

**State of Nevada**  
**Department of Indigent Defense Services**  
**Public Hearing and Board Meeting Minutes**

**Wednesday, June 16, 2023**

**9:00 AM**

**Meeting Location:**

OFFICE	LOCATION	ROOM	
The Old Winnemucca Courthouse	50 W. Fifth Street	201	Winnemucca
	Virtual (Zoom)		

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

**Chair Mendiola** called the meeting of the Board on Indigent Defense Services to order shortly after 9:00 am, on Friday, June 16, 2023.

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

**Board Members Present:** Chair Dave Mendiola, Vice Chair Laura Fitzsimmons, Chris Giunchigliani, Kate Thomas, Lorina Dellinger, Commissioner Cassie Hall, Allison Joffe, Joni Eastley, Harriett Cummings, and Jeff Wells.

**Members not present:** Jarrod Hickman, Drew Christensen, and Justice William Maupin.

**Others Present:** Executive Director Marcie Ryba, Deputy Director Thomas Qualls, Deputy Director Peter Handy, Cynthia Atanazio, and Mercedes Maharis.

**2. Public Comment**

There was no public comment.

**3. Approval of Minutes. February 2, 2023, and June 7, 2023, Minutes. (For possible action)**

**Joni Eastley** noted that she was present on June 7, 2023, and the minutes should reflect that.

**Motion: Combine February 2, 2023, and June 7, 2023, and approve with the correction noted that Ms. Eastley was present on June 7, 2023.**

**By: Joni Eastley**

**Second: Chris Giunchigliani**

**4. Legislative Update. (For discussion and possible action)**

**Director Ryba** stated she wanted to fill everyone in on the legislative session, which we believe was very successful. Our department had four bills that we will talk about today. Senate Bill 39 addresses our concerns regarding confidentiality for requests for expenses by experts or investigators and that those requests remain confidential and protected by the attorney-client privilege. Senate Bill 39 is now effective and signed into law. Moving on to Assembly Bill 454, it

will clarify that any expenses that are over and above the maximum contribution fall as a state expense. When all counties are building their budgets, they will know that if they are requesting reimbursement pursuant to the maximum contribution formula once they hit that maximum that the department will be reimbursing them from appropriated funds. If there is insufficient funding the department is able to go to the statutory contingency account to request additional funds. Assembly Bill 454 also allows the Board to establish hourly rates by regulation in certain counties.

**Allison Joffe** questioned if that is going to be a topic at our next meeting?

**Director Ryba** advised that we will be requesting to set a workshop in the next meeting, so we start talking about the hourly rates. Assembly Bill 518 sets forth the maximum contribution formula into statute. In section 7.3, page 10, there will be an appropriation to the Interim Finance Committee (IFC) to set aside statutory contingency accounts if signed by the governor will allocate 6.3 million in the first year and \$6.6 million in the second year of the biennium. This is to reimburse the counties if there is insufficient funding in the maximum contribution formula. The department did receive an appropriation of \$3.5 million in each year of the biennium. In section 7.3 as part of this bill the department is being appropriated approximately \$1.4 million in each year of the biennium for the purpose of a stipend for district attorneys, public defenders, and the judges to appear at weekend bail hearings. We are waiting on the governor to sign AB 518 but once they do it is going to make some very exciting changes on many levels. Finally, Senate Bill 479 makes an appropriation to the department for this fiscal year of approximately \$2.5 million.

**Chair Mendiola** asked the Board if there were any questions regarding the Assembly Bills.

**Joni Eastley** replied with no questions Mr. Chair but just one comment, about Director Ryba's terrific work this session and I really appreciate her.

**Vice Chair Fitzsimmons** stated that being in Carson City and watching not just Director Ryba but all her staff show up on weekends. They did an incredible job and obviously we need to thank the members of the legislature who really stood up for our mission and supported the DID's staff and thank you very much.

**Chair Mendiola** noted and thanked Jeff Wells for joining the meeting. Are there any other comments?

**Chris Giunchigliani** stated that she just wanted to echo that Director Ryba had a few tense moments while we were not sure where a few bills were going to be. I think through your staff's persistence and the passion of this Board I have to say the Board members weighed in and talked to individual legislators to make sure that the financing went through so I think everybody should be thanked for their due diligence and it worked out.

**Joni Eastley** commented that she was glad that Chris said that because that is one thing that I liked about how Director Ryba and her staff approached some of these challenges. They kept us all involved in the process and invited us to support them, and I am sure many of us took the opportunity to do that.

**Chair Mendiola** wanted to say thank you as well. I know there were some pretty intense moments over the last three weeks, many calls with Director Ryba and her team trying to figure out how do

we approach this and how do we balance that issue between the governor's finance office and the legislature. Director Ryba and her team just did an amazing job of working through it. More important than anything is the long-term developed relationship with the legislature and legislators about what they are all about and what we do and thank you for that.

**Director Ryba** thanked the board for the gracious comments.

**Director Ryba** next moved to request the Board to approve the maximum contribution for each county as set forth in section four of the notebooks. The very first page shows what the maximum contribution formula would be using what is set forth in Assembly Bill 518. We took everyone's maximum contribution from fiscal year 23 and we have added five percent because that was the lower of inflation and five percent. Clark and Washoe county are not requesting a maximum contribution for the next biennium and are non-applicable.

**Chair Mendiola** advised the Board that we just need to adopt this maximum contribution formula based on the five percent in AB 518.

**Motion: To Adopt the Five Percent Maximum Contribution Formula as Outlined in Assembly Bill 518.**

**By: Joni Eastley**

**Second: Chris Giunchigliani**

**Vote: Passed Unanimously**

## **5. Budget. (For discussion and possible action).**

**Deputy Director Handy** stated that he would give a brief update for fiscal year 24. We appropriated \$4.7 million with approximately three and a half million of that for the maximum contribution reimbursement amount. The remainder is for personnel services, operating, training, travel, and those sorts of things. If AB 518 is signed by the governor that will add another \$12 million that is available to the Department upon request from the IFC. As stated earlier we are receiving about two million dollars for fiscal year 23 to pay any overages from the 1.2 million in section 80 to reimburse the counties over their maximum contribution. The public defender's office has a budget of approximately \$2 million and about four hundred thousand of that has been allocated for developing the White Pine County office which includes two attorneys, staff, facilities, and operating expenses. Most of that budget is a little misleading because a lot of that budget is set aside for repaying post-conviction attorneys for their services to the state. If you want to see further indications of the amounts that counties have paid so far you can take a look at the counties requesting reimbursement for fiscal year 23. That will show each county's breakdown as to how much they have expended so far through the third quarter.

**Chair Mendiola** thanked Deputy Director Handy and asked if the Board had any questions.

**Chris Giunchigliani** stated that she just wanted to say in the annual report I loved the title Deep Roots because I think it shows what our commitment as a new department but making sure that the rurals are protected and held harmless. I think it sets well promises kept I think it says it all and luckily the legislature came up with enough funding for us to be able to keep those promises.

**Chair Mendiola** stated that he could not agree more. Are there any other comments? If not, I assume we need a motion to approve the Department budget.

**Motion: To Approve the Department of Indigent Defense Services Budget.**

**By: Chris Giunchigliani**

**Second: Joni Eastley**

**Vote: Passed Unanimously**

**Chair Mendiola** advised that moving on to item 5 a. FY 23: Quarter 3 County Indigent Defense Expense Reporting he would turn the meeting over to Director Ryba.

**Director Ryba** explained that the Department had provided our most updated reimbursement amounts. This past Wednesday we went to IFC and were able to request reimbursement for these rural counties pursuant to that \$1.2 million that was set aside. Churchill, Douglas, Lyon, and White Pine had provided proof that they had met their maximum contribution in time for us to file our work program. Churchill will be reimbursed \$148,670, Douglas will be reimbursed \$214,928, Lyon County will be reimbursed \$230,849, and White Pine will be reimbursed \$75,793.

**Chair Mendiola** commented that we will move on 5C which is review and approve county annual plans and budgets.

**Director Ryba** stated that under tab four and five you will see the budgets in tab four for each of the counties and then any sort of updated plans in section five. Carson City as we recall at our last meeting, we did approve a corrective action plan where Carson City will be creating their own public defender's office. If you look to their proposed budget and their annual financial status report they have stated that they will be paying the public defender's office zero dollars for the next biennium that has been approved by the Governor's Finance office so moving forward the state public defender will not receive any additional funding from Carson City. Moving on to Churchill County they did update their plan, but we will be receiving a new update because they need to add the municipalities. We have been working with each of the counties to build the municipal courts into their plans because the statute says that the selection of counsel needs to be done as set forth in the County's plan for indigent defense services. Elko County has provided us with an updated plan where they have included their Municipal courts and so has Lyon County. They have started to include their municipal courts in Lander County, and we found that they were not reporting their juvenile expenses due to a misunderstanding. This has been clarified and their appointed counsel administrator will review the billing for juvenile cases. We want to make sure that our rural counties are getting reimbursed and made whole for every expense that they can include in reporting and those are the budgets that we would like to highlight, and we ask that you approve these budgets.

**Chair Mendiola** wanted to know if there were any questions about the budgets themselves or any changes to those budgets. Can I get a motion to approve the county annual plans and budgets.

**Motion: To Approve the County Plans and Budgets.**

**By: Kate Thomas**

**Second: Cassie Hall**

**Vote: Passed Unanimously**

**Chair Mendiola** stated that moving on to item six the *Davis* update and I am going to turn this over to Deputy Director Qualls.

## **6. Davis Update: (For discussion and possible action).**

**Deputy Director Qualls** said that he has a few things to cover here and would move pretty quickly. We have contracted with Dr. Mitch Herian over the last two years to do a number of studies for us and recommendations in order to help us achieve some of our mandates including parity. We have been contracted with the National Center for State Courts (NCSC) for the last two years in order to do a caseload study and we have been waiting for about a year on a national study by the Rand Corporation which was apparently finished last May but it has been in peer review since then. We have made a decision to move forward without the Rand study because we do not know when it is going to come out. There are reports and our oversight shows that there is a real need right now to increase the number of attorneys in several of the rural counties including Churchill, Elko, and Nye. In the interest of providing relief to all of those counties we would like to move forward and have spoken with Suzanne at NCSC a couple of times and provided her with updated reporting through LegalServer. The plan is to run new numbers and then have recommendations for this Board at least by our August meeting. We would like to move forward with putting it in the regulations that is required so that we can start that mandate for the counties as soon as we have numbers. We will start working with the counties as a preemptive thing to say this is what we think the Board is going to approve let us start moving forward there and that is exciting news.

**Deputy Director Qualls** explained that he would give a brief review of the monitor's eighth report. On page five there is a summary of recommendations which lists out some of our concerns. Our success in the legislature has addressed and or fixed most or at least made progress on most of these things as Director Ryba indicated. Adequate resources for oversight is a concern and has been a concern with the monitor and if and when AB 518 gets signed by the Governor there will be money in the contingency account for us to address some of these concerns. The hope is with AB 518 funding there will be money for oversight, training, and adequate staffing for the State Public Defender's office. The governor's office has notified us that the regulation moratorium regarding executive order 2023 03 will be going away and is something we will be able to move forward on. To improve time keeping and Director Ryba can correct me on this does AB 518 potentially provide for any incentives for record keeping.

**Director Ryba** responded that it specifically sets aside funding for us to comply with *Davis*, so our department has thrown around the idea we received from one of our appointed counsel. If an attorney takes a certain number of appointed cases, as an incentive to keep time we provide Westlaw or Lexus free of charge to them, but it was not specifically set aside like the others.

**Deputy Director Qualls** stated that was really the bottom line and is really great our work and the Boards work, and all of our legislative support made it possible to successfully address most of the concerns that are in the monitor's report. Professor Hanan could not be with us today as she is out of the country and unable to address any questions, but I can answer any questions to those three items if anyone has any.

**Chair Mendiola** thanked Deputy Director Qualls and requested to know if there were any questions on any one of the items Deputy Director Qualls covered.

**Joni Eastley** explained that she did not have any questions about any of those three items but had a question for Deputy Director Qualls and Director Ryba. After reading the monitor's report and I was concerned about a number of deficiencies that were identified in Nye County and specifically the under reporting by the contract attorneys. Is there any way that we can tie the requirements of *Davis* to contract renewals that would certainly be a component in contract renewals.

**Deputy Director Qualls** responded that we are working with Nye County pretty closely and have been for a while. It is one of those catch-22s that is a little bit exacerbated by the scarcity of available indigent defense lawyers. With the help of Lorina we have successfully added one contract to their public defender contract plan and also gotten a \$25,000 raise for each of the contracts. We are still working with Lorina to increase the number of contracts. The reporting issue is where the catch-22 comes in because ostensibly they were given a raise in order to help them with reporting. The problem is that my oversight shows that they are each carrying between 350 and 400 cases and is probably three times the number of cases that attorneys should carry. They really do not have adequate time to manage their cases and do the reporting, that is the fundamental part of it. It is one of the reasons why we want to move these caseload requirements up so that we can address that. Did that answer your question.

**Joni Eastley** responded that it did, and she appreciated that. I just was not sure if there was anything I could do as a Board member, but it is really more appropriately at the departments end and with Lorina.

**Deputy Director Qualls** stated that he forgot to mention that Lorina had identified a County employee that was going to start doing all the LegalServer input for the cases and then the attorneys would have to keep their own hours. Shortly after that person was identified she went on maternity leave and her maternity leave was extended so we do not know when she is planning to come back.

**Joni Eastley** questioned if the employee is in the District Attorney's office.

**Deputy Director Qualls** responded that she was in Lorina's office, and I cannot remember her name.

**Chair Mendiola** wanted to know if there were any additional questions.

**Allison Joffe** stated that she was wondering what the format is if the attorneys have a form that they can fill out just to make it as simple as possible. For most of us the worst thing to do is bill.

**Deputy Director Qualls** replied that it is a case management system that they have to use which is in all organized offices and contract holders' offices. Either our designee, the appointed counsel administrator in the counties or our office puts the time in for them, but we just do not have the manpower to put in the time for everyone and they would have to record it anyway.

**Allison Joffe** stated that she could not imagine having 300 cases.

**Deputy Director Qualls** concurred that he could not imagine it either it is unconscionable.

**Chair Mendiola** questioned whether we need a motion on any of those. If there are no other questions we will move on and thank you Deputy Director Qualls. The next item is the Silver Embrace Award which will be covered by Deputy Director Qualls.

#### 7. **Silver Embrace Award (For discussion and possible action).**

**Deputy Director Qualls** stated that this goes into the category of good news. I went down in February to Vegas to accept on behalf of the Department the Silver Embrace Award from the Public Interest Law Association (PILA) at the Boyd School of Law. This is an award that is nominated by members of the legal community at large to honor an organization that is quote an unsung hero doing good work out in the legal community in Nevada. The department received that this year and it is kind of a big deal and we were going to bring the award here to show everyone but we are so afraid of breaking it that we just left it in the office.

**Joni Eastley** requested that the department send a picture because it is exciting.

**Chair Mendiola** agreed that is really exciting. Anyone wish to make a comment?

**Chris Giunchigliani** stated it basically to get this off the ground and to get recognized for it is your staff should absolutely be commended and we should be proud as Board members to work with this group. They are a great group.

**Chair Mendiola** thanked Ms. Giunchigliani, that is just my general comment. Some of you on the call on the Board here have been involved in this for 15, 20 years in some of these efforts but I was fortunate to be involved at the ground level and just to see where we started with that long list of *Davis* settlement requirements and where we have come. It seems like every year we get a little bit further down the road and again it goes back to you, Director Ryba and Deputy Director Qualls, and Deputy Director Handy. Thank you so much this is a great honor, and this is all due to you guys and the Board members we have got some great Board members as well.

**Jeff Wells** stated this is actually Jeff and I apologize for the delay in joining. It rained around my house, and it blew up my internet and it took me forever to get here. I have listened to the last couple of items, but I was one of those guys that was on Justice Cherry's committee that started 15, 16 years ago or something and I just wanted to echo what Ms. Giunchigliani just said. It is nice that we are getting recognition for this group and all the work that we have done and can do in the future, so I am sorry I was late but congratulations on that.

**Chair Mendiola** thanked Jeff for his comments and for continuing to be part of the effort. Any other comments I want to make sure you get in here before we move on. Let us move on to item eight oversight update.

#### 8. **Oversight Update. (For discussion and possible action).**

**Deputy Director Qualls** updated the Board on the fiscal year 23 quarter three report and the department oversight. It was noted visits to counties were limited due to the legislature being in

session and staff needing to be available. Deputy Director Handy went out to Douglas County for a day and everything is going really well there. I visited Nye County and applauded the contract attorneys for their amazing work. We discussed in our last special meeting the situation in Carson City and the building of the Carson City Public Defender's office. We are right now analyzing and investigating Storey County who would like to join that corrective action but we have not made any conclusions on that yet.

**9. Review and Approval of Annual Report. (For discussion and possible action).**

**Deputy Director Qualls** introduced this year's annual report and advised that it gives a little snapshot of what we are doing.

**Chair Mendiola** thought it was a great report and complimented the Department. Can I get a motion to approve the annual report.

**Motion: To Approve the DIDS Annual Report.**

**By: Joni Eastley**

**Second: Jeff Wells**

**Vote: Passed Unanimously**

**10. Training and Externship Update. (For discussion and possible action).**

**Deputy Director Handy** stated that we held our third annual defenders conference that was on May 4<sup>th</sup> and 5<sup>th</sup> in Reno at the Silver Legacy. This is our second in-person conference, and we had excellent attendance. We had 45 people receiving CLE credit on each day of the programming, we had upwards of 60 people attending the first day and upwards of 50 on the second day. We had several networking events and had at least 30 people for the dine-a-round the networking events. We actually had representation from every county in the state at this conference so at least one public defender from every county in Nevada was able to attend. This conference was centered around storytelling with Storyteller David Mann who has been a speaker at several State Bar conferences and other legal education programs. We had several Supreme Court Justices, the ever-magnificent John Lambrose helping us out and Ozzy Fumo closed out the programming.

**Director Ryba** advised that we had a networking event at the training where we invited one leader from each County Public Defender's office to come to lunch and network. I think it was the first time ever that we had a public defender from every single county in the same room at the same table getting to know each other, talking to each other and we are hoping to continue that moving forward. That is one of the most exciting things from the event and I believe there is a picture of that lunch in the annual report.

**Allison Joffe** questioned whether the Department could provide a benefit to rural indigent defense services providers by sending them to a National Criminal Defense Conference.

**Director Ryba** commented that the Department will pursue seeking funding for that purpose.

**Deputy Director Handy** stated he would be providing an externship update. In the spring semester we had two legislative externs from the Boyd School of Law that did a lot of research during



legislative session and contributed some valuable information. Over the summer we will have seven interns and externs. They are always a great asset to the department. This relationship with Boyd School of Law is assisting to build a pipeline from law school to indigent defense. The State Public Defender's office has one extern receiving a \$6500 stipend that was provided by the State Bar of Nevada.

**Deputy Director Handy** continued by discussing the John R. Justice Grant which is a Federal grant that has been awarded to the department to facilitate and basically this gives public defenders and prosecutors an opportunity to receive student loan sort of reimbursement grants from the Federal government. The Department will start awarding the grant soon.

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

**Director Ryba** discussed calendaring meetings and future dates and proposed moving the meetings to the first Thursday of the month so all board members could attend. Further it was requested the August 3<sup>rd</sup> meeting be a regulation workshop and meeting.

**Chair Mendiola** stated that works for him.

#### **12. Public Comment.**

**Mercedes Maharis** stated thank you for all this amazing work.

**Chair Mendiola** thanked Ms. Maharis and requested to know if there were any other comments. Very good then I will move to adjourn this meeting of the DIDS Board.

#### **13. Adjournment.**

With no additional Public Comment, **Chair Mendiola** adjourned the meeting at 10:02 am.