

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

Wednesday, November 17, 2021

1:00 PM

Meeting Locations:

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 a shortly after 1:00 p.m. on Wednesday, November 17, 2021.

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, and Eve Hanan.

2. Public Comment

Chair Traum requested to know if there was any public comment.

Todd Reese stated that he would like to make a public comment. There is wording in the designee agreement in Section 6 that Carson City believes may pose a conflict and they are requesting it be removed.

Chair Traum commented that she believes that this is relating to something that is going to be addressed later in the meeting.

Chris Giunchigliani stated that she wanted to congratulate Chair Traum on a second nomination and wished her all the luck in the world.

3. Approval of October 6, 2021, Minutes (For possible action).

Motion: Approval of Minutes from October 6, 2021.

By: Joni Eastley

Second: Jeff Wells

Vote: Passed unanimously

4. Update on Department Designees (For discussion and possible action).

Director Ryba advised the Board that the department had approved Douglas County's and Pershing County's designees. The department is continuing to work with Carson City, Churchill, Lander, Mineral, Nye and Storey County. The department is acting as designee for most of the counties or assisting in setting up the process. The form provided to this Board at last month's meeting had been provided to these counties and we are able to modify the agreement.

Chair Traum requested that Director Ryba remind the Board what the designee does.

Director Ryba responded the designee performs two duties. First, AB480 created a distinction between appointment of counsel and selection of counsel. Once the court appoints counsel, the designee selects counsel. Second, the designee assists with processing and reviewing attorney billing and requests for experts and investigators.

5. Non-Davis County Plans and Budget Approval. (For discussion and possible action).

Director Ryba recommended approval to the Board of the Storey County plan and Carson City's plan subject to the Board of Examiners (BOE) and Interim Finance Committee (IFC) approval and subject to the approval of the designee by the department.

Chair Traum commented that reflects a lot of work by a lot of people to get this done and wanted to recognize the people who put in time working with Director Ryba and her crew to get this done. Is there any further discussion or comments before we move to approving this?

Todd Reese stated that Carson City tried to work with the department (DIDS) and removed pieces of the plan that DIDS was objecting to. Reese requested permission to modify Carson City's Plan to allow the use of the First Judicial Clerk's Office to select counsel if they used DIDS approved list of attorneys. He argued it would be very much like Clark County and would realize efficiencies for both Carson City and the courts.

Chair Traum questioned whether Director Ryba or Deputy Director Qualls wanted to clarify what the plan is that is before us.

Director Ryba commented that pursuant to the plan submitted and approved by Carson City, a counsel assistant performs the role of selection of counsel. The plan was adopted by the Board of Supervisors in Carson City, and we do not know if it is appropriate to modify the plan without sending the Plan back to the Board of Supervisors. The other concern is the clerk's office appears to be closely tied to the judiciary. David Carroll from the Sixth Amendment Center did believe the clerks would have the same appearance of impropriety and would not be an appropriate place to have our designation be set.

Chair Traum confirmed that if we approve what is in front of us in the plan, we haven't approved who the designee is, we have just approved everything else in the plan and the designee is still waiting to be filled in.

Director Ryba confirmed that pursuant to the statute the designee is either the department or its designee.

Chair Traum stated that my understanding is that DIDS gets to select the designee and Mr. Reese is suggesting that it be the clerk's office. Everything else in the plan is good to go and has been approved by the county and we are good to approve as written.

Director Ryba confirmed Carson City's plan is good to approve.

Chris Giunchigliani commented the clarification helped a bit and that Mr. Reese's comments are not appropriate to what we are discussing today. The plan that we will be voting on outlines how the selection will be made by DIDS, and I would don't feel comfortable making any kind of changes.

Todd Reese confirmed that Director Ryba had been correct. The request was if it was in the Board's discretion to approve the plan with the option of using the court clerk in that capacity that would be wonderful and if the Board chooses not to do that we will proceed with the plan as written.

Jeff Wells added additional details that Mr. Reese has a slight misunderstanding of how Clark County does it. We have a separate committee that meets and selects which lawyers would be our track lawyers. There are currently 54 of them, three assigned to each court. The court doesn't pick which three get assigned. The office of appointed counsel (Drew Christensen) within the committee assigns the three attorneys to the court. The only thing the clerks do is contact Drew Christensen if it is a capital class A felony, and he picks from a list who is going to be assigned. There is no actual assignment by the court clerk.

Laura Fitzsimmons stated that she expected Mr. Reese to clarify Carson City's misstatement from the last Board Meeting about senior judges determining fees. She commented this Plan has already been approved by the Board of Supervisors and is a done deal. Wouldn't the plan have to go back to the Board of Supervisors?

Todd Reese confirmed that Ms. Fitzsimmons was correct it would have to go back to the Board of Supervisors for an amendment to the plan. The Board of Supervisors would probably appreciate any effort to save money as they wouldn't have to add money to conflict counsels' contracts.

Allison Joffe stated that we need to remember we are a Board and none of us or our executive director could act individually. The Board of Supervisors for Carson City has made a decision and voted on it. Mr. Reese, the Board's attorney cannot make any different recommendations outside of the Board unless he is acting for somebody else. Our choice is to follow the Board of Supervisors decision.

Chair Traum noted that Cassie Hall had joined the meeting and welcomed her. The consensus is we have a plan that is approved by the Carson City Board of Supervisors as written so we can take a vote.

Director Ryba stated that the department would request that the Board approve both Storey County and Carson City Plans.

Chair Traum requested if anyone wanted to discuss the Storey County plan which was approved by the Storey County Board of County Commissioners.

Motion: Approval of Both Carson City and Storey County Plans as Presented.

By: Chris Giunchigliani

Second: Dave Mendiola

Vote: Passed unanimously

6. Update from the Department (For possible action).

Director Ryba advised that we have several great things to update Board on and we will start with the budget.

- The First Quarterly Fiscal Report was provided to the Board with the indigent defense expenses which were reported for the rural counties. This reporting will notify us when a county has hit the maximum contribution formula.
- The department is in the process of requesting state funding for a data analysis to do a salary survey, look at our oversight process and create a pipeline for indigent defense providers.
- DIDS received a grant for \$26,000 from the State Bar to provide an externship opportunity for law students to work in a rural public defender office. The department was grateful for the assistance of Chair Traum, Dawn Nielsen, Nikki Harris and the State Bar. This is the first step in creating this pipeline to introduce students to the rural offices and hopefully they will want to stay and set up shop there.
- The Board was updated on the findings in the second report from the Davis monitor Eve Hanan which discusses the significant progress of this Board and the Department.

Chair Traum commented this is excellent and there is a lot going on and still a lot to do.

Chris Giunchigliani commented that was excellent news especially the internship.

7. Confirmation of Next Meeting.

Chair Traum noted that we are canceling the December 15th meeting given we have approved everyone's plan. We will reunite on January 26, 2022, at 1p.m.

8. Public Comment.

There were no additional public comments.

9. Adjournment:

Chair Traum adjourned the meeting at approximately at approximately 1:40 p.m.