review of billing. We are changing some of the forms to ensure that we are getting enough information from the attorneys for data collection, and we have really good archives of the data that we are tracking.

Vice Chair Thomas asked if there were any questions from the board and just to confirm they have been uploaded if people want to take a look and have any questions.

Director Handy replied yes, and please get back to me if you have any questions, any input, or comments. We hope to get this promulgated and out to the attorneys sometime this month. We are also going to host some training session with the attorneys and their staffs.

Vice Chair Thomas stated great. If there are no board comments, that was for discussion. Let us move on to item number five, which is the Attorney General opinion regarding the board obtaining outside counsel.

5. Attorney General Opinion Re: Board Obtaining Outside Counsel (For discussion).

Director Handy explained this was added at the chair's request from the last board meeting. I am not aware of a question being submitted to the Attorney General or a response being provide by the AG's office.

DAG Todd Weiss stated there has been no official request for opinion and it needs to be in writing submitted to our litigation person. I brought this up to Chair Fitzsimmons a couple of months ago. She realized she had forgotten to do that and would do it. It never happened and I was not aware that she resigned back in

November until yesterday afternoon. The question must come from the chair, it cannot come from an individual member. Once that is done, we can get an official response to the question.

Vice Chair Thomas wanted to know if there were any questions or comments regarding that item on the board obtaining outside counsel.

Joni Eastley asked if someone could remind her why we felt it necessary to seek outside counsel, number one, and number two, and if we are hiring outside counsel who is paying for that?

DAG Todd Weiss stated I believe there were a couple of questions that were going to be part of the official opinion request. One was does that board have the authority to hire outside counsel and if the answer is yes, then what are the options for paying for that?

Vice Chair Thomas asked if this is something we want to move forward with. Even if we are granted an opinion saying we could move forward and secure outside counsel then the process by which to select that counsel would have to be decided. Then where is it paid from and is that the best use of the board's resources. I would love to get a consensus on whether or not we want to ink up a letter.

Joni Eastley questioned why we feel that the AG's office is not providing adequate representation and why we need outside counsel.

Chris Giunchigliani explained she could not remember, and they may have indicated there may be a conflict. Maybe we make the request to the AG's office and then decide if we want to move forward.

Vice Chair Thomas stated okay great, let us table this for now.

Jeff Wells stated the reason our prior chairman had questions on whether or not there was a conflict between the governor's office and some of the committee members perception on what the statute was on the powers of the governor relative to selecting the executive director, or state public defender, etc.

Joni Eastley thanked Jeff and stated I think you are absolutely right.

Jeff Wells stated I think Chris is right and we should still ask the question. Having that knowledge would be a benefit.

Dayvid Figler asked if Chair Fitzsimmons concerns were memorialized anywhere in the public record so he could take a look. I would hate to see whatever the real concern was to be swept away by someone leaving the board.

Joni Eastley replied to Dayvid that Jeff's recollection is spot on. There were questions whether the governor had the authority to make the decisions that he made. The chair wanted another opinion on the statute that would come from outside counsel.

Jeff Wells told Dayvid to listen to either the last or next to last meeting as the chair expressed her concern very articulately.

Director Handy advised that he could also look to the recently approved minutes from the last meeting.

Vice Chair Thomas stated let us move to item number six, the update on the Nevada State Public Defender Humboldt County office budget request.

6. NSPD Status and Update on Humboldt County Office Budget Request (For discussion).

Director Handy explained that the total budget for 1499 has not changed a lot. Because Carson City opted out of the NSPD's Office in the last biennium there was no revenue coming in. The balance has been paid out of the general fund and then the revenues coming in from White Pine County. We are expecting revenues according to the maximum contribution amount from Humboldt and White Pine County. The balance is going to be paid with general funds instead of it just being an allocation based on percentages. It is actual revenue from the county and then the difference between the budget amount and those revenues is going to be the state funding portion. We also added funding we did not anticipate when we opened the White Pine office, like funding for IT projects and getting a new building up and running. We expect that it should be enough to get the office started. Obviously, we will not have a building I do not think to be up and running on July 1st. So, we will probably rely on some contractors in the interim period. Are there any questions about the budget.

Vice Chair Thomas asked if any board members have any questions or comments on the budget. We will move into the status of the *Davis* litigation.

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

Director Handy replied the only update I have is a letter went out from the governor's counsel to the *Davis* plaintiff's counsel about steps that have been taken regarding compliance. My understanding is they have another meeting sometime later this month. When I have more information, I will pass it along to the board.

8. Oversight Update (For discussion and possible action).
a. Reports from Outreach Advisors.

Director Handy relayed that there is a very large zip file available on the website of reports we had from our three oversight advisors. There is quite a bit to review so we will provide them at least a couple of weeks in advance of board meetings. I can only review so many at a time until I can get someone else as a deputy director. I rely on more distilled reporting from each of the oversight professionals to give me a phone call and the deal with the issue and that is not a frequent thing.

b. CLE Compliance reporting update and board input regarding potential courses of action related to noncompliance.

Director Handy stated we have been chasing down CLE compliance as we are obligated to do at the end of every year. The regulations require that everyone on our list obtains five hours of CLE credit in criminal law. We are working to ensure this is happening.

Deputy Director Roberts stated that in December 2023, the regulations were updated to require all indigent defense providers in the rural counties provide CLE transcripts by January 1st, reflecting a minimum of the five hours of CLE courses relevant to indigent defense. I sent out four emails between October and January reminding folks of the requirement and the new need to send us the CLE transcripts. Out of 140 active attorneys, 102 have complied. One of the reasons this is on the agenda is the regulations do not provide any sort of enforcement mechanism. We are requesting input on what additional steps, if any, you would like us to try and get these attorneys to comply.

Vice Chair Thomas asked if the board had any suggestions on compliance opportunities so they can bring people into conformance, although 104 is impressive.

Chris Giunchigliani responded that I think notifying the local governments that have contracts, they are not in compliance, coming up with a proper timeline that they have to do it, especially if you are offering online training.

Dayvid Figler comment that as a recipient of those emails, I want to give Brenda a shout out. It was handled very professionally and motivationally; it was just a great job by Brenda to get those emails out and remind everybody of how important that was and making it super easy to come into compliance. I would concur with Chris that the county needs to know. I would suggest advising they will be put on a list that could be made public as they are not in compliance with their education requirements. That the list would be going to the county, everybody will be scrambling because no one wants to be on a list like that.

Vice Chair Thomas asked if that was helpful. A little public shaming might help with the effort.

Jeff Wells wanted to know how much we charge attorneys to use the online courses.

Deputy Director Roberts replied it is free of charge.

Jeff Wells stated that is what I thought but I wanted to keep that in the record. Is it only available to attorneys that are on our list or can any criminal defense attorney take them and then potentially apply to be on the list.

Deputy Director Roberts replied we email reminders only to active attorneys on our list, but any attorney is welcome to contact me, and I will send them a list of courses we have available for CLE credit.

Vice Chair Thomas asked if there were any other suggestions for Brenda or Peter? Would someone like to make those suggestions in the form of a motion?

Chris Giunchigliani stated I would move that we notify counties that have contracts with individuals that have not complied with the CLE requirements. That we come up with some methodology to publicly shame if they do not come in compliance.

Jeff Wells asked Chris would you add to that they get no new cases until they are in compliance?

David Figler asked Chris, if amenable, why not put a date on it. Basically, give them a grace period of two months, say January and February. So, by March 1st and noticeably given to the county with all attorneys who are not in compliance.

Chris Giunchigliani replied that it is a good idea.

8. (b) CLE Compliance: (For possible action)

Motion: To Notify Counties with Attorney Contracts of Non-Compliance of CLE Requirements if not met by March 1st, and no Assignment of New Cases Until Compliance is met. They Would be Added to a Non-Compliance List.

By: Chris Giunchigliani

Second: Jeff Wells

Vote: Passed Unanimously

Vice Chair Thomas asked if Deputy Director Roberts wanted to cover the training and pipeline update.

9. Training and Pipeline Update: (For discussion).

- a. Pipeline/LASSO Update.
- b. Annual Conference Update.
- c. Virtual Training Update.
- d. Spring Externs from Boyd.

Deputy Director Roberts stated that I will start with the LASSO program. We currently have five law students for fiscal year 25 signed up for LASSO. One recipient who was a full externship will continue into the spring externship with the same law firm. We also have our very first graduate who was offered and accepted a permanent full-time job with the Carson City Public Defender's office. She will be receiving the bar stipend, bar prep stipend, and a stipend for accepting a public defender position. We did a virtual recruiting event with Pacific Northwest Consortium of Law Schools. That covers Washington, Oregon, Idaho, Arizona, and Utah. Moving to the annual conference which is April 2nd to the 4th we are working again with NPHF. Nevada Attorneys for Criminal Justice have agreed to host an evening reception and the conference will run from mid-Wednesday through mid-Friday. For virtual training update, Jennifer Fraser from Clark County will be conducting a two-hour juvenile law basics CLE next week. Westlaw will be providing some training in March. Dr. Cord has offered to do two CLEs this year on competency to stand trial and one on psychosexual risk assessments.

Vice Chair Thomas commented that is great, lots of great activity. Are there any comments or question on the training and pipeline update.

10. Workload Compliance Update: (For discussion and possible action).

Director Handy advised this will be a standing item for the agenda.

a. Nye County.

Director Handy stated Nye County has made a lot of progress in just the last few months. They solicited for new contracts I think it was a couple weeks ago and the board just approved three more contracts. These are full time contracts in Nye County and that brings the total of nine contracts. That is short of the 12 required in the workload, but that is making up half the difference and a big step.

b. Lyon County.

Deputy Director Roberts stated we have Brock Law who are obligated to provide five attorneys or full-time equivalent (FTE) attorneys (two attorneys and a LASSO extern working with him). We also have Mansfield and Mayo who are obligated to provide three attorneys who have two attorneys working for them. They are trying to bring a fifth on board because they also have a Humboldt County contract which obligates them to have two FTE attorneys.

Director Handy added that according to my math that gets us to eight contractual FTEs plus at least one for Walter, which is nine. In Lyon County the workload requires 12 attorneys that are full-time equivalent, and they are not quite there and we will be working with them to try and bridge the gap.

c. Churchill County.

Director Handy said in Churchill County they recently hired a new deputy public defender in Jacob Sommer's office and now there are two full-time attorneys. Noel Wright still has himself and an extern in his office. They had a meeting this morning and are considering hiring another attorney. I believe it is seven plus under the workload study and they are making improvements to both hire new attorneys and getting

externs into the office. Churchill County is one of the counties we are most proud of. Every time we request something they do all they can to cooperate. I just wanted to say here they have done a fantastic job.

Joni Eastley stated that David's reports were enlightening and very helpful to me.

Director Handy responded that I am glad to hear that. There is a lot to go through but there is a lot of valuable information in there to be found.

Joni Eastley commented that there were even comments about the judges which I found fascinating and very helpful.

Director Handy stated when our outreach advisors go out, they are not just looking at attorneys because we are looking at systems as a whole. The other players in the system, DAs, judges, clerk offices, these are the people that are involved in the process.

Joni Eastley said if David comes to Tonopah again, I would welcome the opportunity to meet with him.

Vice Chair Thomas stated all is good news, especially out of Churchill. That is outstanding. Are there any questions or comments from the board on the workload compliance. Now it is upcoming meetings. Our first item A, June 19th is Juneteenth for those that recognize the date. We will be looking to send out a new poll for the board to see if we can find a new date and also seeking a location.

11. Upcoming Meetings. (For discussion and possible action).

a. June 19, 2025, at 1 pm.

In Person Board Meeting and Virtual. Location: TBD.

b. September 25, 2025, at 1pm.

Virtual Board Meeting via Zoom.

c. December 4, 2025, at 1pm.

Virtual Board Meeting via Zoom.

d. February 5, 2026, at 1pm.

Virtual Board Meeting via Zoom.

Deputy Director Handy stated we are looking for suggestions, if any of you know any locations that would be a good fit. We try to make it out to the rural counties so we really can get everybody involved in a different locality of the state.

Vice Chair Thomas stated I always love our meetings in Tonopah, but we will leave that up to the board.

Joni Eastley said she was going to offer Tonopah as it is equally convenient for everyone.

Jeff Wells stated that as much as I enjoyed the Tonopah meeting it might be easier for staff if we did like last year and do it in Carson and we save some expenses that way.

Director Handy suggested that hopefully we will have a new building come June and it will have enough space to hold the meeting in the conference room.

Joni Eastley commented that would be great.

Vice Chair Thomas stated more information forthcoming. We will send out polling information but for everyone's calendars the June 19th will likely be moved.

NSPD Andrew Coates stated how bout we just meet in Austin.

Vice Chair Thomas responded that we could meet in Austin. There is Andrew.

Chris Giunchigliani stated love Austin.

Vice Chair Thomas commented we do not need to decide here mostly because that could take forever. I am trying to run a snappy meeting for us all today with the nice light agenda. We have September, December and February meetings listed on here for everyone's calendars. It says possible action and I do not know that we need to act on that, but I will ask our DAG or Director Handy.

Director Handy responded that I do not think any action is needed to set new board dates.

DAG Todd Weiss stated I would say a vote needs for new board dates. The chair has a lot of authority to move stuff around once it is already on the agenda, but to get an actual new meeting date requires a vote.

Chris Giunchigliani asked if we could get a list on whose seats are up. I think some of us are termed and I am up again in June.

Vice Chair Thomas reiterated that the June meeting will not be the 19th, but I do not think we have enough information to set a board meeting in June today.

Jeff Wells stated why not make a motion that says we are not going to meet June 19th.

Vice Chair Thomas replied I love that motion. We have a motion ladies and gentlemen. Any discussion?

Director Handy commented so long as we do have a meeting in June so we can get the annual report approved by the board.

11. Upcoming Meetings. (For discussion and possible action):

Motion: To Change the Date for the June Meeting to a Date to be Determined.
By: Jeff Wells
Second: Chris Giunchigliani
Vote: Passed Unanimously

Vice Chair Thomas confirmed there we have our non-June 19th meeting movement, and the other date are listed on the Agenda.

Jeff Wells wanted to add because we are talking about when people's terms expire. Remember under our statutes, even when they expire you are still on until your appointment is confirmed and comes forward.

Vice Chair Thomas thanked Jeff for the reminder.

Director Handy stated I did want to mention, if I could, before adjournment, Cindy, who has been with this office since the beginning is retiring this month. We would like to congratulate her on being fantastic in this department and this place will not run the same without her.

Joni Eastley commented too bad we are not the parole board, or we could just say no. Parole denied.

Cynthia Atanazio (Cindy) thank you. I appreciate it.

Chris Giunchigliani commented Cindy, you have been marvelous. You helped the whole team and set up a really good department. You should be very proud of your contribution.

Vice Chair Thomas said thank you, Cindy. Congratulations on your retirement. That is exciting.

Angela Cook said thank you so much. Congratulations.

Cynthia Atanazio (Cindy) replied thank you.

Vice Chair Thomas said all right, do we have any public comment? Mr. Coates may be here and if we do have any public comment how about a quick introduction.

NSPD Andrew Coates replied I have been here since 1:15.

Vice Chair Thomas asked Mr. Coates if he would like to say anything to the board under public comment.

Andrew Coates responded not under public comment, but I am Andrew and I have been a public defender in Lyon County, Nye County and complex counsel throughout rural Nevada. I was deputy general counsel to Governor Lombardo, and then he asked me to take this job and that is how I came here.

Chris Giunchigliani stated welcome aboard.

Joni Eastley asked if we could reopen item 4C just to ask a question of staff, but since he is here if we could revisit 4C.

Vice Chair Thomas replied that is fine. You okay with that Mr. Weiss.

DAG Todd Weiss replied yes, you as chair can take us back to earlier items.

Vice Chair Thomas stated so under 4C, we are going to open it up and Ms. Eastley has a question for you, Mr. Coates.

4.

c. Governor Lombardo's Appointment of Andrew Coates to Nevada State Public Defender.

Joni Eastley wanted to ask Mr. Coates a question. Are you going to actually assist our deputies in the courtroom, or do you see your position as purely administrative?

NSPD Andrew Coates replied I would say mostly administrative. I was out in Ely and did do some hearings, but ideally administratively my focus is on compliance with the *Davis* settlement and compliance mostly recruitment of new attorneys or more attorneys for Ely and opening the office in Humboldt County.

12. Public Comment.

David Schieck asked if he could bring something to the board's attention.

Vice Chair Thomas stated please David go ahead.

David Schieck stated this has to do with White Pine County. Peter may wish to address this, but there has been a filing of some 20 murder cases in White Pine County to do with the prison riot last July. Three cases

are going to be capital cases and the other 16 are going to require category A qualified attorneys. The cost of litigating those cases in White Pine County are going to be tremendous.

Director Handy replied I am happy to address this. We have appointed counsel for almost all those defendants so far. We may be short two or three of the category A charged defendants remaining to find counsel. As for the cost, I have already made the GFO and ASD aware that this cost is going to be coming because these are prison cases, and they will be paid out of the statutory contingency funds. We are checking on if funds can come out of 518 the account with the PDs office for paying complex litigation counsel. There is going to be a need for a lot of support services, investigation, and mitigation specialists.

Chris Giunchigliani asked if the trials had to be in White Pine County or can you do a change of venue? Would it be cheaper, easier?

Director Handy replied typically the case is tried in the county where the offense occurred.

Dayvid Figler stated there are a lot of people who are charged with murder in this case and it is going to be an economic hardship. I wonder what the parameters or the ability of this board to have some manner of sway or position with regard to the depth of how many people are charged or even encouraging appointed attorneys to move for a change of venue. One of the bases is the potential economic impact and the ability to for those attorneys to be able to do the best job without depleting the resources that are funding them. I bet Mr. Schieck would have some valuable input on how far we can go as an oversight board to encourage what we are allowed to do encouraging these type of prosecutions not to break the bank. They need to make sure that everyone gets the proper representation commensurate with the seriousness of the charges.

Chris Giunchigliani stated I was concerned about the cost and is there housing available for the attorneys.

Vice Chair Thomas reminded the board we are under public comment. I want to make sure we are not deliberating and driving down the policy track outside of the scope.

Dayvid Figler said I would suggest some sort of subcommittee or white paper might be appropriate for all the various economic concerns that are the purview of this board. Including maybe proposals for collective representation or housing or things that could better expedite our obligations to indigent defendants and our concerns for making sure that our buck goes as far as it can to get the best representation possible. I would like for us to not drop this as it is a developing issue. We are the ones that I think would be in the position to be able to help drive that type of ship with whatever authority we have to do that.

Vice Chair Thomas stated we will confer with Director Handy to see what communications are underway if they are not successful, what the board might be able to exercise as far as authority over trying to make some headway that way. Not sure if June will be too late to put a board item for discussion and direction.

NSPD Andrew Coates said having one of those cases I can say those will take a while.

Peter Handy explained that we will be monitoring the situation. If there are individual concerns, please feel free to raise them with me and I will keep track of those concerns. If necessary, I can reach out to Kate and the rest of you and say we do need a board meeting before June and we can work with that.

13. Adjournment.

Vice-Chair Thomas adjourned the meeting at approximately 1:59 pm.