

State of Nevada
Department of Indigent Defense Services
Board Meeting Minutes

Thursday, August 22, 2024

1:00 PM

Meeting Location:

Virtual Only (Zoom)

1. Call to Order/Roll Call

Chair Fitzsimmons called the meeting of the Board on Indigent Defense Services to order at approximately 1:00 pm, on Thursday, August 22, 2024.

Cynthia Atanazio advised the meeting was being recorded and conducted roll call. A **quorum was established**.

Board Members Present: Chair Laura Fitzsimmons, Vice Chair Kate Thomas, Dave Mendiola, Chris Giunchigliani, Angela Cook, Susan Bush, Joe Crim, Allison Joffee, Joni Eastley, Jeff Wells, Lorina Dellinger, and Jarrod Hickman.

Members not present: Harriett Cummings and Justice William Maupin.

Others Present: Executive Director Marcie Ryba, Deputy Director Peter Handy, Deputy Director Brenda Roberts, Professor Eve Hanan, Jenifer Davidson, Patty Cafferata, Budd Milazo, Daniel Marlow, Todd Weiss, and Cynthia Atanazio.

2. Public Comment

Chair Fitzsimmons opened the line for public comment. Public comment was received in the form of a letter via email from the Douglas County Manager and confirmed as part of the record. Chair Fitzsimmons asked if the author of the letter was on the line and would like to address it.

Jenifer Davidson, Douglas County Manager responded that she was on the line and had nothing to add at this point.

3. Approval of the Minutes (For possible action)

Motion: Approve the Meeting Minutes of June 14, 2024

By: Jeff Wells

Second: Kate Thomas

Vote: Passed Unanimously

Chair Fitzsimmons asked Director Ryba if the agenda items would be addressed in their designated order.

Director Ryba replied that she would like to move up item 5.D before 5.A. Moving to item four, may be necessary to discuss the concerns of the *Davis* monitor before we discuss the budget.

4. Oversight and Davis Update: (For discussion and possible action).

Director Ryba explained there are a couple of items to discuss prior to getting into the monitor's report because there are issues contained within the report. Four A is an update on approvals from the August 15th IFC. We were able to get many funding items moving forward and are very appreciative of the governor's office so we may continue our *Davis* oversight.

Chair Fitzsimmons stated that is great work and we are glad the IFC understands what we are required to do and the hard work you and your staff have done to get us to this point.

Deputy Director Handy advised that we made changes to how we perform oversight. After consulting with the monitor, we developed a two-paged form based on the information she needs. As we continue to move forward, we will see if we need to make changes, but it is working well. My quarterly report is delayed due to the delay in getting reports and working on budget issues.

Allison Joffe stated she would like to make a comment and ask a question. The oversight form is great and will these forms go into a separate portal.

Deputy Director Handy replied the forms are sent directly to himself by email. I review to determine if there are any repeat issues or problems that need to be addressed. In many cases the oversight personnel are addressing the issues on their own which is fantastic. It means they are doing the work of the department without us having put forth anymore labor to ensure that it is being corrected. Quarter four reporting is included in your packets and available on our website and getting better all the time. There is a lot of data, and we are seeing some valuable insights.

Chair Fitzsimmons asked if we are going to hear about the valuable insights.

Deputy Director Handy replied we are doing some selected data analysis in Nye County, Carson City and Elko County. In Nye County, there is clearly something going on if you look at the quarterly numbers. There are a huge number of cases and attorneys are reporting a lot of hours which is consistent. We identified that there are a lot of open cases older than 90 days without any updates in status or additional time. Stanley pulled the data and David Schieck met with the attorneys in Nye County explaining that he knew they were busy, but there is a backlog of data that needs to be cleared out. For the last month and a half there has been a reprieve going on where we have rotated the contract attorneys off their cases, limiting assignment of new cases. It has given them an opportunity to evaluate and modify their data in LegalServer, and Alexis Duecker reduced her open cases by almost 600 cases, more likely to reflect her actual caseload.

Chair Fitzsimmons wanted to know if the attorney was getting paid during this time or if she is paid hourly.

Deputy Director Handy replied that she is a contract attorney and still getting paid. Just a reduction in the new workload.

Chair Fitzsimmons wanted to know how many Nye attorneys you are dealing with that have this backlog. Are there any that have no staff at all.

Deputy Director Handy explained that there are two attorneys that do not have staff and it would be challenging based on the contracts to employ staff at a reasonable rate in that geographic area.

Chair Fitzsimmons stated if the only income coming to the lawyer was the contact is there a concern this will not be repeated.

Joni Eastley wanted to ask two questions. Is it possible that the public defenders' cases are closed but they are not reviewing and removing from the caseload management system. Then the second question is if the number is erroneously high, would it stop new cases from being assigned to them.

Deputy Director Handy stated that yes, a lot of those cases that were in LegalServer had been closed but the attorney had not gone back and cleaned up the data. There is a strong correlation between when we gave them a reduction in new cases, and they found significant time to remove the cases from LegalServer.

Joni Eastley asked if it would be possible to ask the district attorney for statistical information regarding the number of closed cases that were assigned to public defenders.

Deputy Director Handy replied it is unlikely that the DA's offices would track or have a running record of cases they have been opened for which public defenders. We can get better compliance from the attorneys, and we have our oversight personnel conduct these audits, and we are trying to do this more frequently.

Director Ryba stated we provided a document entitled Nye County Updated Workload After 60-day Reprieve which shows how many cases were open June 30, 2024, and how many cases are open as of today. We are seeing a reduction in some of the workload, and we have to thank David Schieck for a lot of his hard work in meeting with the attorneys. Cases are inherited and move around from attorney to attorney further creating the backlog of unclosed cases.

Chair Fitzsimmons explained that she understands the challenges and knows there is a limited amount of time and energy and where do you put it. You do not want to go back and close a bunch of cases that you have inherited. I am wondering if we could suggest a contract clause as part of the contract, they must provide accurate numbers.

David Schieck stated that he thinks the contract provides that they are required to keep their data up to date in LegalServer and prepare annual reports. When talking with attorneys they ask would you like me to spend more time working on my clients' cases or doing all this paperwork closing cases. The 60-day reprieve really helped them focus on what they had but it is harder if do not have staff.

Chair Fitzsimmons asked if you think this is getting resolved.

David Schieck replied we are moving in the right direction.

Deputy Director Handy stated I cannot think of a contract that does not require that kind of clause. All if not almost all the contracts say the attorneys will meet the requirements and regulations of the board. They must provide their data and LegalServer is required by regulation. Data collected for Carson City indicates they are doing more workload than they have the capacity to do and not much work is being done by conflict counsel. There could be various reasons, the PD's office may not be conflicting off many cases and we have issues with one of the contractors not putting in sufficient time. We have had conversations with the city as this is not a tenable situation moving forward as we need to see that these attorneys are doing work for them to be eligible for reimbursement. Elko has been a significant decrease in reporting since the transition to a different system. They are not using LegalServer since they have transitioned to that system. It is creating an issue making it difficult to identify if they are meeting workload standards.

Joni Eastley asked for those counties that determined to be deficient what is the progress in engaging additional counsel?

Director Ryba stated she would be addressing the issue of engaging counsel later. Moving to 4.B, item 4, we are seeking advice and recommendations from the board on how to proceed. The monitor notes in a lot of these cases it is the county that is making the decisions, but compliance falls on the state and we are limited in what we can do. Carson City is paying their contractors \$125,000 plus a year which equals \$31,000 a quarter with one contractor reporting 27.5 hours which equates to \$1,000 an hour. This may be a discussion after the monitor addresses the report, but how would the board like us to proceed? Should we have a workshop to create additional regulations to tighten some of the requirements? A concern the monitor will address is should we have a minimum payment for contracts. Should there be a contract term requiring how many hours are expected and what the hourly rate is? Should we change our hourly rate, so it is scaled based on experience and complexity of the case with more experience paid at a higher rate? Should we update qualification requirements for conditional approvals? We are seeking guidance on the lack of reporting with Elko, and lack of reporting by some contractors, which is also an issue in Nye as these are not our contracts so any advice would be appreciated.

Chair Fitzsimmons said if we want a workshop that would be fine. If you see specific problems with an existing regulation, then we have a workshop but maybe address it on the next agenda.

Director Ryba stated part of our issue is there is limited things we can do with a corrective action plan unless there is a bill draft request. We are exploring having the Nevada State Public Defender move into Elko but with current salaries we cannot fill those positions. The other option would be to work to bring them into compliance by way of a corrective action plan that extends two years and if at the end of the biennium they are not in compliance we transfer them to the state. The monitor could report that the department does not have the ability to make the decision in these counties and a prime example of that is going to be an issue in Humboldt County. The alternate public defender left the position several months ago and the two contractors have given their notice they intend to stop taking cases at the beginning of September. In addition, Matt Stermitz might be leaving his position as the public defender. That leaves no public defenders, and the department does not have anyone who can fill in. The state public defender does not have the extra staff to send there and no financial ability to enter contracts to cover Humboldt County.

Susan Bush wanted to express a couple of thoughts. If the counties are not ensuring they are getting proper reporting, then the state should withhold the funds. If the state is paying 1.3 to 1.6 million to Elko, we need to make sure what services we are paying for. Their reporting does not justify us paying those additional funds. In Clark County if my contract attorneys do not provide reporting they do not get paid.

Jeff Wells stated he believed there are two issues related to the same discussion. The statute says we are allowed to audit the amount that we pay and if we use software as the audit tool then we would pay based on what we can audit. Instead of 1.3 million maybe it is only \$600,000 because there is no data in there that would put some incentive on the county to enforce their county contracts. Director Ryba talked about some legislative changes for salaries. We could have a county salary structure set by the legislature, but you cannot put one dollar amount because Humboldt may require a different amount than Esmeralda or Douglas County.

Allison Joffe said we are talking about several counties and most of the counties are doing well. I think we need to address the counties that are doing great things and working with us and give them kudos. Instead of new rules and regulations we need to look at ways to attack certain counties. We can brainstorm and come up with ways we can approach it without being thrown out of the counties totally.

Chair Fitzsimmons stated she was unaware of the fact some county positions are set by state statute. Why could we not put county public defenders and state public defender pay range in there. The bottom line is these are very important issues, but there is just not enough money and why the public defender cannot hire people. We are getting real late to be making bill draft requests and we are not making motions or anything because this item is not on the agenda. Even non-performing counties are getting reimbursed, but they are not reporting, and this may work to our advantage. If they are not in compliance, do we have an obligation to reimburse the counties 100%? We want a good working relationship, but this is a two-way street in my opinion.

Director Ryba asked the Chair if it would be helpful if moving forward, we sent a letter to the counties advising them we will be auditing and that their maximum contribution could be reduced. We know these rural communities do not have enough attorneys and have expressed that is stressful for them to be keeping this time. We are really working on this and by next year we can expect counties to be complying because they will have enough attorneys so would it be appropriate if we prepare a letter that we will be auditing in the future.

Chris Giunchigliani said she liked that idea of putting them on notice, but if you are going to put something in the letter not only do you audit, but that if you find they must repay they have to repay within a time frame.

Allison Joffe stated she agreed with sending a letter but on the flip side we need to go ahead and acknowledge that they are doing a great job and we appreciate that they are working so hard with us and maybe enumerate the things that are getting done even though there is more to go and hopefully that will help compliance from the positive avenue.

Chair Fitzsimmons asked if there was any other discussion on this and how the Director intended to proceed.

Director Ryba stated that before the next meeting she would prepare a letter letting the counties know how much we have reimbursed them in the past couple of years. This will provide the county commissioners with what has been reimbursed and then we can thank them for all their hard work in attempting to meet compliance. The letter can include that moving forward as directed by the board they may be audited, and we can prepare and provide at the next meeting.

Chair Fitzsimmons explained that I would ask you to include a working group hug, but moving forward we are the stewards of this money and of the obligation we cannot reimburse you in excess of your maximum contribution to the extent we are not getting the information we need.

Director Ryba asked if Deputy Director Handy wanted to discuss the equal defense request and the classification a little bit of what we submitted.

Deputy Director Handy stated a lot of DAs in the rural counties get elected and paid less than some employees because it is set in statute and does not get increased regularly. Instead of giving it to the legislature which only meets every other year we can get more discretionary funding in the budget to reimburse these types of expenses as counties come into compliance. We are putting forward an equal defense proposal that should create parity in each geographic location not necessarily with the elected DA. We think having the flexibility with this board instead of being rigidly in statute might be more amenable for us and with this legislation we are looking at producing a more robust system for defense attorneys to get pay that is on par with prosecutors.

Chair Fitzsimmons said I know there was a study done and graphs provided but when is it going to happen and what is the vehicle to get these funds.

Deputy Director Handy replied that we are doing a few things and they will be addressed later when we talk about the budget. All the things we have received from 518 section 7 funds from the IFC is going to be built as units in our budget requests which are mandatory components and get built into our base budget for the next biennium.

Chair Fitzsimmons asked if that is happening now, are we not getting our budget requests in.

Deputy Director Handy replied yes this is happening now. We are actively building the budget for the next biennium which includes the 2.3 million dollars in addition to funds to reimburse the counties for the first fiscal year.

Jeff Wells wanted to address Deputy Director Handy comments on flexibility for this board and he is correct sometimes in these statutes for DAs, Commissioners you pick all the different county positions, and the legislature puts a salary in for them. The disagreement I have with this comment is it is not state funding at this point. It is not the obligation of the county to pay it and we would address it on the back end through reimbursement.

Chair Fitzsimmons stated this is important and I would like to see something in some bill draft request. We need to get this done and we need it at least considered this next session that these rates are set, and counties will have to pay for it and then we will reimburse them. In at least one of our rural counties there are still members of the county commission that do not understand when

setting budgets for their public defenders they are going to be reimbursed so they are way too cheap when setting their salaries.

Joni Eastley asked if she could offer one thing and it concerns sending letters to the counties. She explained her many years working as a county commissioner and dealing with these issues of funding indigent defense. I understand both sides and if I was a county official, etc. and was looking at the letter I would perceive it as a threat to my funding. I have spoken to several of them, and I am hearing consistently we believe DIDs there will be money to pay over and above the contracts. That is not to say at some point in the future the legislature will not pull the rug out from everyone. We need to sit down and talk with the representatives of each of these counties and find out what their fears and/or misunderstandings are, and I would not support sending the letter.

Chair Fitzsimmons stated we should continue this as the counties have to get their budgets in and bill draft requests and budgets are hard deadlines DIDs is working on. I do not want to burden you guys, but I keep thinking Matt Stermitz may quit and we will not have any indigent defenders in Humboldt. Perhaps we just concentrate on getting the funding and getting a statutory range set for each county if that works.

Director Ryba explained that we had \$3.5 million in our budget for each year, and we had about \$15 million set aside for the statutory restricted contingency funds. Assembly Bill 518 is for us to go to if that money runs out. We also had AB 454 that said the maximum contribution was put into statute and said it is paid out of that money given to the department. If the money given to our department is not sufficient then we can go to the statutory contingency account, and it must be paid, and we have the law and we shared it with county leadership but there is still concern.

Chris Giunchigliani stated what we are discussing is whether to put in statute a minimum for salaries that county government must pay. What you are tying this to and getting hung up on is what wording should go in the letter.

Patty Cafferata stated what I hear is a lot of distrust between the counties and the state. Has the organization ever reached out and gotten on their agenda and contacted all the counties.

Joni Eastley commented there is a NACO conference coming up in September and I was going to say the optimal thing would be to have a breakout session that talks about the indigent defense function through DIDS because everybody goes to the NACO conference.

Chair Fitzsimmons stated perhaps we can do it in a Zoom call. I know for a fact that Director Ryba and her staff have had meetings with every single person in every single county that has been involved with this. The director and her staff have tried every single way to address this grudging distrust of the state and with the current political climate some people cannot be reasoned with.

Joni Eastley advised the chair the people I have talked to have no problem with Director Ryba whatsoever, they trust her it is the state they do not trust.

Director Ryba stated we need to touch on the monitor's report. She has a couple of main concerns which I would like to point out before she talks about her report. The two main concerns are insufficient budget to ensure ongoing compliance with *Davis*. She notes the great things DIDS has

been doing but is concerned about getting *Davis* closed until we can show there is sustainable funding to be built in the future and we continuously do not have to fight for.

Professor Hanan explained she would be happy to answer questions. Counties that are trying to comply will still have issues related to caseloads which were described in detail in the report. There are financial disincentives that tie to the workload issue. Counties that have attorneys commit to excessive hours along with private caseloads are creating financial disincentives and are at risk for not complying with the judgment. Perhaps a contract to provide full-time at an hourly rate that is set by the board would remove or dispel the problems of financial disincentives. The workload compliance must occur by November 2nd and the next report is due November 15th. What I was trying to do in this report is to cover the issues so you could consider and decide how the legislature or whoever wants to consider this can look at the problems.

Chair Fitzsimmons expressed her appreciation to Professor Hanan. In the report it seems setting an hourly rate would solve a lot of problems. Is there a downside we see in just requiring an hourly rate in all contracts and making it a fair hourly rate.

Susan Bush stated that Clark County has a mix of some contracts and some hourly rates. Cases can be assigned by courtroom, complexity of the case with life sentences getting paid at an hourly rate.

Chair Fitzsimmons questioned how much money are you paying? More than we are paying, I am sure.

Susan Bush replied that we went up to \$130 an hour which is lower than the state, but we can provide the attorneys with a lot of work. My budget is extremely high, like \$15 million.

Chair Fitzsimmons commented then for the ones that have the contracts with flat rate assigned by courtroom what are they getting monthly?

Susan Bush stated criminal adult attorneys get \$5500 a month and some can get three to up to 12 cases a month. There is extra built-in for appeals and trials and they can apply for extra cases.

Chair Fitzsimmons asked Director Ryba what she thought about having an hourly rate everywhere.

Director Ryba replied many of the counties are turning to an hourly rate where it clearly states what is expected. Mineral County just entered a contract paying \$200 an hour and the contract states they must report their data fully utilizing our system.

Chair Fitzsimmons asked if we could just say other counties have to do that.

Director Ryba replied I think that would be a regulation. The contract would have to specify the hourly rate. Deputy Director Handy would you agree that would need to be a regulation?

Deputy Director Handy stated it probably does require a statutory change because you are interfering with the county's ability to contract.

Todd Weiss Deputy AG (DAG) commented that he would agree with Deputy Director Handy it would be a statutory change and a regulation would not do the trick.

Director Ryba asked if we could make reimbursement on the hourly rate of what is shown for time? Is that a possibility for those contracts that we say we will reimburse at this rate per reported.

Todd Weiss DAG replied we might be able to do as a regulation because that is keeping the locus of control with us and not interfering with third parties which would require more robust statutory authority.

Chair Fitzsimmons stated that until the economic disincentive piece is addressed, we are not in compliance, and we just keep pushing this stuff down the road. If we are going to do a regulation, we still must go through LCB.

Vice Chair Thomas suggested the hourly is a good call but from experience with attorneys handling co-defendants one bill comes in at \$10,000, one comes in at \$2000 for the same work. I would suggest capping and then anything above could be requested as an exception.

Deputy Director Handy stated we should note the *Davis* consent is clear we cannot have these kinds of caps because those are financial disincentives. Potentially an attorney could inflate their billing and not accurately reflect the amount of work they are doing or might overwork a case to receive more billing hypothetically.

Franny Foresman stated we should not forget there is a supreme court order that abolishes flat fee contracts. If you look at the Douglas County letter, they consider their contracts flat fee and although it sounds like Clark has many exemptions it may not be in reality a flat fee contract, I think many of these counties have flat fee contracts in violation of the supreme court order.

Professor Hanan stated the other piece of this is the Nevada State Public Defender is another thing the state could fund better so it could do what it required to do by statute. The corrective action plan is the Nevada State Public Defender will come in if there is no compliance but does not have the staff or currently ability to comply as needed.

Chair Fitzsimmons commented the State Public Defender needs to get more money because A they deserve more money and B should we need a corrective action. It is a huge issue we cannot get people to come into the satellite offices because there is not enough money.

Chris Giunchigliani wanted to know if we could explore the need for a statutory change and then by regulation, we can implement something like Susan talked about. You could carve out what types of payment and reiterate the supreme court order that Franny mentioned regarding flat fees and if they are illegally doing it, we need to deal with that part.

Patty Cafferata stated in just talking about the Nevada State Public Defender's office I have been advertising for a lawyer for Ely and have had no applicants. The challenge is all counties are different and no lawyers that live in them, and they are going to have to travel.

Chair Fitzsimmons asked Patty do you think if you were offering \$300,000 a year salary somebody would apply?

Patty Cafferata replied if somebody offered me \$300,000, I would move to Ely.

Chair Fitzsimmons stated this meeting is getting out of control because I want to hear everything, but it is frustrating these are ongoing issues and it seems to come down to money. The other piece of concern of Professor Hanan is the Department must go hat in hand to IFC to meet compliance.

Director Ryba commented that the solution may be in our next discussion of our budget build. We can tell you this is our proposed budget build, and it has not been approved. It is just what we are submitting but the statute says we need to share this with our board and get approval. It is clear this is the desire of the monitor to build into our budget, so we do not have to request these items.

5. Budget Discussion: (For discussion and possible action).

Director Ryba stated that Deputy Director Handy would be covering this and we also have Budd Milazo with the Governor's Finance Office (GFO) because he is assisting us with many of these requests. He is part of the reason that our communication is getting so much better, and we really appreciate having Budd on our team. We would like to have the board's approval of our request with the ability to make changes.

Deputy Director Handy stated I would like to take this time to thank Daniel Marlow of ASD and Budd Milazo from the GFO. The last few months have been fantastic with them really moving things along. We are requesting additional funding for post-conviction due to the new hourly rate so we should have the amount budgeted appropriately in the next biennium for those increases. One of the requests through a BDR would be a total defense unit which will include post-conviction under the offices of DIDS. We would also like to add a position in the department to help with fiscal requirements and auditing. Those are the main changes, and we are requesting funding for various programs for our indigent defense providers. We are trying to get an e-discovery tool called Justice Tech which analyzes police body cam footage which should significantly reduce the amount of time practitioners spend watching body cam footage.

Budd Milazo stated I have not had the account all that long and I have worked in the state for a while and seen the public defender have to continually go to BOE and IFC. They made a change in the last biennium and is not really ad hoc as they restricted money specifically for DIDS. In essence it is budgeted as opposed to previously you were asking for contingency funds that were not restricted, which is an emergency pot. There may have been communication errors, but it is not that difficult a process. It is our intention to approve putting it in the budget this year, but it is the legislature discretion of what they want to do.

Chair Fitzsimmons said their decision would impact Professor Hanan's report, right?

Professor Hanan replied that is exactly right so if it is denied and that resulted in one of the conditions of the judgment not being fulfilled for a quarter or however long it took to figure something else out then the state would be out of compliance with the consent judgment.

Budd Milazo stated the restricted contingency does not need to be an emergency; it can be requested with a proposal. The legislature is saying we put this money aside for you because we have questions on the program or how things are going. When you want part of that pot of money you need to make a justification. This money is restricted, and no other agency can use it and if it is not utilized at the end of fiscal year 2025 it reverts back to the general fund. There needs to be preparation and I have had lots of talks with Director Ryba, Deputy Director Handy, Daniel Marlow, and Don Carlson in ASD fiscal so we are in constant contact talking about what is requested. I do not think delays are going to happen again, which is just a lack of communication.

Chair Fitzsimmons told Budd that she is grateful for all the work he has done on our behalf.

Franny Forsman stated I do not want to sound ominous here but there is another player that has not been mentioned among all the other players who are messing around with this money and that is the courts. The plaintiff's counsel in the *Davis* case is looking very carefully at what is going on and looking at the monitor's report. We know that lots of good things have happened including the stuff Budd and DIDS have been doing but we would be remiss in representing our class clients and not telling you at some point the court is going to have to get involved and then the supreme court will have a big role in what anybody else does.

Budd Milazo said my response would be the legislature, the governor, and everyone is well aware of the *Davis* compliance. The legislature has its authority and makes decisions based on knowing what the possible ramifications are. You should ask for what you want and if someone wants to say no let them, they have the authority to say no. With that no, it possibly comes with consequences so if there were some possible liabilities that are beyond our office and the governor's office. They make the decision and take the responsibility for what decisions they make that are within their purview.

Chair Fitzsimmons responded that your points are well taken. Franny, as to your issue are you looking specifically when you say the courts what issues are you thinking, and you acknowledged all the progress we have made what issues are of most concern to you.

Franny Forsman advised that she was not ready to say just yet. I am the reminder here of the other stuff that is going on and at the point we are ready to say what particular issues we are going after, and it is not just the issue with Budd and IFC. It is really taking a look at the overall problems that you all have already discussed and in some ways the lawsuit may well help you in carrying out your work.

Budd Milazo wanted to add that I do not perceive that there has been an issue with the IFC that they do not vote on it until they get it. The things that have been presented to the IFC have not been denied and I think your bigger issue would be the legislature what they approved during session. The IFC has no control over how much money gets restricted into an account for something that is done there and that is where you need to start. I think the IFC meetings that Director Ryba and Deputy Director Handy have attended have been very well presented for their requests and there was a lot of questions back and forth, but I do not recall them denying anything the legislature put into the contingency. It is the legislature which put the money aside that says you must come back to IFC again and unfortunately that is the procedure the legislature has set up in order for DIDS to get money.

Chair Fitzsimmons wanted to know if that could be changed and is that not what we are talking about?

Budd Milazo replied that cannot be changed unless it is done by the legislature.

Chair Fitzsimmons stated that is what I mean, through a bill draft request and are we working on that?

Director Ryba responded that is what we are requesting in the budget.

Chair Fitzsimmons stated whatever it takes so you do not have to go to IFC because Budd is saying it is the legislature and right IFC has never denied anything, but I see from a different perspective it is a lot of work going to IFC and it is something the monitor is concerned about. Can the money just be put in our budget.

Director Ryba replied we will be requesting it in the budget, or which specific part are you referring?

Chair Fitzsimmons stated whatever it takes so we do not have to go to legislature because it is a lot of work for DIDS to have to keep going to IFC and a concern of the monitor.

Director Ryba advised what Budd is referring to is the base budget and the law recently changed as to what our base budget is. It is based on the second year of fiscal spending which we do not necessarily know, and we will not know our full spending until the legislature is complete because most counties do not hit the maximum until the third or fourth quarter.

Budd Milazo stated that this year we are going to ask them to put it in the budget, but it is still their decision whether they put it in the budget or into the restricted contingency. There is nothing a bill draft could cure because they are not going to pass a law that says they are going to fund everything you ask for. The legislature wants more oversight before they say yes to transferring that money to the budget account, but they are acknowledging that there is something there for you specifically. It would be nice if they put the \$6 million in your budget but during the session you would need to account for everything.

Chris Giunchigliani thanked Budd for his work and for working closely with staff. My question would be if they could add the \$6 million that was allocated under restricted as their base budget and then have some kind of correction that is made in the second year. If we could use what was allocated as the base budget and then build on from there.

Budd Milazo replied unfortunately the way the state's process works is you have a base budget. If you want to increase your base budget that would be an enhancement. At this time, we are going to ask for the enhancement and try put it in the base budget, but it is looked at separately. They could take that enhancement and put it into a restricted contingency account.

Daniel Marlo from ASD wanted to clarify a statement the Director mentioned in AB 346. The change is the work program year authority or authorization and not spend and that all into the two

times cap to maintain a stable level line budget. It is the authorization or appropriation that we have in Fiscal Year 25 that is the basis for our budget in the biennium and no longer what you spent. The intent is to remove incentives for spending whatever you can just because you can and save taxpayer dollars.

Budd Milazo explained this request will exceed the two times cap which the agency is not allowed to. This office supports the enhancements to exceed the two times cap to go forward into the budget to try to get them in the base budget. Amy Stephenson, our director, supports asking for the additional money as part of the base budget.

Chair Fitzsimmons stated that is huge and we are so grateful for that. Is there any action that we need to take?

Director Ryba replied pursuant to NRS 180.320 a board is required to review and approve the budget of the department. Deputy Director Handy covered some of the items that we are requesting, and we discussed them. We are requesting this board approve this budget and give us the ability to change as needed.

Motion: To Approve DIDS Proposed Budget and Allowing DIDS to Make Changes as Needed.

By: Joni Eastley

Second: Chris Giunchgliani

Vote: Passed Unanimously

Director Ryba stated the county annual reporting is in for next year. The expected reimbursement for all our rural communities would be around \$8,623,251.00 which we will use to build into our future budgets. Quarterly reports show that all the counties have met their maximum and have been reimbursed. Finally, the state is proposing some positive changes to 2629 (SAM) State Administrative Manual. They are taking steps to reimburse attorneys at the upcoming BOE for licensure and continuing education which has already been done at the county level for prosecutors. It may not be necessary, but we have done a proposed letter for the board in support of these changes to create pay parity making us more competitive.

Chair Fitzsimmons stated we would definitely like to write a letter in support of the change.

Joni Eastley wanted to know if the Director thought it would be appropriate and helpful for us.

Director Ryba replied that the BOE always welcomes public comment. The goals of the department are to build a strong and resilient statewide network of effective indigent defense providers and support them with regular education training and other defense specific resources.

Motion: To Provide a Letter from the Board in Support of Changes to State Administrative Manual

By: Chris Giunchgliani

Second: Joni Eastley

Vote: Passed Unanimously

6. Training and Pipeline Update: (For discussion and possible action)

Brenda Roberts stated we have a LASSO event in October at Boyd School of Law with Professor Stephen Bright and we are hoping to get some attorneys there who may be able to recruit some students to come out and intern or extern with them in either spring, summer, or next fall. We got budget approval to work with NPHF as our conference manager again for our annual conference. We are looking at having it in Reno probably in April and we are trying to pin down dates when all are available. Finally, we have several different CLEs planned for the remainder of the year.

7. Upcoming Meetings: (For discussion and possible action)

Director Ryba stated that we would like to go over upcoming meetings. The first meeting, which is scheduled for November 7th, we are requesting moving to a new date because the monitor's report will not be done till November 15th. We have received feedback the board would like more time to review the monitor's report before we have a meeting.

Chair Fitzsimmons asked if we could have the meeting December 12th.

Director Ryba wanted to point out the IFC meeting is on December 12th, and we do not know if we will be scheduled.

Chair Fitzsimmons stated that the 14th would be too soon, and the is the next Thursday Thanksgiving?

Director Ryba replied that Thanksgiving is the 28th.

Chair Fitzsimmons suggested the 21st. Is everyone happy with that date? Do we need a motion?

DAG Todd Weiss stated it could be moved at the chair's discretion.

Chair Fitzsimmons stated we are moving the meeting to November 21st at my discretion. The other dates are for February and June and remain as scheduled. Moving to number 8 is public comment.

8. Public Comment:

No public comment.

9. Adjournment.

The meeting adjourned at approximately 3:16 pm.