

State of Nevada
Department of Indigent Defense Services
Board Meeting Minutes/Workshop

Wednesday, January 26, 2022

1:00 PM

Meeting Location:

OFFICE	LOCATION	ROOM
Virtual Only	Zoom	

1. Call to Order/Roll Call

Chair Professor Anne Traum called the meeting of the Board on Indigent Defense Services to order shortly after 1:00 p.m. on Wednesday, January 26, 2022.

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

Board Members Present: Chair Professor Anne Traum, Vice Chair Dave Mendiola, Laura Fitzsimmons, Joni Eastley, Drew Christensen, Chris Giunchigliani, Jeff Wells, Commissioner Cassie Hall, Kate Thomas and Allison Joffe were present. Bevan Lister, Rob Telles and Justice William Maupin were not present.

Others Present: Executive Director Marcie Ryba, Deputy Director Peter Handy, Deputy Director Thomas Qualls, Cynthia Atanzio, Todd Reese, Eve Hanan and Dr. Coard.

2. Public Comment

There was no public comment.

3. Approval of November 17, 2021, Minutes (For possible action).

Motion: Approval of Minutes from November 17, 2021.

By: Jeff Wells

Second: Joni Eastley

Vote: Passed unanimously

4. Review Quarterly Fiscal Status Reports (For possible action).

Director Ryba advised the Board that quarterly fiscal reports were due January 15 from the counties and noted that several counties had yet to submit a report. DIDS was preparing a work program to request reimbursement from the state for the counties for these case related expenses pursuant to the Maximum Contribution Formula.

Chair Traum inquired as to the timeline for the process.

Director Ryba advised that she the item may be on the April Interim Finance Committee agenda.

Chair Traum stated that the Director mentioned that certain counties had not provided reporting and wondered if there was a common thread?

Director Ryba stated that we have reached out to every county to remind them of the process for reporting and again reached out once they missed the deadline to remind them to submit their reports. Due to the reporting delay and IFC deadlines, DIDS may be unable to include these counties in this work program if they expended court related expenses.

Joni Eastley commented that she was embarrassed that only one public defender provided information in Nye County and questioned if it was appropriate to reach out to the public defenders and find out why they are not reporting.

Deputy Director Qualls stated that the appearance of this printed report has lit a fire under most people, and we are getting a lot of feedback which I will speak about in more detail later.

5. Review 3rd Monitor Report. (For discussion only).

Director Ryba advised that a copy of the monitor's report had been provided to the Board members and that Professor Hanan, the *Davis* monitor was in attendance. The monitor's report is kind of a status update of the department. The department has been laying the groundwork to start carrying out the *Davis* requirements. DIDS presented the county oversight plan. DIDS followed up with National Center of State Courts (NCSC) with concerns that Professor Hanan had expressed about the weighted caseload study.

Professor Hanan thanked the Director and the department for being so available for her questions and providing information. Hanan advised that her quarterly report would be about two and a half months past when DIDS issues the quarterly data report. Hanan had some concerns about the weighted caseload but felt that NCSC and the department are working together to make sure that the results of that are both representative of the work that gets done in normal times.

Jeff Wells commented that he noticed in the report there was a suggestion of expanding the time study to attorneys that practice in the urban counties. Are you suggesting that we expand to folks in Washoe and Clark and ask some contract attorneys to participate?

Professor Hanan stated that the concern was that the pool of attorneys is not large enough and does not include attorneys who may have more time at their disposal than others and so they might have more time to think about motion practice, pre-trial, etc. There are more attorneys in the urban areas but to get some numbers, feedback from attorneys outside of the pool will get more voices in the room.

Chair Traum questioned whether there any questions or comments related to the report of Professor Hanan? We look forward to future reports and I want to highlight that the report reflects the amazing work the department has done to get this far.

6. Review Quarterly Indigent Defense Provider Reporting. (For discussion only).

Deputy Director Qualls commented that with the quarterly report out, it represents the first official *Davis* quarterly caseload reporting. There are some gaps but given that we are dealing with 15 counties, 80 providers that needed to be trained to keep time, the first report is successful.

7. Review Department Oversight Plan: (For discussion only).

Deputy Director Qualls commented that the department has been working on getting all the counties plans in place so that we would have a model to work from for oversight. There are requirements from *Davis* in oversight, but we needed to look to each plan to make sure they are in compliance before we could effectively go out on oversight visits. For the next six months the Director and I plan to visit two counties a month starting with the *Davis* counties. We will be moving through those counties that need the support first.

8. Second Annual Conference Update: (For discussion only).

Deputy Director Handy informed the Board that the annual conference is tentatively scheduled for May 26th and May 27th, and it will take place in Las Vegas, pandemic permitting. We did receive a grant from the Edwin Memorial Justice Assistance grant for \$45,000 to get 45 rural practitioners to come in-person to the conference. We are trying to get at least 10 CLE credits to all attendees and making this no registration cost to maximize attendance.

9. Big Bold Ideas: (For discussion only).

Director Ryba provided a power point slide presentation titled Justice, Equity, Support. Information was provided that would be presented to Governor's Sisolak's team outlining what we hope to achieve in the next biennium. Our goal was to provide a blueprint for a stronger Nevada with a three-part process to create a resilient community to balance the scales and a bridge to sustainability. The three-part process was described to the Board in detail.

Chair Traum questioned whether the process for these bold ideas was this something the Governor was soliciting or was this a way to get it in the next budget or to get money now?

Director Ryba stated that I think the answer was to build the upcoming budget and provide guidance to us on these big bold ideas. The Governor's staff told us about this notice of funding opportunity that we are pursuing so I think the goal is to assist us in making these big bold ideas a reality.

Chris Giunchigliani commented that the Attorney General appears to be flip flopping on the issue of the settlement for the Opioids. Since some of this is really looking at substance abuse there is potential for partnering, garnering some dollars from them based on the settlement.

Director Ryba stated that this is something that we have been keeping in touch with. A committee called ACORN will determining the priorities of where this funding should go for the state, so we have been attending every meeting and have provided public comments. We informed them about

the holistic resource center which gave us the opportunity to talk with Elise Monroy, a board member who informed us of a program called Open Beds. Open Beds is a computer program where you can put your client's information and find out in real time what beds and resources are available. We are taking positive action reaching out to Acorn and they have led us to the Open Beds discussion and seeing if this service could be made available for the public defenders.

Chris Giunchigliani commented the Open Beds program appears interesting but cautioned to make sure there is no hidden admission key. Rehab facilities in addition to what they quote tack on additional fees to the monthly rate so there is a rip-off in that whole industry. Does the committee recommend the funding to the Governor's office or to IFC or both?

Director Ryba conveyed that she didn't know but presumes it to be the Governor's office that make the priorities of where the funding should go. We are trying to convince them that public defenders are probably in the best situation to help individuals that are addicted to opioids as they are the ones that generally refer them for treatment.

Chris Giunchigliani stated that she hoped the Governor's office would see the wisdom of that as it is just common sense.

Deputy Director Handy continued the discussion on big bold ideas by stating the Department hopes to help support indigent defenders and improve efficiencies at the statewide level we are proposing a complex litigation unit. There would be the opportunity to rotate second chairs through for death penalty cases so we can develop a longer list of SCR 250 qualified counsel in the state. Next, we would like increase compensation and attract quality practitioners. Finally, is adjusted staffing and we can't understate the necessity of a weighted caseload study to really understand how much time and effort is going into these cases and what a reasonable wage should be for attorneys in the rural counties and throughout the state as AB424 goes into effect.

Jeff Wells commented that Clark County has been paying public defenders on the same scales as district attorneys for several years and I don't think there is any question that we have equal quality in the criminal justice system. There is no question there is going to be additional staffing needs and we are not waiting till July one. I am putting in for 29 additional positions next week with seven of them going straight to the public defender's office all simply driven by AB424.

Deputy Director Qualls continued the discussion on big bold ideas by stating that our effort to build partnerships with the counties is that there is an underlying belief that this is unfunded mandate. Since the money for the maximum contribution formula is not in our accounts, and we have to go to the IFC for it there is some suspicion or belief that the state's not going to fund all of these changes. Our big push in the next biennium is to bring that money in-house so there is a little more confidence and trust in these relationships we are building with the counties. We have applied for grants to provide additional services and equipment free of charge to the rural public defenders. We are working with a few people on student loan assistance and putting forth a BDR to raise the hourly rate for appointed counsel to mirror what the feds have done which is tied to the cost-of-living index that automatically raises every year. Our travel budget is extremely limited, so we want to increase that for the next biennium, so we are able be on location and have that face-to-face interaction and continue to nurture these rural relationships. We are working with UNLV to create

a pipeline to recruit defense providers as the shortage of indigent defense providers is a bigger issue than we anticipated.

10. Update from the Department: (For discussion only).

Deputy Director Handy advised that we did post the internship position for the internship program to try and get some summer associates from Boyd School of Law into the rural counties. We did obtain a grant for \$26,000 (\$6,500 per student) which will cover the cost-of-living expenses for an 2L intern. There are three county public defender offices that can accommodate an intern.

Director Ryba stated that besides the two grant requests that Deputy Director Qualls discussed we are also submitting a request for the holistic resource center, and it is due at the end of the month. We have submitted a request for the data analyst which made it through Board of Examiners, and we are on the Interim Finance Committee on February 9, 2022. Finally, Jason Kolenut our management analyst is leaving at the end of the month and we are really going to miss having him and grateful for the time he was with us.

11. Update from the Chair: (For discussion only).

Chair Traum thanked Jason Kolenut for all he has done for the department and getting the department off the ground. As you are all aware, I am in this transitional phase, and it is probably wise to step down as chair and eventually step down from the Board. In the meantime, I feel like we have done a lot of work and I would love to be helpful to a new chair supporting their work. I anticipate that we are going to transition to quarterly meetings which should be easier on everyone.

12. Scheduling of Future Meetings (For discussion only and possible action).

Chair Traum stated that looking at future meetings we are happily transitioning to quarterly meetings and propose the next meeting for April 27, 2022, at 1 pm.

Director Ryba we are proposing quarterly meetings due to quarterly reporting requirements. So, the next Board meeting will be April 27, 2022. We are requesting a June meeting because the annual report is due July 1st, and we will need the Board's approval before we can distribute. With that we are seeking this meeting to be an in-person meeting in Tonopah as planned for the prior year. Joni Eastley is willing to assist in putting it together. That meeting would be June 15, 2022, and then the following meetings would be July 27th, October 26th and January 25th.

Jeff Wells commented that he was the original Board member that thought it might be nice if we all got together, and Joni volunteered Tonopah. Meetings are generally conducted on Wednesdays so is there any way that the in-person meeting could be shifted to Thursday thus making travel somewhat easier?

Chair Traum commented that it appears after considerable discussion amongst the Board members the meeting in Tonopah would be Thursday, June 16th.

Director Ryba stated that the Wednesday meetings create an issue for Cassie Hall of Mineral County because that is when they have their commission meetings and that is why she is not here today.

Chair Traum commented that Thursday appeared to be a good day and future meetings are going to be April 28th, June 16th, July 28th, October 27th and January 26th.

13. Public Comment

Dr. Coard stated that he is a forensic Psychologist who primarily works in northern Nevada. There appears to be issues that are coming up consistently. Attorneys don't necessarily know beyond the standard types of things what expert services could potentially provide. It may helpful if they knew that having a consultation with an expert would assist in framing questions as it relates to their case. Some practitioners have questioned how they could consult with me, and how I would be reimbursed. I think from an expert standpoint that it might be helpful for the attorneys practicing in the rural areas if they could reach out for a consultation which would be paid at a certain fee. It may also be helpful to include on the website to generate standard questions for rural attorneys.

Director Ryba wanted to remind the Board that in the county plans many counties have put in place what this Board recommended that attorneys do not have to request pre-authorization for expert fees up to a certain amount. If an amount is less, a public defender could reach out to him, and the bill could be submitted to our department for immediate processing.

There were no additional public comments.

Chair Traum adjourned the meeting at approximately at approximately 2:15 p.m.