

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

**Thursday, August 18, 2022**

**1:00 PM**

**Meeting Location:**

OFFICE	LOCATION	ROOM
Virtual Only	Zoom	

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

**Chair Mendiola** called the meeting of the Board on Indigent Defense Services to order on Thursday, August 18, 2022, shortly after 1:00 p.m.

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

**Board Members Present:** Chair Dave Mendiola, Vice Chair Laura Fitzsimmons, Joni Eastley, Chris Giunchigliani, Jeff Wells, Drew Christensen, Rob Telles, Kate Thomas, Commissioner Cassie Hall, Allison Joffee, and Jarrod Hickman.

**Members not present:** Bevan Lister, Harriett Cummings, and Justice William Maupin.

**Others Present:** Executive Director Marcie Ryba, Deputy Director Thomas Qualls, Deputy Director Peter Handy, Professor Eve Hanan, Franny Foresman, Dr. Mitch Herian of Soval Solutions, Sophia Long and Cynthia Atanazio.

**2. Public Comment**

There was no public comment.

**3. Approval of June 16, 2022, Minutes (For possible action).**

**Motion:** Approval of Minutes from June 16, 2022.

**By:** Joni Eastley

**Second:** Chris Giunchigliani

**Vote:** Passed unanimously

**4. Board Business (For discussion).**

**Chair Mendiola** noted new board member, Jarrod Hickman, who was appointed by Senator Cannizzaro.

**5. Review 5<sup>th</sup> Report of the Monitor, Third Quarterly County Data Report and Oversight Update: (For discussion and possible action).**

**Deputy Director Qualls** stated he would be addressing the fifth report of the monitor dated July 15th, 2022. The highlights of her recommendations are wanting to continue standardizing the

attorney contracts and bring reimbursement funding into the department to eliminate going to go to the IFC every quarter. Other recommendations include determining the increased staffing needs for a more robust oversight system. The budget build includes a request for additional employees and more funding for that. Training is another concern, and the department has requested increased funding for training. Concerns regarding workload standards, have been addressed and the department and/or NCSC have incorporated all her recommendations there. The department is still waiting on the caseload study, workload standards report from NCSC and anticipate receiving it soon. There are questions about the annual report and what should or should not be included as some of the information is redundant. Professor Hanan is here and available for questions.

**Professor Hanan** stated that she believed most the recommendations had been covered and she was available for questions or suggestions.

**Deputy Director Qualls** commented that the third quarterly report had been provided to the Board which is the caseload data from the counties. The department continues to work with the counties remotely on any number of issues that are contained within the report. The department has three recommendations that they would like to address with the Board. One is recommending it should be mandatory that all counties have at least a two-tiered public defense system in addition to the primary public defense delivery system. The department has learned though Elko that there is an issue with municipal courts. NRS 171.188 clearly includes municipal courts in our department, specifically addressing that in counties less than 100,000. Our department would appoint conflict counsel if the county public defender system could not handle those cases. To accomplish this, the department will have to both change the county plans and increase the maximum contribution formula. This is going to affect 10 different counties and the department is ramping up to make that change.

**Jeff Wells** stated he was concerned about the comment that this would raise the counties' maximum contribution. Why would we not set up a municipal maximum contribution for those municipal courts and then they would have its own county contribution? The counties are not responsible for providing the municipal prosecution, defense or a judge.

**Deputy Director Qualls** stated under the statute 171.188, the onus does fall on the county and the county can contract with the cities for that and we do not know to what degree it would increase the budgets.

**Jeff Wells** stated he was fairly certain most of these counties do not have that kind of contract.

**Director Ryba** stated that this should not affect our budget because we do not have the authority to request reimbursement on behalf of municipalities, they actually have to pay the county for those services. In NRS 171.188, subsection 3 says that if a municipal judge finds that it is appropriate to appoint, that they shall designate the public defender of the county or the state public defender as appropriate to represent the defendant. Further in subsection 5, it says the county or state public defender must be reimbursed by the city for costs incurred in appearing in municipal court. It says that if there is a private attorney, that they are directly reimbursed by the county. Justice court and municipal court appearances need to be reimbursed by the city. Elko County public defender actually provides the municipal court services, and it will not increase the expenses because that is paid for by the municipality.

**Vice Chair Fitzsimmons** asked if it might be simpler to try to do a bill draft request to amend the statute to make it clear that your office is not in charge of anything to do with municipal courts?

**Director Ryba** stated we completely agree with that point, however, with the changes that were made through assembly bill 480 in NRS 7.115, which covers the appointment of counsel, it states that if a county has less than 100,000, they must go according to the plan through the department. This is something that the department can take on, but we do not have any authority to reimburse a municipality for any sort of expenses for indigent defense. In reaching out to these counties, some of the attorneys are raising concerns of what is happening at that level and the department should start to investigate this with the Board's authority.

**Jeff Wells** commented that he liked Vice Chair Fitzsimmons's suggestion. We could go back and take our existing statute and just replicate it but every place it says county, we stick the word city in there, a municipality, and make it clear you have the jurisdiction, they each have their own sets of budgets, they each have to submit their own plan.

**Chair Mendiola** asked how many counties and/or municipalities do we have this issue in? Here in Humboldt, the justice court is the municipal court. The county pays for all of those costs. We do have a shared cost agreement with the city but that is not one in the agreement.

**Deputy Director Qualls** stated there are 17 municipal courts in the state and I think they are 10 counties that concern us.

**Director Ryba** stated Elko is going to update their report and include it in the county plan. That is the appropriate option if you look at NRS 171.188, which says the county public defender is supposed to be used in those cases.

**Deputy Director Handy** stated it reads that the municipalities have control over their internal functions so long as it coextensive with matters of local concern. Matters of local concern is defined in the statute and it excludes those things which are designated to be regulated by the federal or state government and issues of constitutional effect. This is a preemption statute where it says that if the federal and state government already does this or there is some constitutional implication, that the city cannot try and override that existing regulation.

**Director Ryba** stated the statute for that is NRS 268.003. These are all issues that the department is starting to address. Each municipality reimburses the public defender so that is already in place, and they have four courts. Lyon County, Fallon and Ely are the other counties that we are attempting to get clarification or copies of their contracts. In Ely, it sounds like there are no contracts, and that they reach out independently to the attorneys via email to ask if anyone will take the case. There is concern that the municipalities are discouraging appointment of counsel in that area and is something the department is looking into.

## **6. Bill Draft Submissions: (For discussion and possible action).**

**Director Ryba** informed the Board that on August 8th, we held our subcommittee meeting with the following members, Allison Joffee, Jeff Wells, Kate Thomas, Chris Giunchigliani and Drew

Christiansen. We provided copies of the two recommendations that the subcommittee has put forth. The subcommittee is recommending that it become within the purview of this Board to set that hourly rate. Version two is very similar except it takes out that base of the \$125 and \$100 per hour in all other criminal cases. We are requesting to add language to NRS 180.320 that allows the Board to establish indigent defense hourly rates in counties with a population of less than 100,000 and establish hourly rates for appointed representation in post-conviction cases. The department would like to give this Board that authority to set the hourly rate and we need guidance as to what the hourly rate needs to be. Our recommendation is to leave the hourly rate of \$125 and \$100 in as a base if statute does pass, and the time takes for regulations to become permanent.

**Chris Giunchigliani** stated she was the one who suggested that we have a floor in the statute just so people do not forget where we started and where we may need to go to as a Board. There was a study showing a much higher rate and that is why the subcommittee recommended two ways to see if we can at least make sure that the legislatures know where we started. We intend to have to go up because of the cost of doing business has gone up.

**Jeff Wells** commented that the reason for leaving \$100 and \$125 in the sentence was a small level of fear that the Board would actually set a rate that is smaller than that. I suggested that we stick with the second version in part because I think the real mandate from the legislature was to turn over to this Board all aspects of determining indigent defense and that is why it is just that statute. There appears to be a conflict in paragraph two of 7.125 which says anything that is not indigent defense, still be at the \$100 an hour. In the second sentence, we put in \$100 an hour for post-conviction review. At the same time down in 180.320, we are giving the board the authority to establish rates for post-conviction review. The preference would be to strike the second sentence up in paragraph two but leave the language down below so that this Board can establish the rate.

**Chair Mendiola** asked if Director Ryba and her staff felt like version one might be better.

**Director Ryba** stated the reason that they felt that version one might be better is based on the report provided by Dr. Mitch Herian which has been provided to the Board as an attachment. Dr. Mitch Herian felt that a more appropriate rate would be around \$163 or \$204 per hour, and he is here and available for questions. The department is requesting that the hourly rates be included as we are concerned about that timeframe of what happens until we can get our regulations in place. In subsection 2, we are trying to clarify that if it is a case anything other than indigent defense or post-conviction, the Board is leaving the rate at \$100. For non-indigent defense cases like the 432b actions, \$100 is what is set in the statute.

**Chair Mendiola** questioned what is the practical application out in the marketplace right now? Is anybody paying less than \$100 or \$125 right now?

**Jeff Wells** replied not that he is aware of.

**Director Ryba** stated one problem is in some of these counties we do not know what the hourly rate is where there are contracts because we do not have our workload in place. The market is calling for higher hourly rates. In Lyon County, they are paying \$150 an hour for felonies and gross misdemeanors and \$125 an hour for misdemeanors and juvenile cases. They have entered a contract for \$175 an hour for a death penalty case.

**Jeff Wells** suggested that we drop down to option two which strikes it out but then add a sentence which says something like until such time as the Board has established a rate, they shall remain at the \$125 and \$100. Once we adopt a regulation, then that provision goes away. By leaving it in there, it is always there even when we have the rate. This will accomplish what the Director is asking for, and the Board can still set the rates, and we have the minimum until we get it to pass creating a compromise for all of this.

**Allison Joffee** agreed and liked Jeff Wells compromise. We are concerned practically whether or not we can get a higher rate in all counties at all times. We definitely wanted to leave it to what we can get through and not have legislators arguing over \$150 or \$85. Instead of the language that it shall remain at \$100 or \$125, we need some language in because counties are raising that rate.

**Vice Chair Fitzsimmons** stated she generally agreed with what Jeff Wells and Allison Joffee said. It should say not lower than – not \$100, whatever words you are comfortable with. The idea is making it clear until the Board sets an hourly rate. When the legislators see this in a bill draft, two things are going to happen. They are going to think we just changed the hourly rate because the year of amendment is going to show next session and they are not going to realize how long these numbers have been required by statute. Second, when we go back to those same people on budget, they are going to go what do you mean you are asking for \$175 because basically, this is going to be in the budget. That is really where the deep discussion is going to happen.

**Jeff Wells:** stated I accept Vice Chair Fitzsimmons friendly amendment of the phrase no lower than. That should solve both problems.

**Chris Giunchigliani** commented that Vice Chair Fitzsimmons and Jeff Wells came up with something that addresses what the subcommittee was wrestling with. What language do we keep and what do we get rid of? You never know what happens in four years and who is watching it, lowering the amount. We want to go forward with a floor of some sort, so they knew that the Board has the authority. The two suggested languages get us to an amendment that should be fine.

**Jarrod Hickman** agreed with the conversation and discussion that has happened related to the amendment of the language related to rates. In version two, there is some prefatory language in a county with a population of less than 100,000 at the beginning of subsection one. It does not appear in version one of the statutes. Was there a reason for that that we needed to consider in defining what the language of the bill that moves forward should be?

**Jeff Wells** commented that he or Kate Thomas had suggested that last time. It is also consistent with the new suggested language that you'll find at 180.320 which says for counties with a population less than 100,000, the Board shall establish these hourly rates.

**Director Ryba** reached out for one clarification. Limited to the counties with a population of less than 100,000, our understanding is that in Washoe County, they rely on the statute for appointed counsel. They do not have contracts with their attorneys like Clark County does. In a county with a population of less than 100,000 and if we keep the language in, what hourly rate would Washoe County use to pay their appointed counsel, or would they have to enter contracts?

**Kate Thomas** answered no that they would continue to operate the way that they are. We do not have the contracts although we are exploring moving into that situation because it is getting more difficult to find appointed conflict-counsel. I think we are okay with the language as is.

**Motion:** To Adopt Alternative Two, Including Language That Until Such Time as the Board Adopts Hourly Rates, it Shall Remain No Lower Than the \$100 and \$125 an Hour and to Adopt the Language by the Director in Paragraph Two, with the Changes in Paragraph 4a and b of 180.320.

**By:** Jeff Wells

**Second:** Vice-Chair Laura Fitzsimmons

**Vote:** Passed unanimously.

**Director Ryba** stated the second part of discussion at the subcommittee is to add in the statute the maximum contribution formula funding. The department is proposing copying language that already exists for post-conviction petition for habeas corpus and suggesting something similar for the prison litigation cases, NRS 212.070. We also want to add a subsection that says the amount that a county may be required to pay for indigent defense must not exceed the maximum amount determined using the formula established by the Board pursuant to NRS 180.320. The next part of NRS 212.070 needs to be clarified that expenses and compensation for an attorney appointed to represent a defendant in a prison case are a charge against the state and must be paid from money appropriated to the department. There is a question whether we address NRS 353.264 which sets out the reserve for statutory contingency account and we would like to add language to subsection (2)(b) which says payment of claims are obligations of the state. We want to add to NRS 180.320 and 212.070 subsection (2) except that claims may be approved for the respective purposes only when money otherwise appropriated has been exhausted. We want to make sure that we protect our counties by having this clearly in the statute that the reimbursement formula is there and approved.

**Jeff Wells** stated his recollection was that the subcommittee unanimously agreed with Director Ryba's recommendations in this area. Putting it in the 353 might scare the budget committees but it is what the counties want, and it is what we expect. I would move for these changes as well.

**Chair Mendiola** wanted to mention one thing related to news regarding the IFC's decision yesterday. They decided that they supported some of the expenditures for the *Davis* counties but the non-*Davis* counties they did not. We do not know exactly why but we think because the non-*Davis* counties did not join the lawsuit. To that point, do we need anything on there to be very specific, both *Davis* and non-*Davis* counties?

**Chris Giunchigliani** stated she thought that is why we are recommending that language, so it closes any loopholes, and the legislature does not have the opportunity to reject it because of *Davis*, non-*Davis* or whatever else comes up in the mix. If we adopt Jeff Wells motion, does that close any loopholes so that we do not have smaller counties getting hurt.

**Director Ryba** answered that is what we are trying to do with this and that is why we wanted to add the NRS 180.320 because that is where it says that this Board can set the maximum amount that a county may pay for indigent defense services. The department is happy to modify this

language in any way that the Board feels appropriate but that is the intention behind it, is to make sure we get this funding.

**Vice Chair Fitzsimmons** stated she agreed with Jeff Wells and would not change a word. If we adopt this going forward next year when a county has not met the maximum contribution, but has expenses that we are supposed to be paying for, will the issue come up next year even with this amendment?

**Director Ryba** conveyed that the hope of this amendment is that they will fund our maximum contribution formula and when questioned by LCB, we can provide the statute. What we have is NRS 180.320, which says this Board has that authority to set the formula and our administrative code, but this clarifies that funding is going to be placed in our budget. It is already being followed in post-conviction and that is why we are requesting it. This board does have two-part maximum contribution formula. The first part is that set amount once they go over X, the remainder is a state expense. The second part is if they spend funds on case-related expenses, but they do not meet their maximum, the legislature has clearly shown they do not want to fund that. When we readdress our formula, that is something we want to take out. Now that this Board was able to pass assembly bill 480 and modify NRS 7, this second part it is not really necessary anymore and we could probably take that out and clarify that it is just that one set maximum and that might make things easier in the future.

**Chair Mendiola** stated he did not have any problem with the language change. We need to find out what the real reason was behind it because the ramifications long-term, if you are going to start making decisions on *Davis* versus non-*Davis*, you are going to have problems.

**Motion:**        **To Put in the Statute the Maximum Contribution Formula Funding and Add Language to NRS 212.070 that is Consistent with Language that Exists for Post-Conviction for Habeas Corpus**

**By:**             **Jeff Wells**

**Second:**       **Chris Giunchigliani**

**Vote:**           **Passed unanimously**

**Director Ryba** wanted to remind the Board that at the last meeting, we discussed the other bill drafts regarding attorney/client privilege, increased time for each county to submit their annual report and additional time for attorneys to submit billing. The department will be submitting those along with this current request that were approved today.

**Chair Mendiola** stated next up is an update from Dr. Mitch Herian, Soval Solutions.

**Director Ryba** stated she had him available for the agenda when we did not know which way the Board was going to go on the hourly rate. It looks like the Board wants to have the authority to set the hourly rate at a later date. I think we can push off Dr. Mitch Herian's presentation until we see if that is approved.

**7.        Budget: (For discussion and possible action).**

**Director Ryba** reported that there was good news and bad news from the IFC meeting yesterday. The department had several requests on the calendar for reimbursement through IFC. All were submitted by the Governor or approved and supported by the Governor's office. There was a request to reimburse Churchill, Lincoln, Carson, Humboldt, and Pershing for case-related expenses. Even though they are some *Davis* counties, it was very clear from the legislature that they did not want to support that, and the request was denied. We requested the remainder of the funds available \$834,240.00 and an additional amount \$429,860.00 for full reimbursement for Douglas, Eureka, Lyon, Mineral, Nye and White Pine and that was approved. There was a request for an allocation of \$225,591.00 to reimburse Elko and Storey for cases in excess of the maximum contribution formula. There was a limited discussion on the record as to why it was denied but as Chair Mendiola said, there was a statement that if they wanted to be reimbursed, they should have been part of the lawsuit. There was not really any guidance, and we are trying to determine why it was denied and we are not able to reimburse those funds for Elko and Storey. The final request was for one new unclassified deputy public defender position and that request was approved. That was approved at 100 percent general fund for this next year and there will be no additional cost for Carson or Storey County.

**Jeff Wells** asked if they were suggesting those two counties should have volunteered to be sued or were they suggesting that those two counties should have filed an amicus?

**Director Ryba** responded that she did not know. Cannizaro made the motion that brought forth the distinction between the *Davis* and the non-*Davis*. I do not know the reasoning behind that, but I believe it was Titus that made the statement about being sued. We are exploring our other options and talking to see if we could maybe do some sort of one-shot appropriation. Maybe this is something Ms. Giunchigliani can help us figure out if we could get a one shot to try and get that money reimbursed or if we can continue to pursue ARPA funds, which we have requested.

**Jeff Wells** stated he liked your ARPA idea. It appears that the state has a significant amount of ARPA money that they have not allocated yet. If that is correct, we potentially could do this as a one-time shot and then if this legislation passes, we will not have this problem in the future.

**Vice Chair Fitzsimmons** stated she was in a call with LCB a couple of months ago about costs, reimbursement for non-*Davis* counties that have not reached their ceiling. I just want to make sure that they did not say that yesterday.

**Director Ryba** stated they went over their ceiling, so we are trying to clarify if there is a misunderstanding, and we are working on that.

**Chris Giunchigliani** stated whatever this meeting was a couple of months ago, maybe that is the confusion that was there. They did not realize that these two counties met their threshold.

**Vice Chair Fitzsimmons** commented that this meeting was not with any legislators. This is just out of left field and could just destroy the whole thing. If it is *Davis*, non-*Davis*, and all of the sudden it is not counties with a population of less than 100,000, it is only *Davis* counties, this is profound.

**Chris Giunchigliani** stated it is the wrong direction to be going in.



**Director Ryba** advised that they did submit them as separate work programs. The counties that did not meet their maximum, *Davis* and non-*Davis* were put together. There was a separate work program request for *Davis* counties that met their maximum and then the non-*Davis* counties that met their maximum. It was clearly separated from the case-related expenses.

**Franny Foresman** stated I just think it might help with your thinking or let me just give you two thoughts. One is that the group of counties that we are calling *Davis* counties were not exactly falling all over themselves to get sued. The reason we sued the particular counties that we did or not sued them but included them in the suit against the state is because of the class action aspect. The counties that were not sued had a different formulation for how they provided indigent defense services. We might have lost our class status to be able to get all of the rest of them together had we added counties that had completely different methods of providing indigent defense. That is the only reason, and you should know that the findings and the judgment against the state for the failure to provide adequate defense applied to everybody.

**Chair Mendiola** asked for other thoughts and suggested we moved to item b, discuss the department budget build and priorities.

**Deputy Director Handy** conveyed that he would be covering the budget builds for Indigent Defense Services (DIDS) and the Nevada State Public Defender (NSPD) budget. The base budget going forward, is basically paying to keep all the existing services and personnel we have. A collection of numbers was provided to the Board for the upcoming two fiscal years. Items in DIDS budget included pay parity, policy and finance sections, Holistic Resource Center, budget authority for reimbursements of counties and increased caseloads, budget shift for prison payments, and a paid internship program. Budget items for the NSPD include pay parity, eight new positions, and a Complex Litigation Unit.

**Director Ryba** stated we need the Board to approve our proposed budget so that we can submit it, but we would ask for the authority to modify as necessary. The budget is not due until September 1st and if we learn any new information of things we need to add, would like to have the ability to add that in because we are doing it ourselves. According to the statute, we do need this Board's authority to approve it so that we can move forward.

**Motion:**       **To Accept the Budget for the Next Session as Presented with Flexibility to Make Adjustments.**  
**By:**           **Chris Giunchigliani**  
**Second:**      **Kate Thomas**  
**Vote:**         **Passed unanimously**

**Chair Mendiola** moved to White Pine County's amended budget.

**Director Ryba** stated as we have been putting together our maximum contribution formula request, we have been reviewing the annual reports from each county. It came to light that White Pine County was budgeting less for this upcoming year than they spent last year. We have reached out to them because we were concerned that they were about \$140,000 short of what they had spent previously. We want to make sure they had it in their budget so that we could bring it to this

Board and get approval in case we need to ask for reimbursement pursuant to the maximum contribution formula. They have modified their annual report request for fiscal year 2023 budget which had been \$643,290 and increased it to \$821,290. We are requesting this Board to authorize that budget because it seems appropriate for historical spending to approve the higher amount than we had previously approved.

**Motion:** To Accept White Pine County's Amended Budget.  
**By:** Chris Giunchigliani  
**Second:** Joni Eastley  
**Vote:** Passed unanimously

**Director Ryba** added that as we are working more with these counties and as they are looking more into Indigent Defense expenses that they did not realize were Indigent Defense before. We are expecting to have an amended budget from Douglas County, and we are welcoming the rural counties that may need to take a second look and bring it back to the Board. The department is aware that some of these counties do not have a lot of staff, so we are offering assistance.

**Chair Mendiola** moving on to the next item on the agenda number eight, Nevada State Public Defender retirement for discussion and possible action.

#### **8. Nevada State Public Defender Retirement. (For discussion and possible action).**

**Director Ryba** advised the Board the State Public Defender, Karin Kreizenbeck, submitted a letter of retirement and has retired. The State Public Defender is a Governor appointment and the Governor's office reached out to us to prepare a job posting. They are asking this Board to make a ranked listing of the top three candidates for the Governor to consider for appointment. We are asking if this Board can direct the department to initially interview these candidates and return with a recommendation to the Board. The department can conduct the initial interviews if we get guidance from this Board as to what qualifications you would like to see in that position. Then we are asking if we could schedule a special meeting for September 22nd at 1:00 p.m. for this Board to review the applicants and make their ranked listing for the Governor. The job application closes on September 2nd, and we are hoping to move quickly as the position is currently open, so the State Public Defender office is short staffed.

**Joni Eastley** stated section B of this agenda item directs us to outline qualifications for the position and asked if that is part of the direction to the department.

**Chair Mendiola** questioned the Director on how she wanted them to proceed on that if they need to have that discussion first or at some other time.

**Director Ryba** replied whatever the Board feels is appropriate. If there are certain qualifications that you would like the department to look for, we would like to know what they are to make sure that we cover it. The department wants to give the Board that opportunity to guide us for what you are looking for in that position.

**Joni Eastley** questioned if there are qualifications set forth right now.

**Director Ryba** replied that the qualification is they need to be able to practice law.

**Chris Giunchigliani** stated it would be interesting to try to seek people that have an understanding of rurals but that is probably not a qualification.

**Vice Chair Fitzsimmons** commented that the Board is comfortable with the Director and her staff figuring out what the qualifications are, and I would defer to what she and her staff think they need to be looking for.

**Director Ryba** stated that the Governor's office has requested this Board provide that rank list.

**Drew Christensen** stated if there are no minimum qualifications on the state level for the State Public Defender, we have minimum qualifications for our public defender and our alternate public defender on our county website. The position would require somebody with some supervisory experience, somebody with courtroom trial experience, and with appellate experience.

**Allison Joffe** stated this is an incredibly important job for us to make recommendations for. We are a brand-new Board and to date this will be one of the bigger things that we can do. I think we can prove to some of the naysayers and the people that do not think we need much of a budget that we know what we're doing. This public defender has a lot of work that can be done to pick up some of the former counties that were lost as the years have gone by. If we get the right public defender who can act not only as an administrator and, of course, as a lawyer, but the ability to deal with the politics, talking to judges, we could make some big changes.

**Chair Mendiola** asked if anybody else had any thoughts, comments before we move forward. The department has some direction in terms of utilizing some job descriptions that are out there and pulling from some different sources.

**Chris Giunchigliani** stated Allison Joffe makes some really good points and if the department can gather some of that information with the help of others, maybe a three-member subcommittee can review those so that everybody is on the same page. They could always just report back to the Board, but I think that might help them revalidate, especially if they're going to recommend three people to the Governor's Office. We want to make sure that we do have a detailed review of expectations that are there.

**Director Ryba** stated they are going to be sending out the job posting so everyone can read it. We did reach out to Drew Christensen for guidance on things he has put in prior job postings, and we did include that. It has been approved by the Governor and has been out for about a month now. We did explore the possibility of doing a subcommittee and our concern was brought up by Sophia Long that we are subject to open meeting law.

**Chris Giunchigliani** stated maybe once you have put together your list of qualifications, you can send that out to the Board just so that we are reviewing it prior to you doing your interviews.

**Director Ryba** stated they are limited for specific qualifications because it does say in the statute the qualification for a public defender is limited to having to be licensed to practice law. As an unclassified employee they are limited but we do put some selection criteria that we would like to

hear about and that is leading change. We want them to tell us about a time that they have led effective change. We need to make some change with the direction of the NSPD office and become more involved leading people. The State Public Defender's Office has great people and would like to hear about how they have leveraged diversity, team building, conflict management or professional development of others. And then finally, just information about their background.

**Chris Giunchigliani** stated then maybe down the road, someone needs to modify the statute for what the defender needs to have so it is a little bit broader.

**Chair Mendiola** asked for a motion to direct the staff for recommendations and schedule a special meeting date.

**Motion: The Board Directs the Staff to Prepare Job Qualifications for the Purpose of Interviewing and Recommending the Top Three Candidates at a Meeting on September 29th at 1:00 pm.**

**By: Chris Giunchigliani**

**Second: Joni Eastley**

**Vote: Passed unanimously**

## **9. Scheduling of Future Meetings: (For discussion and possible action).**

**Chair Mendiola** stated they have already taken care of the September 29th meeting and October 27th, 2022, at 1:00 p.m. for the next board meeting. Anybody have a problem with that date?

**Director Ryba** advised the Board the purpose of the quarterly meeting is we are doing quarterly reports for the Board. We generally update the Board on the fourth quarterly report and any sort of spending but if the Board feels it is appropriate, we could skip the October meeting. Then in January we could deal with all these issues and two quarters of reporting. We do not foresee any counties meeting their maximum contribution needing this Board's approval in that first quarter.

**Vice Chair Fitzsimmons** stated she believed, based on what happened yesterday and based on hearing what our budget's going to be, our request is going to be to the legislature (LCB). We are going to need to figure out after the election is how we as a group support what we have approved today, which is the budget, and the bill draft requests. After the committee assignments we are going to have to figure this out how we as a group support what we have approved today. We are going to have to have an ability to somehow communicate during session because this is going to require all our support.

**Chris Giunchigliani** commented she was right, the relationship building and there is going to be so many newbies, and no one knows the history other than this small group and a handful of other people. It is not known how they do their trainings any longer and maybe Director Ryba could find out if we could do a presentation.

**Chair Mendiola** agreed and thought they were good points. That is going to be very important, and the question then becomes can it wait until January? Do they do those trainings in December?

**Chris Giunchigliani** replied that they generally do them in December and then the caucuses have their own or at least how they used to do it and then they roll over into January. There is some opportunity but maybe Director Ryba can find out what LCB will be scheduling. Maybe we offer a luncheon or a meet and greet or something just so we start to explain what the commission is. Last session was the first time and we had good support from the Governor's Office and Professor Traum did a great job, but we had to kind of weigh in as people did not understand our budget.

**Director Ryba** stated we do not need to have a vote on setting future meeting dates so I could inquire if they have any sort of trainings set on the schedule.

**Vice Chair Fitzsimmons** stated she did not even know about these training sessions and that would be a great opportunity and it would be helpful if Director Ryba or whoever could participate in the training. Perhaps through session and during session, having individuals, members of this Board just reach out to people that they are a constituent of and try to meet with them early in the session once we know who is on the budget committee.

**Sophia Long** replied that is fine if you want to have a one on one. I think the difference is when you are speaking on behalf of the entire Board in order to do something, when you are out representing the entire Board, then I think that is kind of different.

**Vice Chair Fitzsimmons** stated maybe we can all talk about this, but I see those numbers and what you were put through yesterday. Allison Joffe was correct about the state PD being really important and this is equally, if not more important.

**Chris Giunchigliani** stated they do it right after because assembly and the senate are seated, effective the day after the election. Other officers are normally in January so that is why they just start right up in November.

**Chair Mendiola** set the next meeting for December 8th, 1:00 p.m.

#### **10. Public Comment.**

**Chair Mendiola** asked if there were any public comments and there were none.

#### **11. Adjournment.**

**Chair Mendiola** adjourned the meeting at approximately 2:52 p.m.