**INDIGENT DEFENSE TRUST FUNDS BOARD**

**Meeting Minutes**

***Division of Finance, 2110 State Office Building, Salt Lake City, Utah 84114***

April 1, 2014

11:30 a.m.

Public Meeting Minutes

Attendance - Board Members:

Brody Keisel, Sanpete County Attorney-Chair

Scott Garrett, Iron County Attorney

Kirk Wood, Duchesne County, Commissioner

James Withers, Millard County, Commissioner (absent)

Richard Gale, Attorney

Denise Porter, Attorney (absent)

John Reidhead, Director, Division of Finance

Barry Huntington, Garfield County Attorney – Vice Chair

Richard Schwermer, Administrative Office of the Court (absent)

Attendance - Staff and Others:

Paul Tonks, Attorney General’s Office

Joey Palmiotti, Accountant, Division of Finance

Barbara Sutherland, Administrative Assistant, Division of Finance

Scott Wiggins, Attorney

**1. Welcome:**

Brody Keisel, Board Chair welcomed the Indigent Defense Funds Board to the April 1, 2014 meeting.

**2. Review and approval of minutes from the meeting held on December 17, 2014.**

The Board reviewed the minutes from the last meeting, there were no corrections. Kirk Wood moved to approve the minutes, Barry Huntington seconded the motion all in attendance voted, motion passed unanimously.

**3. Assignments from the last meeting.**

1. Send letter to Aric Cramer explaining that the Board denied payment of additional hours but agreed to pay him the remaining amount of an invoice dated 6/26/12. (Letter sent Jan. 6, 2014, Final payment of $1,023.80 sent on 1/9/2014).
2. Send letter to Stephen McCaughey concerning his travel on the Richard Andrew Jones case. (Letter sent on Dec. 22, 2013).
3. John will check to see how Sanpete County will be assessed to pay back money into the Indigent Inmate Fund; the fund is below the $1 million cap and will decrease even more with the additional capital case.

John Reidhead suggested evaluating the Indigent Inmate Fund in August or Sept. to see what the fund balance is and how to proceed with the assessment. There have not been any additional expenses incurred on the Steven Crutcher capital case at this time. The preliminary hearing is scheduled for April 16, 2014.

1. Contact attorneys willing to work on Gunnison Prison cases for $100 per hour. Bring names to next board meeting.

Brody Keisel will submit some names of lawyers to the board that are located in counties close to Sanpete County. He also suggested looking at the Utah State Bar for attorneys in that area.

Barbara and John will contact the list of the attorneys from Brody, and those listed on the Utah State Bar site to see if they would be willing to work for $100 per hour.

5. Send Troy Rawlings and Rich Mauro a letter about additional charges on Nathanael Sloop. The letter will explain that Davis County will be responsible for the funding of counsel for his defense on the charges. (Letter sent on Jan. 6, 2014).

6. Send travel letter and FindIt Guide to attorneys. (Letter sent on Jan. 8, 2014).

7. Contact Marissa Sandall-Barrus and let her know to contact Scott Garrett, Iron County Attorney if she is denied access to the jail when visiting Thad Robertson. (Email sent to Marissa on Jan. 23, 2014).

8 Contact Doug Neeley about defending Steven Crutcher on the additional charges in Gunnison Prison. These charges are separate from the capital charge. (Contract signed on 3/4/2014). The full participating counties assessments were paid for 2014.

**4. Fund Balances as of March 31, 2014.**

Joey Palmiotti reviewed the Indigent Defense Trust Funds revenue (county assessments) and expenditures, including pending payments, leaving a balance in the fund of $589,697.70. There are some outstanding bills that will be deducted from that total.

Joey explained a graph of indigent expenses by fiscal year and number of cases. The fund went slightly below what had been assessed for 2012. In 2013 the amount spent on cases was a little below what was received from the county assessments.

The Board also reviewed the fund balance in the Indigent Inmate Trust Fund (Sanpete County, Gunnison Prison). There is a balance of $989,767.42, in this fund. John and Brody will discuss Sanpete County’s assessment for this fund in the fall of this year.

**5. Review of Current Cases:**

Stephanie Sloop-Davis County, Mary Corporon Attorney, There has not been many billings on the case so far. There are a few investigator and mitigation bills to be paid when court orders are received for them.

Nathanael Sloop-Davis County, Rich Mauro Attorney, pled guilty, sentenced to 25 years to life.

Sun Cha Warhola-Davis County, Edward K. Brass Attorney, hearing in June.

Thad Douglas Robertson-Iron County, Douglas Terry Attorney. Scott Garrett said the death penalty has been taken off the table for Robertson. Sentencing options are life without possibility of parole or 25 years to life. Mr. Robertson pled not guilty, waiting for a trial date to be set.

Richard Gale said that as of Feb. 24, 2014 when the death penalty was taken off the table, there should not be a need for anymore mitigation on the case. Doug Terry will be notified about this issue and the lower amount of funding for the attorney now that the death penalty has been removed.

Keith Barnes is no longer co-counsel on the Robertson case; he is now a Judge. With the death penalty no longer an issue, the board needs to decide if a new co-counsel needs to be appointed. Paul Tonks will review the statute and contract to see if new co-counsel needs to be appointed on this case and report back to the board.

Kirk Wood moved to recess for lunch. John Reidhead seconded the motion. Motion passed.

Richard Gale made a motion to reconvene, John Reidhead seconded the motion. The motion passed and the meeting resumed.

David Drommond appeal-Davis County, Arnold Wiggins Attorney

Mr. Scott Wiggins attorney for the David Drommond appeal joined the meeting. It was decided to move to agenda item #6, Scott Wiggins request for additional funding on the David Drommond appeal.

John Reidhead discussed Mr. Wiggin’s contract on the Drommond appeal. The contract was signed on Oct. 14, 2008. The first contractual cap was $20,000; Mr. Wiggins has been paid that amount. He has also recently submitted a bill for $51,954.31, covering his work from 2010-2013, $8,513.00 has been paid on that invoice. That amount took Mr. Wiggins to the $20,000 cap. The balance left on the invoice is $42,566.00.

Scott Wiggins explained the case and addressed the Board about previously submitted orders that have been presented to the court and ruled upon.

Mr. Drommond entered a guilty plea, and was sentenced to life without possibility of parole. Death was taken off the table as part of the plea. Procedurally the case has been fully briefed and orally argued before the Utah Supreme Court.

Mr. Wiggins has filed a 23b motion for ineffective assistance of counsel that is not of record. He said that Mr. Drommond was taking the prescription drug Effexor prior to and at the time the shooting took place. He was found to be suffering from the mental illness bipolar disorder in the competency evaluations that were done preliminarily in the case. There are manufacture warnings on the drug Effexor; it should not be prescribed to someone with bipolar disorder.

The 23b motion was filed because that was not investigated. Dr. Pablo Stewart an expert in this area evaluated Mr. Drommond, and said that the Effexor issue should have been investigated. That could have caused the mania that resulted in the shooting and should have been presented as a mitigating factor in the penalty phase trial. It was not investigated or presented in the penalty phase.

The Supreme Court denied the 23b motion without comment. Mr. Wiggins proceeded with a full briefing and he dedicated part of the oral argument on the Effexor issue. A few months after the oral argument, the Court granted the 23b motion and sent it back to the trial court for an evidentiary hearing on remand, concerning the issues surrounding the Effexor prescription. That is essentially where the case is at this time.

Mr. Wiggins has been paid the $20,000 initial cap and has an outstanding bill for $42,566.00. He is asking for an additional $15,000 for attorney fees to complete the 23B remand hearing. He asked the court to approve $23,500, for expert witnesses, and $5,600 in mitigation and investigator fees. The total amount the court approved and the amount Mr. Wiggins is requesting is $85,666, plus travel expenses.

Richard Gale made a motion to pay Scott Wiggins the remainder of an outstanding bill $42,566.00. Pay the experts Dr. Pablo Stewart $7,500 and Dr. Peter Breggin $15,000, investigator Ted Cilwick $2,600 and mitigation expert Marissa Sandall-Barrus $3,000, plus travel for these expenses as was court ordered. Also, pay $15,000 for additional attorney fees.

John Reidhead seconded the motion, a vote was taken, all present voted and the motion passed unanimously.

Mr. Wiggins asked about travel expenses. Barbara will send him the FindIt Guide, it explains the

Utah State travel rules. He excused himself from the meeting at this time.

The Board continued with the review of current cases.

William C. Lawton-Sevier County, James A. Valdez Attorney, There has not been any new billings. There was a competency hearing, but the board has not been notified of the results.

Richard Andrew Jones-Washington County, Stephen McCaughey Attorney,

The preliminary hearing was waived, he pled not guilty at the arraignment on March 26, 2014. A trial date has been set for Nov. 10, 12, 13, and 14. The death penalty is still on the table.

The Board discussed removing some attorneys from the “Rule 8 Attorney” list, or not contracting with them any longer. Nothing was decided at this time, but it will be an agenda item at the next meeting.

There was a question about the cost of capital cases in other states. Many states have state-wide appellate offices that also cover their capital cases.

Scott Garrett asked if the cases are more expensive with the current contract, than they were in the past. John will research this issue and report back to the Board at the next meeting.

Brandon Perry Smith-Washington County, Gary Pendleton Attorney (private counsel expenses only)

There have been some bills for expenses on the case. The Division of Finance was contacted about Mr. Smith needing counsel, but has not received any more information about providing him counsel. If counsel is requested, the board will ask Gary Pendleton to apply to be approved for the “Rule 8 Qualified” list.

Glen Howard Griffin appeal-Box Elder County, Jennifer Gowans Attorney, nothing new.

Cody Lynn Nielsen appeal-Cache County, Craig Peterson Attorney, nothing new.

Robert Cameron Houston appeal, Davis County, John Pace Attorney, nothing new.

Martin Chris Nelson appeal-Iron County, Liz Hunt Attorney. nothing new.

**Indigent Inmate Fund Cases Sanpete County, (Gunnison Prison):**

Steven Crutcher, aggravated murder, Sanpete County, Ed Brass Attorney, Preliminary Hearing April 16, 2014.

John Evan Selzer, Doug Neeley Attorney, complete.

Michael Paul Nelder, Doug Neeley Attorney, complete.

Alexander Singer, Doug Neeley Attorney, continuing.

Steven Crutcher, additional charges, Doug Neeley Attorney, continuing.

Abel Castillo, Doug Neeley Attorney, continuing.

Jose Willmond, Doug Neeley Attorney, continuing.

6. Scott Wiggins request for additional funding on the David Drommond appeal. This was previously discussed.

7. Other Business:

Richard Gale reported that Aric Cramer contacted him about the last invoice he submitted and the amount of hours not paid. Mr. Cramer was contacted in a letter dated, Jan. 6, 2014, about the Board’s decision not to pay the remaining hours he billed.

8. Next Meeting: June 24, 2014, 11:30 a.m.

There was a motion and second to adjourn. Motion passed and the meeting was adjourned at 1:20 p.m.