

Indiana Public Defender Council
Meeting of Board of Directors - March 18, 1987

MINUTES

A. CALL TO ORDER

The meeting of the Board of Directors of the Indiana Public Defender Council was called to order by Chairman John Surbeck at 3:00 p.m. on March 18, 1987 at the Indiana Public Defender Council Office, Fourth Floor, 309 West Washington Street, Indianapolis, Indiana. Present were Susan Carpenter, John Surbeck, Gene Hollander, David Hennessy, Daniel L. Weber, and Sandy Bryant. Also present were Larry Landis and Mary Sinnock of the Indiana Public Defender Council staff.

B. EXECUTIVE DIRECTOR'S REPORT

Larry Landis reported on the status of current Council projects, manuals, programs and services. A copy of his report is attached to these minutes as Addendum A. The following items from the report were discussed by the Board:

1. The case bank index is being revised. Federal cases will be added. The general opinion expressed was that the case bank is extremely utilitarian for trial, research, and appeal purposes alike, and that the index is very good and will probably be better with the revision.
2. Rita Akins joined the Board meeting to report on the Sentencing Alternatives Project and answer questions from Directors. Copies of past case plans were provided. The courts have accepted a great majority of the case plans submitted to date.

C. OLD BUSINESS

1. FY 1987-89 Budget Report

Larry Landis explained to the Board what has happened with our budget request at each stage of the legislative process. Although the budget bill has not yet been amended to increase our funding over base budget level, Larry Landis advised the Board of his continued efforts to get this accomplished. He asked their support in contacting members of the Senate Finance Committee.

2. HB 1696 - Public Defender Legislation

Larry Landis informed the Board about the passage of HB 1696 by the House. The following issues pertaining to the bill were discussed:

- a) South Bend - An amendment will be requested that would permit St. Joseph County to retain their present advisory board. The amendment will be formally made in the Senate committee to which the bill is assigned.
- b) Marion County - amendment to permit elected public defender. An amendment will be requested that would permit Marion County to have the option of an elected public defender. Larry Landis informed the Board that they were not bound to accept this amendment, however he agreed to this condition in order to get enough votes for passage in the House. A lengthy discussion followed by the entire Board on the merits and drawbacks to such an amendment.

Dan Weber moved that the Board accept the amendment to allow Marion County to have an elected public defender. The motion was seconded by David Hennessy. With the consent of Weber and Hennessy, the motion was amended on a motion by Susan Carpenter as follows: "The IPDC Board supports HB 1696, even if amended to permit Marion County to have an elected public defender. However, the Board desires that every effort be made to avoid this concession if possible. Larry Landis is given authority to assist in amending the bill if he deems this amendment necessary for passage." The motion was adopted on a 5 to 1 vote. (Ayes: Bryant, Weber, Hennessy, Carpenter, Surbeck. No: Hollander.)

c) Modifications of HB 1696.

Larry Landis stated that there were several provisions of the original legislation drafted by the IPDC Board which have not been included in HB 1696 as it is now written. He recommended that these provisions be added or corrected through amendments in the Senate and he will make these amendments unless directed otherwise by the Board. The provisions are:

- 1) Reinstate the grandfather clause (following discussion, David Hennessy made a motion that the Board specifically not agree to an amendment to include a grandfather clause, but there was no second);
- 2) Reinstate provision for determining partial indigency at the trial level;
- 3) Add that when a county board chooses an assigned counsel system they must submit a proposed budget to the county council; and
- 4) Specify that the cost of transcripts on direct appeals are to be paid by the counties, not the state.

Following discussion of the above provisions, the Board took no action on 1) through 5), implying that Larry was authorized to make the appropriate amendments.

Larry Landis also requested the Board's position on the transfer of all appeals (and financial obligation for such) to the State Public Defender unless both trial counsel and defendant wish the appeal to be handled by trial counsel. This provision is now included in the bill, but is strongly opposed in some quarters. In response, Daniel Weber made the following motion: "If Larry Landis determines that it is absolutely necessary for passage of HB 1696 that the provision transferring direct appeals and financial responsibility for them to the State Public Defender be deleted, then he is authorized to agree to this change. However, it is the Board's wish that he do everything possible to avoid this concession." The motion was seconded by John Surbeck and was passed by a vote of 5 to 1.

d) Funding level.

The Board discussed the % of the state funding and made no change in their position that 25% reimbursement to the counties is acceptable if this compromise is required for passage of HB 1696.

D. NEW BUSINESS

1. Resignation of George Barnett. Larry informed the Board that George Barnett has submitted his resignation because he is no longer taking public defender cases. The Board chose not to appoint someone to take George's place at this time, since his position is up for reelection this year and the election is only a few months away.
2. Board Election - May 29, 1987. The Board positions held by the following members are up for reelection at the annual meeting scheduled for May 29, 1987: George Barnett, Gene Hollander, Sandy Bryant, Dan Weber and Terry Richmond. The following Directors agreed to serve on a nominating committee: Susan Carpenter, David Hennessy and John Surbeck.
3. The next Board meeting was set for May 29, 1987 at approximately 5 p.m. The meeting would be held following the seminar on that date at the Airport Holiday Inn in Indianapolis.
4. HB 1155. Larry explained that HB 1155 is a recoupment bill designed to collect money in the counties and use it for public defender expenses. There is a clause which permits forfeiture on demand of cash deposits for bail. Larry requested the Board's position on this legislation. After discussion Daniel Weber moved, and Susan Carpenter seconded, that the Board take a policy position authorizing Larry Landis to support partial indigency to collect funds for public defender services (as included in HB 1696) as a better idea and one which poses fewer constitutional questions than HB 1155. The motion passed 6 to 0.
5. It was suggested that Board members send letters to the new Chief Justice of the Indiana Supreme Court to congratulate him on his appointment.

E. APPROVAL OF MINUTES

Minutes from the Board meeting of October 28, 1986 were submitted and approved by unanimous vote.

F. ADJOURNMENT

At approximately 5 pm, Daniel Weber moved to adjourn the meeting, the motion was seconded by John Surbeck and passed unanimously.

Respectfully submitted,



Dan Weber, Secretary

Date _____



John Surbeck, Chairman

Date _____

EXECUTIVE DIRECTOR'S REPORT
March 1987

A. MANUALS

Attachment A is a publication inventory as of March 4, 1987

1. Trial Manual. Jill Grueling and Linda Wagoner have been producing this manual under contract with the IPDC for the past year. Present plans are to publish 2 manuals rather than one: Pretrial (Grueling), and Trial (Wagoner). Drafts of all chapters were submitted in December. Editing will be done by Larry Landis. Publication is now planned for September 1987.
2. Sentencing Update. An update of the Sentencing Manual (1984) is being prepared by Monica Foster. Publication is now planned for May 1987.
3. Juvenile Update. Richard Kiefer is under contract to prepare an update of his Juvenile Delinquency Manual. Publication should be on schedule, June of 1987.
4. Evidence Update. Henry Karlson is under contract to prepare an update of the 1984 Evidence Manual. Publication was originally planned for November 1987 and is now expected in July of 1987.
5. Motion Update. The publication date is March 1988. No action has been taken.
6. Appellate Manual. The publication date is July 1988. No action has been taken.

B. CASE BANK

We originally produced 150 copies of the Case Bank. We have sold 148 sets and will reprint the entire case bank in April. Larry Landis, Kit Keller and Monica Foster have been revising and updating the Criminal Law Index for the past 3 months.

C. INDIANA DEFENDER

The Indiana Defender has been a bi-monthly publication for the past 2 years. We began monthly publication in January of 1987.

D. TRAINING PROGRAMS

The following programs have been planned for this year following the recommendations of the Board on July 24, 1986.

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May ~~28~~ - Annual Meeting - Recent Developments in Criminal Law
July 23-26, August 13-16 - Trial Skills - *move to Fall*
September 25 - Search and Seizure/Constitutional Law - Charles Moylan, Jr.
November 20 - Subject to be selected

E. SENTENCING ALTERNATIVES

The following is a summary of cases referred to the Sentencing Alternatives Project:

24 cases have been accepted by SAP

1 case has been rejected by SAP

0 cases are under review by SAP

25 total cases referred to SAP

The following are the results of the cases accepted by SAP and presented to courts:

6 cases accepted as presented

7 cases accepted substantially as presented

4 cases rejected

1 case under consideration

18 total cases completed and presented to court

F. JUVENILE DISPOSITIONAL ALTERNATIVES

The Sentencing Alternatives Project also prepares sentencing plans in juvenile delinquency cases. The following is a summary of these cases:

4 cases accepted as presented

3 cases pending

7 total cases completed and presented to court

PUBLICATIONS INVENTORY

Date: 3/4/87

PUBLICATION	OFFICE STORAGE		BASEMENT STORAGE					PRINTING & DISTRIBUTION		
	COMPLETE	INCOMPLETE	COMPLETE	INCOMPLETE				COPIES PRINTED	COPIES DISTRIBUTED	COPIES FOR DISTRIBUTION
				EXTRA TEXT	EXTRA TABS	EXTRA BINDERS	OTHER			
CASE BANK	0	0	0	0		5		150	121/29	0
CRIM. CODE (1986)	89	0	0	0	0	0		210	121	89
DEATH PENALTY - VOL. 1	10		14			8		150	120	24
DEATH PENALTY - VOL. 2 Extra Ch. 5: 1	14		10			8		150	120	24
DEATH PENALTY - VOL. 3 Supplement #1: 5	20	0	10			15		150	120	30
EVIDENCE 1	0		0		0	0		<u>300</u>	257	0
EVIDENCE 2	22		59		11	7			184	81
JURY INSTRUCTIONS	19	0	33	0	0	0		300	258	42
JUVENILE	37	0	59	0	0	0		467	379	88
MOTIONS	77	0	0	5	incomplete sets	7	Pocket Inserts: _____	600	433	77
SENTENCING 1	0	0	0	0	0	0		<u>325</u>	193	0
SENTENCING 2	32	0	45	0		42			180	145
SEARCH & SEIZURE (OLD)	0					22				
1½ BINDERS WITH POCKETS	0					16				