

# INDIANA PUBLIC DEFENDER COUNCIL

Board Meeting  
July 21, 2007  
French Lick Hotel  
French Lick, IN

## MINUTES

### **I. CALL TO ORDER**

The meeting of the Board of Directors of the Indiana Public Defender Council (IPDC) was called to order by Chair David Hennessy at 9:00 AM in the Kruetsinger Room of the French Lick Hotel. Board members present were David Cook, Mike McDaniel, David Hennessy, Loringa Youngcourt, Neil Weisman, Michelle Kraus, Doug Garner and Sonya Scott. Staff present were Larry Landis, Teresa Campbell, Paula Sites, Don Murphy, Jodie English and Loretta Jackson

### **II. APPROVAL OF MINUTES**

The minutes of the March 16, 2007 meeting were unanimously approved after the correction of a typographical error.

### **III. EXECUTIVE DIRECTOR'S REPORT**

#### **A. Budget**

Larry Landis reported that the legislature approved a \$260,000 increase in the Council's 2007-08 budget. Part of the money will be used to fund pay raises and contracts. He reported that the Council recently signed a contract with Westlaw to receive electronic updates of their publications rather than paper, which cut costs in half. Dave Cook asked why the equipment budget was doubled. Larry explained that the Council requested funds to purchase recording equipment for the online training program, but we now have a deal with ICLEF to rent their equipment, so those funds will likely be moved to contracts.

#### **B. Goals**

##### **1. Progress Report**

###### **a. System**

Larry reported that a draft of state standards linked to state reimbursement that addresses indigence screening/verification and recoupment is almost complete and will then be available for review by the Board and Chief Public Defenders before presentation to the PD Commission. Neil Weisman asked whether caseload standards are addressed. They are not, but the Chief PDs agree that appellate standards need to be revised now that sentencing after a guilty plea can be appealed. The Board needs to be involved in this.

Dave Cook asked whether the draft includes a uniform standard of indigency. Larry responded that there cannot be a uniform objective, numerical standard because the standard is "substantial hardship", which must be determined on an individual basis, because a person might be able afford an

attorney for a misdemeanor or Class D felony, he would not be able to afford one for a Class B felony.

A discussion then followed on whether there should be a moderate means program where private attorneys would take cases for less than the standard market rate for a case. Larry thought this was not a good idea because that would mean private attorneys are subsidizing the system. Larry noted also that it is difficult to find out what attorneys charge for different cases, but it would be helpful to have guidelines.

Sonya Scott described the system used in Lake County where the posted cash bond is used to pay the attorney. Larry said that won't work in Marion County because nearly all felony bonds are surety bonds.

**b. Policy**

Larry reported that the expungement bill was close but died when the bill it was tied to died. The death penalty for the mentally ill bill had a good hearing, but the committee chairman did not call it up for a vote. The Bowser Commission has been created to study the death penalty for the mentally ill. It has a good membership, including Rep. Orentlicher as Chair. Larry reported that the Romeo and Juliet defense for sexual misconduct that passed came as a surprise. He also stated that next year he thought we could get a hearing on requiring videotaping of custodial interrogation.

**c. Member Effectiveness**

Don Murphy reported on monitoring qualify performance of public defenders. He reported that Steve Owens in Vanderburgh County hired a contractor to create a performance appraisal system for public defenders. Lake County has a self-assessment questionnaire but it has not yet been implemented. Don has sample surveys from other states that he will make available to the Board. He reported that he submitted a self-assessment form to the Chief PDs in which they can assess the state of their organization, but only Dave Cook of Marion County has completed it.

Don Murphy reported that the Council is working on redesigning our website to make it easier to navigate and update.

It was decided to discontinue the hard copy of the Casebank at the end of 2007, and that the publications order form on our website is to be placed behind the firewall.

**2. Goals for 2007-08**

**a. Legislation**

It was decided that mandatory taping of interrogations should be moved from high priority to highest priority.

Neil Weisman pointed out that currently the definitions for serious bodily injury and aggravated battery are identical and that clarification is needed.

**b. Training**

Jodie English presented her training report. She asked for input from the Training Committee on topics, speakers, etc.

She reported on the increased costs of presenting seminars due to increases in printing costs, hotels and food. She proposed raising the tuition for private attorneys to \$150 effective immediately. A motion was made, seconded and passed to increase registration fees as follows:

	<u>IPDC member</u>		<u>Non-member</u>		<u>Non-attorney</u>	
	<u>Current</u>	<u>(New)</u>	<u>Current</u>	<u>(New)</u>	<u>Current</u>	<u>(New)</u>
<u>One Day Program</u>						
PD Office Group Rate	\$75					
Early registration	\$90		\$115	(\$150)	\$65	
Late registration	\$115		\$140	(\$175)	\$90	
Walk-in	\$140		\$165	(\$200)	\$115	
3 Sem. Prepaid Package	\$250		\$280	(\$400)		
Death Penalty	\$300		\$325		\$100	
TPI	\$150		\$200	(\$400)		
On line program - per hour	\$0	(\$20)	\$0	(\$40)		

Jodie next reported on the Council's online training. Currently topics are basic evidence, 404(b) evidence, evidence and defense experts, character evidence and ethics. She asked the Board for other suggestions. David Hennessy suggested non-verbal hearsay as a possible topic. He also brought up from the previous board meeting the possibility of doing a seminar on FOIA. Lorinda said third party discovery should be included. After a discussion on FOIA, it was suggested that we conduct a one hour online seminar on "how to do it" and "how to use it" would be appropriate at a live seminar. Jodie suggested the Drugs, Search & Seizure seminar in December because aggressive discovery comes up in drug cases.

Jodie also proposed seminar cost-cutting measures. Jodie noted that the Council spent over \$26,000 in printing flyers and handouts. She suggested possible cost-cutting measures. After a brief discussion a motion was made and passed to send out one flyer at the beginning of the year listing all seminars that includes a disclaimer telling people to check the IPDC website for changes, and to have a designated seminar email list for seminar announcements.

As another cost-cutting measure, Jodie suggested that we switch from hard copy handouts to CDs, asking speakers to distill their materials to an outline which would be available in hard copy and to make seminar materials available on our website prior the seminar. Lorinda Youngcourt moved to include a question on evaluations of upcoming seminars re: the preference for hard copy materials vs. a CD, with the results reported at the December board meeting. The motion was seconded and passed unanimously.

After a brief discussion concerning the free trinkets we hand out at seminars, it was moved, seconded and passed, that the trinkets will be eliminated.

Jodie then brought up the subject near of food at seminars, including afternoon snacks. It was decided to let Teresa decide what, if any, snacks to provide.

The next discussion was on transitioning the Trial Practice Institute (TPI) from fall to spring. The plan is to have the regular four-day TPI this November, a two-day TPI in April 2008 in southern Indiana, forego a TPI in November 2008 and have a four-day TPI in April 2009 and every year thereafter. Mike McDaniel expressed concern that a two-day death penalty TPI is not enough time. Larry pointed out that the costs prohibit doing two 4-day TPI training in such a short time span. It was also decided to raise the tuition of private attorneys to \$400. A motion was made, seconded and passed unanimously to transition TPI from fall to spring on the schedule Jodie proposed. The training committee is to assist in the transition.

Larry Landis brought up the possibility of cutting down on our one-day seminars and increasing Public Defender Office programs, such as taking the videotaped programs on the road. He said facilitators could be trained in each county to run the taped program. Neil Weisman said the video replay of the appellate seminar in St. Joseph County was very well received and Ann Sutton did a great job. Lorinda proposed that the Training Committee go over the list of seminars to see if anything could be eliminated.

## **II. PUBLICATIONS**

Paula Sites presented the publications report. She reported on the results of the survey taken at the Annual Update asking if people would be willing to pay \$20/year for the Defender or to receive it electronically. The plan is to put a notice in the September, October and November issues of the Defender giving our members the option of paying \$25/year for a hard copy, having a pdf copy emailed to them, or emailing them the link to our website where the Defender will be. Paula noted that while the survey said the cost would be \$20/year, but the Board had originally suggested a \$25/year price, and she asked which price should we use. A motion was made, seconded and passed to have the cost be \$25/year.

Paula reported that two new pamphlets are planned: Appellate Practice Handbook by Joel Schumm and Mental Health Guidebook, by Jack Kenney. She also requested approval to move the LWOP, Getting Funds and Confessions pamphlets to a two-year update cycle, and to increase the price of the Search & Seizure and Confessions pamphlets to \$10 each. A motion was made, seconded and passed to approve these requests. Whether to raise the price of other manuals will be discussed at the December board meeting.

## **III. CRIMINAL JUSTICE POLICY AND LEGISLATION**

### **A. State Funding of Indigent Defense Services**

Larry reviewed the options discussed last year re: possible changes to the indigent defense delivery systems. One possibility is the transfer responsibility for funding of indigent defense services to the state. He described the recently-passed South Carolina system as a possible model for Indiana. After a discussion of the options, the Board unanimously approved supporting legislation for 100% state funding for all indigent defense services.

Bob Spangenberg is willing to come, at ABA expense, to speak with the board on different indigent defense delivery systems. Larry will see if he can come in September prior to the Death Penalty seminar.

**B. Policy**

David Hennessy brought up that if a person is convicted of GBMI he is immediately jailed, but a general guilty verdict allows the person to stay out if he is suspendible, and this should be changed. David Hennessy noted that in the goals II.B.2.g - detention after NGRI should be changed to detention after GBMI.

**V. NEW BUSINESS**

There was a discussion on whether full time public defenders should be allowed to also have a private practice. Neil Weisman asked if a public defender who also has a private practice would be out of compliance with the standards. Larry responded that currently private practice cases are not part of the caseload standards.

**VI. ELECTION OF OFFICERS**

The following slate of officers was nominated and unanimously approved for FY 2007-08:

Chair: David Hennessy  
Vice-Chair: Mike McDaniel  
Secretary: Sonya Scott

**VI. UPCOMING BOARD MEETINGS**

September, 13, 2007  
December 6, 2007, prior to the Search & Seizure Seminar  
March 6, 2008, prior to the OWI seminar

The meeting was adjourned at 2:50 PM.

Prepared by Loretta Jackson, Executive Assistant

Respectfully submitted:

Approved:

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Sonya Scott, Secretary

\_\_\_\_\_  
David Hennessy, Chair

Date: \_\_\_\_\_

Date: \_\_\_\_\_