

**State of Nevada**  
**Department of Indigent Defense Services**  
**Board Meeting Minutes**

Thursday January 28, 2021

1:00 PM

**Meeting Locations:**

OFFICE	LOCATION	ROOM
VIRTUAL ONLY		

Public was able to access the following link: [Join Microsoft Teams Meeting](#) +1 775-321-6111  
United States, Reno (Toll) Conference ID: 220 019 921#

### 1. Call to Order/Roll Call

Chair Professor Anne Traum called the meeting of the Board of Indigent Defense Services to order a shortly after 1:00 p.m. on Thursday, January 28, 2021.

A roll call was conducted, and a **quorum was established.**

**Board Members Present:** Chair Professor Anne Traum, Vice Chair Dave Mendiola, Laura Fitzsimmons, Julie Cavanaugh-Bill, Joni Eastley, Drew Christensen, Chris Giunchigliani, Lorinda Wichman, Rob Telles, Kate Thomas, Jeff Wells, Justice William Maupin and Bevan Lister.

**Others Present:** Executive Director Marcie Ryba, Deputy Director Jarrod Hickman, Deputy Director Patrick McGinnis, Jason Kolenut, Cindy Atanazio, Alexis McCurley, Deputy Attorney General Sophia Long, and Matt Pennell.

### 2. Public Comment

There were no public comments from the North or South.

### 3. Approval of November 20, 2020 Minutes (For Possible Action).

**Motion:** Approval of Minutes from November 20, 2020.

**By:** Joni Eastley

**Second:** Chris Giunchigliani

**Vote:** Passed unanimously

### 4. Approval of December 2, 2020 Minutes (For Possible Action).

**Motion:** Approval of Minutes from December 2, 2020 as corrected.

**By:** Dave Mendiola

**Second:** Chris Giunchigliani

**Vote:** Passed unanimously

## 5. Presentation and Discussion of Proposed Temporary Regulations of the Board on Indigent Defense Services (For Discussion and possible action).

**Chair Professor Traum** outlined a brief history of where we have been and the process behind these regulations so that we have them in our minutes. The Department was created in October 2019 with rule making authority. The Board has been directed to create regulations as set forth in the statute 180.320. We discussed these at the following meetings December 19, 2019, January 29, 2020, February 28, 2020, June 29, 2020, and September 24, 2020. In September, the Department created a set of regulations and the regulations reflect the ABA Ten Principles.

**Director Ryba** concurred that the regulations lined up the ABA Ten Principles of a Public Defense Delivery System.

**Chair Professor Traum** noted that our Workshop on the regulations was December 2, 2020, and the regulations were posted in advance of that date to allow for comments. The Department did a lot of outreach which was extremely helpful working with the people in the indigent defense community to hear their concerns and work them into the regulations. The regulations were discussed at the Workshop on December 2, 2020 and with that history we now have before us regulations which we can approve today. Chair Traum noted that the Department did not receive emailed comments of the posted regulations ahead of the meeting. Now we want to open it up to the Board and members of the public which includes members of the indigent defense community for comments.

**Bevan Lister** questioned whether they were going to review the regulations page by page or taking comments.

**Chair Professor Traum** confirmed that the Board would be taking comments but noted that the Department did not receive comments in writing ahead of the meeting so there would be an opportunity to discuss.

**Bevan Lister** stated that he noticed a few things in his reading and that he probably should email those but was presuming that the regulations will go through the LCB for formatting, etc. and wanted to know if that was correct.

**Director Ryba** explained that in talking with Deputy AG Sophia Long according to the rule making manual we are allowed to make temporary regulations and they do not need to go to the LCB so that if they passed today within 35 days the regulations will be effective.

**Deputy AG Sophia Long** wanted to add that if you decide to make them permanent after July 1<sup>st</sup> of this year you can start that process of making them permanent again.

**Chair Professor Traum** commented that if her understanding was correct, the temporary regulations would expire on November 1, 2021, which was confirmed by Deputy AG Sophia Long.

**Chair Professor Traum** we could start a permanent process as soon as July, but we must start in the summer to replace these regulations come November. This is like a pilot test run which gives us

some flexibility to workout issues and make adjustments from this point forward before we have a set of permanent regulations.

**Bevan Lister** stated that he understood the reason and mentioned that there were a few formatting things that need to be looked at for consistency. It is a typographical thing and probably not substantial changes but sections 12 and 13 would make more sense if they were under one section that related to that type of petition instead of two separate sections. The same with sections 14, 15, 16 and 17 because they are both dealing with one certain kind of piece of what we want to happen. Mr. Lister thought they should be in a section of their own with stipulations being in subsection and again it is a formatting thing. Mr. Lister wanted to know if there was an appeal process and how does the administrative procedures act affect here. In section 18 the question is what is the current year of those consumer price indexes or union negotiated wages.

**Chair Professor Traum** wanted to confirm that the focus was on Section 12 and 13 was more of a formatting comment and similar formatting comments in terms of grouping 14 through 17 and that Mr. Lister had a substantive question regarding the appeals process and the budget cost.

**Director Ryba** indicated that these sections are directly out of the Attorney General's Administrative Handbook on sections that need to be within the regulations. They were copied directly out of the Administrative Handbook as we were directed to do in creating the regulations.

**Jeff Wells** stated that would cover everything up through Section 17 and Mr. Lister's comment about Section 18 is still a valid question because that is not part of the handbook.

**Laura Fitzsimmons** thought that was on Sections 14 through 17 and had the same question. Ms. Fitzsimmons thinks it comes into the ADA generally and at that point Section 16 takes over and an opinion is issued then the appellate for administrative procedure takes over.

**Director Ryba** stated that was her understanding and requested that Deputy AG Sophia Long weigh in.

**Deputy AG Sophia Long** indicated that was correct.

**Chair Professor Traum** questioned if Director Ryba or Deputy Director Hickman wanted to address the Section 18 question about how the cost basis is formulated.

**Director Ryba** explained that when building our budget, we must build it for the next biennium, and I do not know the language reflects the current Consumer Price Index (CPI). Director Ryba wanted to know if anyone had any sort of option of what they would like to see in there.

**Deputy Director Hickman** indicated that when it says in subsection two the Consumer Price Index for urban consumers west region is published by the Department of Labor for the immediately preceding calendar year.

**Bevan Lister** opined that for each budget year that is the number that would be applied which Deputy Director Hickman confirmed.

**Jeff Wells** stated that the lead sentence of Section 18 paragraph one says during a fiscal year we start with the current fiscal year which is the maximum they have to pay and then is calculated, so if you identified which CPI you probably got it and you could also say the lowest Union negotiated cost of living increase.

**Julie Cavanaugh-Bill** stated that on Section 45 that had been discussed at the Workshop, and there was a suggestion to include the optional language so either the counties under a 100,000 use the case management system on data collection provided by the State at State expense or they provide the data as required prior to the workshop. That was Section 49 and now it is Section 47 to the Department at county expense and we were going to have the alternative in there, but it is not in the current proposed regulations.

**Chair Professor Traum** commented that her recollection is that it was flagged but that they did not rewrite it because no suggestive language had been submitted to the Department.

**Director Ryba** confirmed that they submitted the language at the Workshop, and this is what moved forward. The Department did not receive any sort of public comment or any alternate ways of writing it, so this is what we proposed.

**Julie Cavanaugh-Bill** indicated that her recollection was that including a clause they may use it at the state expense or provide data as required by the dissection of the Department to the Department at county expense.

**Chair Professor Traum** confirmed that they did but did not add it because they did not receive any comments. The Department is concerned that if they do not get their data on LegalServer it is going to be difficult to use the data. Professor Traum stated that she realized that Elko County objected earlier, and they were making the decision about a case management system and were anticipating that they would have some ability to connect with LegalServer. Part of our thinking was that there actually some other points where that can happen other than in this regulation.

**Director Ryba** confirmed that after putting out the small business questionnaire if we did not go forward with everyone using the same software it would increase cost for the Department to be able to analyze the data collected. The presentation by the Administrative Office of the Courts, pointed out that when using the same software, the data has the same meaning and is more valid. Our office reached out to Elko county who chose to go with Tyler Odyssey. There is a possibility of an interface with Tyler Odyssey and LegalServer. Based on the contract it will be at least a year until Tyler Odyssey is available to Elko County. In the meantime, LegalServer will be provided to all counties in the rurals with an expected date of March or April for use and the Department can start collecting data.

**Chris Giunchigliani** stated that this issue had been hashed out at each Board meeting and the reason the language is not there is we did not have a consensus, so we moved forward with what was proposed. There were no additional comments received through public hearing and my thought is to move forward with requiring LegalServer. The whole point of the legislation was continuity it was to settle a lawsuit and make sure we provided justice as indigent services. If Elko County or anybody else decided to go ahead and buy something that they knew probably would not be working. The cost of connecting to LegalServer should be on them. It is time to move forward.

**Matthew Pennell** the Elko County Public Defender stated that his tenure started January 4<sup>th</sup> and much of this is something he did not have previous involvement with. Mr. Pennell wanted the Board to know that they have been in contact with JustWare and Tyler Odyssey to try and make some type of interface happens. It appears they are running into the same difficulties, but they are trying to start the process so that they can comply when the times comes. Mr. Pennell did not know the particulars of why the contract was done with a service provider that was not provided by the State or DIDS but believes it was pressure from the courts and District Attorney's office to maintain an integrated system within their own county system.

**Deputy Director Hickman** wanted to follow up on Mr. Pennell's comments. One of the things that is important to point out is the statute 180.450 does not talk in terms of compliance or the time frame in which compliance is achieved. There is some flexibility in the statute to work through these problems with Elko County and assist in that interface and establish a longer timetable if needed. Although, there is a requirement for use of the system there is flexibility built in terms of the timeline which compliance should be achieved.

**Chair Professor Traum** stated that it was especially useful hearing from Mr. Pennell and that she agreed with Deputy Director Hickman that there is some flexibility in the timing. It should be noted that the regulations are temporary so if it needs to be reflected in the regulations we can come back and build the flexibility in the regulations. The beauty of having a temporary regulation before we finalize this, we can work out some of the kinks and are not setting up a doable operation that is not going to be a violation of the regulations.

**Justice William Maupin** expressed that Chair Traum summed it up very well. The temporary regulations are reasonable on their face and reasonably contemplated and consistent with the statutory mission of this organization. We are going to see how it comes out as the best available evidence and I am good with moving forward to approve the temporary regulations.

**Vice Chair Dave Mendiola** stated that he wanted to reiterate the comments of Justice Maupin and with Elko County making a good faith effort to integrate and get the information makes sense. Vice Chair Mendiola agreed that it is time to move forward and there could be a successful integration, and everything works out and we can build other things into it.

**Jeff Wells** stated that he had a couple of issues to discuss with the Board. One comes from JoNell Thomas, Director of the Special Public Defender's office regarding Section 21 paragraph two where a county under 100,000 that opting out is and not done on a case-by-case basis. Mr. Wells wanted the Board to know that he spoke to Director Ryba the day before regarding this issue and that she requested that he make it clear that this would not be done on a case-by-case basis and that if a county opt-in does so for the entire next fiscal year. A suggestion would be in the second line where it says and are direct appeals to the Appellate Court of competent jurisdiction and insert something like the following fiscal year. Then the Board of County Commissioners shall notify and make it clear it is not a case-by-case basis it is a whole year at a time. This is the only way that Director Ryba can budget for it in the event we do it as a whole year at a time.

**Laura Fitzsimmons** indicated that in reviewing the minutes Director Ryba did explain that last time and I think that if it is possible without delaying anything that is probably a good suggestion.

**Director Ryba** stated that she wanted to point out that NRS 180 does set forth the process that counties need to follow to opt-in. They are required to let us know by March 1<sup>st</sup> of the odd-numbered year pursuant to subsection three. If the decision, they make by the deadline and they opt-in they cannot transfer that responsibility back to their own county unless they get prior approval of the Director of the Department.

**Chair Professor Traum** wanted to confirm that for the following fiscal year is not accurate because once they either opt-in they stay there until they are let go.

**Director Ryba** confirmed that was correct they make that March deadline and opt-in they will be there until this Board allows them to opt-out.

**Jeff Wells** stated that he would withdraw the suggestion.

**Chair Professor Traum** questioned if Mr. Wells had another issue that he wanted to discuss.

**Jeff Wells** explained that the second issue is in Section 44 the very last sentence of paragraph two where it says consistent with NRS. We are talking about workload studies it says consistent with NRS results of each study shall constitute the Board's guidelines for determining maximum workloads. If a situation arises for any reason, we might want to change the number and the way this is written we have to go back and get the vendor to agree with us then change the number. I would strike out constitute the Board guidelines and insert recommendation to the Board and then continue with determining maximum workloads.

**Director Ryba** agreed with Jeff Wells in recommending and we came up with in the last sentence if you delete constitute and instead use the word inform then it would read the Board and delete guidelines for determination of maximum workload so inform the Board would be our proposal.

**Jeff Wells** requested that Director Ryba read the whole sentence.

**Director Ryba** the sentence would read "results of each study shall inform the Board's determination of the maximum workloads for attorneys providing indigent defense services."

**Jeff Wells** stated that is still almost saying it constitutes the workload. Mr. Wells wants language making it clear that the Board gets to change it if they want to. Mr. Wells wanted to make sure that 90% of the time were probably going to just do whatever they recommend but we want to make it clear that if off in the future we want to change something we have retained the authority.

**Justice William Maupin** indicated that you do not want to say that some outside source informs our decision because as Mr. Wells points out that means that the outside source then it was forced upon us.

**Director Ryba** explained that other options that the Department has come up with are "that it shall constitute a guide for the Board's determination" or "shall be considered in making the Board's determination." Not sure what is the better language.

**Chair Professor Traum** questioned whether they could go back to the original like would saying that the Board's determination of the maximum workload attorney's providing indigent defense services shall consider the result of the study.

**Jeff Wells** stated his own language was striking the phrase constitute the Board's guidelines and inserting instead be a recommendation to the Board and then it continues to be determining.

**Justice William Maupin** indicated that works a lot better cause you cannot take the Board's discretion and delegate it to another entity.

**Chair Professor Traum** stated that she was fine with the proposal and questioned Director Ryba or Deputy Director Hickman whether they had the language they needed.

**Director Ryba and Deputy Director Hickman** requested that Mr. Wells read the proposed language one more time.

**Jeff Wells** suggested that the sentence read "it would be consistent with NRS that all those numbers as a result of each study shall be a recommendation to the Board in determining maximum workloads for attorneys providing indigent defense services."

**Justice William Maupin** stated that back in 2007 when we first thought about this on the Supreme Court, I never dreamed that we would get to this point where we will be making a motion like this, so I congratulate everybody that has been involved on this and I must tell you that on a personal level this is extremely gratifying.

**Laura Fitzsimmons** stated that they would not be where they are if not for you Justice Maupin. Ms. Fitzsimmons wanted to take a minute and remember Bob Crowell, our Mayor, and his guidance. Thank you Justice Maupin and we certainly wish that Bob Crowell was here to celebrate this with us. It has been a long hard road and you were there in the beginning Justice Maupin.

**Chair Professor Traum** suggested that they move on to actually approving the regulations, so is there special language that we need to adopt here.

**Chris Giunchigliani** commented that she believed that Justice Maupin made the motion and Laura Fitzsimmons seconded it and the motion was to adopt with those changes.

**Deputy AG Sophia Long** stated that just for a clean record, we are on agenda item five, a public hearing. If we can close the public hearing, which means no further comments. On agenda item six is the adoption and then to the specific language instead of saying approve that you adopt.

**Chair Professor Traum** indicated that they are closing the public discussion on the regulations and moving on to agenda item number six which is the adoption of proposed temporary regulations of the Board of Indigent Defense Services. If we adopt them now, they will be good until November 1, 2021.

## 6. Adoption of Proposed Temporary Regulations of the Board on Indigent Defense Services (For Possible Action).

**Bevan Lister** questioned does that include the ability for the Director to make cosmetic changes as she sees fit.

**Justice William Maupin** stated you do not make cosmetic changes at this point, what they do is enforce them by what you think the intent of them are.

**Chair Professor Traum** indicated that the only changes were made today are the ones mentioned in Section 44 and the one we discussed a few minutes ago. That was the only language change, we are not making cosmetic changes as we have done now.

**Jeff Wells** stated that didn't we have a language change back at 18.

**Chris Giunchigliani** stated that she thought we had one back there to say current year or something for the contract and for the CPI.

**Laura Fitzsimmons** stated that she thought if you look at what Deputy Director Hickman said in Section one of the fiscal year must not exceed, I thought it was kind of handled.

**Chair Professor Traum** indicated that her understanding is we have a motion to adopt regulations, the motion is seconded, and it incorporates the language changes that we did make to section 44 which we identified so with no more discussion all in favor of the motion say I.

### **Motion to Adopt the Proposed Temporary Regulations with the Language Submitted by Jeff Wells.**

**By:** Laura Fitzsimmons  
**Second:** Joni Eastley  
**Vote:** Passed unanimously

**Chair Professor Traum** commented that with the regulations approved it is very exciting so congratulations to all who put a lot of work into it and especially the Department.

## 7. Update from the Department (For Discussion and Possible Action).

- a. Update on status of Bill Draft Requests.
- b. Update on status of Training
- c. Weighted Caseload Study

**Director Ryba** stated we did submit some bill drafts for a death penalty unit being a certain expense which we would like to model after what our regulations say and having appeals be at State expense. We also submitted changes to Chapter 7 to clarify the appointment versus selection of counsel and payment of expert fees and to overall try and create independence with the Judiciary. We are hoping they move forward to the Governor and we have been advised that our budget hearing before the joint committee is scheduled March 1<sup>st</sup> at 8 a.m. Overall, the budget for our Department has been kept pretty much status quo. LegalServer is funded for the next biennium unfortunately training was reduced from \$35,653 to \$3,166 so the number I gave you did include the IFC funds we obtained

from training. Our maximum contribution decision units \$4,834,219 did not move forward as in relation to section 18. We reached out to the counties to try and determine how much they felt they needed for the next biennium and that is what the number is based off but that did not move forward. The complex litigation unit also did not move forward as we had budgeted \$602,000 for year one and \$765,000 for year two. Finally, ending with my portion the weighted caseload study that did start this week and going through March 5<sup>th</sup>. We did provide the Board with an update from NCSC as a result of the focus groups. Apparently 44 attorneys have already signed in and started keeping time and they are going to keep updating us.

**Deputy Director Hickman** indicated that we are continuing with monthly CLE opportunities with dates set on the third Thursday or Friday of the month planned through May. Last week we had a DUI Basics training with Chip Siegel and Joel Mann and had very good attendance with very good conversation. In February, the opportunity is Nevada Rules of Criminal Procedure which will be taught or instructed by Judge Jim Shirley. In March we are looking at providing the nuts and bolts of juvenile law with Gianna Verness from the Washoe County Public Defender's Office. In April the opportunities will encompass the virtual conference on the 22<sup>nd</sup>, 23<sup>rd</sup>. We are looking at an opportunity with Professor Traum moving to the virtual conference. The goal in the two days will be to provide 10 hours of CLE credits. One of the presentations will be anatomy of a case from complaint to cross-examination and taught by John Arrascada, Washoe County Public Defender and Maria Pence, a Douglas County Public Defender. The second two-hour opportunity will be with Dr. Piasecki discussing intellectual disability and mental health. Mario Walther, a public defender in Lyon County and Julia Murray the training director from Clark County Public Defender's Office will be preparing a rollout. On the 23<sup>rd</sup> there will be a six-hour presentation on cross-examination with Larry Posner. He is an expert from Colorado we brought in for training and should be entertaining and provide useful information. The rollout will be essentially a brief description of what we are envisioning as a kind of quasi mentorship opportunity. It will be a monthly brainstorm opportunity matching issues with attorneys across the state, one where if an attorney has a novel or unique issue can present it to the group and that group will find an attorney with the experience in the area and put those two together to brainstorm issues and move the case forward. We are currently meeting monthly with the planning committee and are anticipating some student involvement from the law school. The final piece of training is the overall CLE and trial skills which we are calling the master plan. Our goal is to provide not only the content-based CLE that we have been providing over the last year but to combine that with a trial skill curriculum that are essential dependent upon the experience level of the attorney. So as new attorneys come in, we can begin a core trials program. After the end of the year, we will have a curriculum developed basically like a boot camp. Then the long-term goal is to make and provide training manuals, checklist for attorney usage throughout the state. Currently, I am working with Julia Murray, the Clark County training director on this project and I have had some discussions with Mr. Pennell from Elko county, and he is interested in working together on developing training plans not only for the state but for his office as well. It appears we have a good group in developing and implementation.

**Matthew Pennell** questioned Deputy Director Hickman as to the time of the Friday training because he is starting an in-house training program on Friday afternoons. Mr. Pennell wants to make sure there is time that he can integrate the training into his weekly meeting program and thanked Deputy Director Hickman for reaching out. Mr. Pennell stated he had spent a two-hour session with Julia Murray and we are on the right track to getting something developed.

**Deputy Director Hickman** responded that he will be gathering information in the upcoming weeks and the time frame that we are looking at is the first Friday of every month over the lunch hour.

**Laura Fitzsimmons** indicated that it would probably be a bookkeeping nightmare but was wondering if the Department had considered that since the training is going to be virtual it would cost the same for two people as 20. If you could open the CLE training to paying members of the bar, I would much rather give my money to the Department than somebody else.

**Director Ryba** stated that at this point, we cannot charge at all as we do not have the authority to take money. It could be something that we could look into with the Board to try and set up but at this point we are not set up to be able to take in money. Our focus at this point has really been on creating a conversation with the rural attorneys and getting to know each other. Deputy Director Hickman pointed out that at the last training we got some great conversation going. There was a brand-new attorney that was sharing how he had just passed the bar and explained his case and all the rural attorneys jumped in and said call me and we will help you reach out to us. So, at this point we are trying to focus on building that relationship and it is really working.

**Drew Christensen** wanted to comment on Ms. Fitzsimmon's suggestion. We have always offered CLE and training opportunities for free. One of the things that we have learned in the beauty of this virtual world is now the public defender, the federal public defender and the special public defender have always had monthly get togethers for lunchroom CLE's. Now by doing it virtually and Julia Murray and the Public Defender's Office has reached out to the Department we are now able to virtually have the entire State on the class at the same time. We had one yesterday on forensics of substantial bodily harm with a nurse out of California that was set up by Ms. Murray's office and I noticed online there were attorneys that I was not familiar with. It has been daunting having to do these virtual meetings, but we have learned that we can bring the entire State together and network. So, we just need to let these groups know about these training opportunities happening monthly.

**Deputy Director Hickman** wanted to follow up that the Federal Public Defender, Clark County Public Defender, and the Clark County Special Public Defender have been forthcoming with insuring that we get notice of their training and we can provide notice of our training. We created a centralized CLE calendar on our website on the training tab which has all the upcoming CLE opportunities. It includes all the other groups and how to get in touch with the person presenting for registration all in a centralized place.

**Chair Professor Traum** stated that she had two points to make. One about training where there is a lot of energy and exchange happening. All this training in terms of designing a curriculum and creating multiple points of entry for people with different levels to connect is one of the beautiful things we are seeing. The mentorship will happen more often and that will create the cultural shift of just defender to defender knowledge and connection and a sense of solidarity especially in the rurals. People are doing this work sometimes by themselves and can feel very isolated. This is a wonderful way for them to know people to call at a minimum and feel that sense of support and the importance of the work that they do.

**Chair Professor Traum** wanted Director Ryba to go back and say a little about what is the coping strategy moving forward to the budget report and the major budgetary frustrations of the

Department. Moving forward with no or an extremely limited budget and continuing to try to do the work that is you mission of the office.

**Director Ryba** stated that with the current Governor recommended budget, our office will continue or be able to continue to carry out the services that we have been doing. With the reduction in training, we will rely on Zoom trainings and volunteer attorneys to assist us because we do not necessarily have funding to hire an outside person to come in and train. In talking with Deputy Director Hickman, we believe we will be able to make something work for this biennium to make sure that we will be able to provide training especially when working with Clark County Public Defender, Clark County Special Public Defender, and Federal Public Defender. As I stated earlier, LegalServer is fully funded and our budget is kept status quo, travel has been kept status quo we think we will be able to survive. With the ability to use Zoom we are meeting with the counties instead of traveling there we can use the appropriate resources and be able to proceed with what we need to do and carry out our mission is ultimately our goal.

**Laura Fitzsimmons** thanked Director Ryba and stated that we all recognize what we are going through on the State level, a personal level and on a regional level. The fact that the maximum contribution level did not move forward it did not make it into the agency budget. The Budget hearing is on March 1<sup>st</sup> and if anybody on this call has an opportunity as the budget process moves forward has a friend or colleague or is a constituent or someone that is on that committee it would be important for those members to learn about the *Davis* settlement. They need to learn the financial risk that we take as a State if we actually have no money to contribute to the counties. This is something out of the normal departmental budget process, so this is independent of Director Ryba's agenda and her incredibly positive work that she is doing within the limited budget. If someone has some insight into how that process works and how we can help our rural counties individually and as a Board help fulfill the law and our promises to them, I would really appreciate it.

**Joni Eastley** pointed out that she would disagree with Ms. Fitzsimmons that Director Ryba does not have an agenda. It is the Board's agenda that Director Ryba carries forward.

**Chris Giunchigliani** stated that we have an obligation to still either during testimony at the hearing or we take a resolution of some sort from the commission because Director Ryba does work for us and we give her direction. She is still in the Department of Administration, so she must deal with that side of it as well. Everybody, every department is hurting right now as we all know due to COVID. If you have financial issues and if you do not ask, you do not get, and I think we have a responsibility to make sure that we at least attempt to get some funding or at least get some language that helps us fulfill the needs for the rurals down the road.

**Laura Fitzsimmons** stated that she believed that Ms. Giunchigliani was appointed by the speaker as a legislator with financial wherewithal and experience so it you can guide us through that individually or if there is anything else any of us would love to have you take us to school on how to best approach this.

**Chris Giunchigliani** explained that she had not been there in a while but would be happy to and I actually have a conversation with the speaker coming up next week so we can talk about strategy. Someone should appear, either the Chair of some members of the commission virtually at the

hearing or send a letter in from the commission recognizing, appreciating that the budget was not gutted but we have an obligation to be able to make this work.

**Chair Professor Traum** questioned with scaling back the funding the Department can still make a case or not and if there were other funding options.

**Chris Giunchigliani** explained that they can still make a case, but it gets awkward for an Administrative Department to argue against the Administrator's budget. It is up to the Board rather than the staff now. They can say in their presentation and explain what they asked for and why so at least the case is made as to why they asked for the dollars.

**Laura Fitzsimmons** indicated that her understanding is since it did not make the agency budget the committee will not even know it was asked for. I remember this from the prior administration, and I do not think it has changed. When a budget issue comes up questions, they can only answer questions on that if it is a difference in the Governor's recommendation.

**Joni Eastley** concurred with Ms. Fitzsimmon's statement and requested if anyone knew when the next money committee meeting is. Ms. Fitzsimmons confirmed that the meeting was March 1<sup>st</sup> at 8 a.m.

**Chris Giunchigliani** questioned whether the Board could make sure that someone on the finance committee ask the question as to what the Department did not get and what was asked for.

**Justice William Maupin** indicated that he and Laura Fitzsimmons spoke at some length about some sort of private funding for this. It would not solve the entire problem but between the two of them they might be able to gather a group of donors to pay for the trainings around the State.

**Laura Fitzsimmons** stated that was not what she had mind at this point. We need to get through the budget process. The kind of numbers Director Ryba referred to was the max contribution formula numbers from the counties which was almost five million dollars. We need to make a showing now understanding and respectful of the circumstances they are in because we going to have in our finance request, so we have to stay present and informative. We need to keep reminding everybody there is a new Department. These people are not used to seeing us and the Department and I remember last time around them suppling a shoestring budget because we are brand new and to wait till 2021. Now we are here, and I think Ms. Giunchigliani can provide us with guidance to follow or if anyone else has legislative experience, connections or understands the process we need to figure out how best to carry out that message.

**Joni Eastley** explained that maybe it would be best if we draw legislator's attention to NRS 180.320 subsection 3 that they adopted which requires us to adopt regulations to establish a formula for determining the maximum amount that a county may be required to pay for providing indigent defense services they adopted. We cannot put that subsection to work until we get some funding.

**Laura Fitzsimmons** concurred that was an excellent point that Ms. Eastley should convey. We should consider who would be best to testify and what should be said. With March 1<sup>st</sup> coming up there needs to be more conversation and she would like to set up something with Ms. Giunchigliani.

**Chris Giunchigliani** stated that she would be happy to help in anyway. She requested if Director Ryba could provide standard language that was adopted for folks to be able to take private donations. It was gift language as a budget line item that allowed the Department to accept gifts. It is something we do not want to forget to ask for.

**Director Ryba** responded to Ms. Giunchigliani comment about submitting language to take donations. The Department did submit the language to accept donations in our bill draft request and hopefully they will move forward so we can start doing that.

**Chair Professor Traum** requested to know if there were any more comments on the Department's update. Lots of work to do in terms of helping the Department survive and do the work that needs to be done.

## **8. Discussion and confirmation of next meeting and possible agenda items: (For Discussion and Possible Action).**

**Chair Professor Traum** wanted the group to know that the long list of rescheduled dates was due to a scheduling conflict. Meetings to be rescheduled from Thursdays to Wednesdays.

- a. Rescheduled Meetings:
  - i. February 24, 2021 at 1pm
  - ii. March 24, 2021 at 1pm
  - iii. April 28, 2021 at 1pm
  - iv. May 26, 2021 at 1pm
  - v. June 23, 2021 at 1pm
- b. Scheduled Future Meeting
  - i. July 28, 2021 at 1pm
  - ii. August 25, 2021 at 1pm
  - iii. September 29, 2021 at 1pm
  - iv. October 27, 2021 at 1pm
  - v. November 17, 2021 at 1pm
  - vi. December 15, 2021 at 1pm
- c. Items of interest for future agenda.

**Chair Professor Traum** requested some guidance from DAG Sophia Long on the extent to which conversations about board activities can happen not in an open meeting.

**Deputy AG Sophia Long** responded that anything under the purview of the Board I would not talk about outside a meeting.

**Laura Fitzsimmons** wanted to confirm that when having conversations about individuals going to the legislature funding as a board issue and will never be acted or voted on and therefore not create an issue.

**Justice William Maupin** indicated that she was not wrong and that is coming from someone who has written opinions on this. Justice Maupin feels that the open meeting law is not that strident when it comes to and individual communication between two board members.

**Laura Fitzsimmons** expressed an example where we go to dinner at a restaurant and we were not going to do any Board issues and we were not going to talk about something on the agenda that we were voting on. It seems to me like the same thing as preparing for the March finance meeting because we have no ability if we collaborate, what we would do does not resolve in a uniform decision on our part yay or nay or modified.

**Justice William Maupin** responded that she was right, and you could have a discussion after dinner or about what you think about brand new lawyers ought to know before the go into court. That does not violate the open meeting law and so it is not an aid of taking some action, it is talking about the philosophy of the project.

**Laura Fitzsimmons** commented that she should have deferred to our lawyer.

**Justice William Maupin** indicated that he did not think that we are saying anything inconsistent with what she is saying. It is just that she must take the most conservative line in advising us and that is certainly appropriate.

**Deputy AG Sophia Long** stated that I was going to say I am not preventing you or discouraging you from talking to other Board members, I just mean I think you said something about going to dinner and that is fine.

**Chris Giunchigliani** stated that the reality is we can all be advised, and I can be briefed as a county commissioner with all of us in one room if we are not debating the issue or taking a position. You can have conversations, but you cannot violate the quorum component.

**Deputy AG Sophia Long** suggested that if the Board wanted to continue the discussion, I would suggest putting it on the next agenda.

**Chair Professor Traum** commented that little bit of advice is very useful, and we can put it on the next agenda although I am not sure if we need to do that.

## **9. Public Comment:**

There were no public comments from either North or South.

**Joni Eastley** had a comment for Director Ryba where she believed it would be helpful for County Managers to have a copy of the focus group summary. There are things contained in that summary that counties can begin to address immediately such as the lack of privacy between public defender and client.

**Laura Fitzsimmons** stated that right before we adjourn, I want to thank Patrick, Jarrod, and Marcie from the bottom of my heart. You guys are doing an unbelievable job.

## **10. Motion for Adjournment**

**Motion: To adjourn meeting till the next regular scheduled meeting.**

**By: Justice William Maupin**

**Second: Laura Fitzsimmons**

**Vote: Passed unanimously**

**Acting Chair Professor Traum** adjourned the meeting at approximately 2:25 p.m.