

**INDIANA PUBLIC DEFENDER COUNCIL  
BOARD RETREAT  
October 7, 2006  
Bloomington, Indiana**

**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 Doug Garner at 9:05 A.M. in the Hilton Garden Inn in Bloomington, IN. Board members present were Susan Carpenter, Dave Cook, Doug Garner, Dave Hennessy, Michelle Kraus, Mike McDaniel, Neil Weisman, Sonya Scott, Neil Weisman and Lorinda Youngcourt. Bob Hill was present for the afternoon session. Staff present were Larry Landis, Don Murphy, Paula Sites, and Loretta Jackson

**II. APPROVAL OF MINUTES AND AGENDA**

The minutes of the meeting on April 20, 2006 were unanimously approved. Discussion of CR 24 was added to the agenda and approved.

**III. EXECUTIVE DIRECTOR'S REPORT**

**A. Budget**

Larry Landis reported on the recently submitted biennium budget. Because of the anticipated reduction of \$60,000 in grant funding next year, he requested an increase in the state budget to cover the cost of the Lexis contract. If the state budget is not increased, the Council will have to ask Lexis users to pay for the service. Larry reported that although IPDC has approximately 700 people signed up for Lexis, there are only about 300 active users.

Larry reported that county and state employees, including public defenders, may get Lexis services through the contract negotiated by JTAC. This applies to only employees and does not apply to contractors or assigned counsel. The cost for Lexis through JTAC is \$29 per month for the full library.

The Board decided by acclamation that a letter should be sent to the IPDC membership explaining the situation and offering the Lexis Indiana Library at a rate of \$240 per year, beginning April 1, 2007. The rate of \$240 will be pro-rated for members subscribing between April 1 and December 31, 2007.

## **IV. GOALS**

### **A. Improving Indigent Defense Delivery Systems**

#### **1. Standards**

Larry Landis reported that drafts for recoupment, indigence screening, assigned counsel administration, and awarding contracts have been completed. The reports will be submitted to the IPDC Board for review and then to the Public Defender Commission. He stated that the first priority should be indigence screening. Currently counties do not screen for indigence other than a cursory oral examination of the accused at the initial hearing.

#### **2. Management Information System**

Larry Landis reported that no action has been taken on developing a management information system for public defenders. We are waiting to see what type system JTAC develops.

Larry Landis stated that the PD Commission is currently collecting data on compensation and caseload from those counties that are eligible for state reimbursement, and that the Council will be able to use in its compensation database.

#### **3. Public Defender Commission**

Larry Landis reported as follows on the Public Defender Commission:

- the Public Defender Fund needs to be increased from \$10 million to \$16 million in FY 2007-08;
- The ISBA Board of Governors adopted a resolution supporting adequate funding for the Public Defender Fund;
- Chief Justice Shepard has indicated that he will appoint a commission or committed to conduct a state-wide study on indigent defense as recommended by the PD Commission - (Dave Cook, Susan Carpenter, Neil Weisman and David Hennessy expressed an interest in serving on the committee or commission);
- a summary of proposals being discussed to restructure the current property tax system that would include state funding for probation and indigent defense services.

### **B. Legislation**

#### **1. In General**

Larry reported that the legislative priorities for next year include making it

easier to get an expungement of arrests that are included in criminal records.

Neil Weisman commented that current law provides that a person with a criminal conviction may request to have the record limited to law enforcement only. However, the law applies only to the State Police and criminal records can be accessed through local law enforcement agencies. He suggested that the law should be changed to include local as well as state police.

## **2. Sentencing Policy Study Commission**

Larry reported that the Sentencing Policy Study Commission (SPSC) is considering amending the sex offender registry law to conform to the requirements of the new federal law, the Adam Walsh Act. The Commission is also considering removing D felony sexual battery and sexual misconduct (e.g., teenagers engaging in consensual sex), and it would be helpful to have some actual cases of prosecution of teens convicted of a felony for consensual sex. The SPSC is also considering non-mandatory inclusion on the registry, i.e., giving judges the discretion to exclude a person from the sex offender registry for certain offenses.

Larry also reported that legislation will be proposed to prohibit a juvenile from waiving counsel without first consulting with counsel.

## **3. Forensic Diversion Program**

Larry reported on the Forensic Diversion Program. Each county is required by statute to prepare a forensic diversion plan. Implementation of the plan is not required. The DOC has required that all counties that receive community corrections funding must file the forensic diversion plan with the DOC. At the present time, there are seven pilot projects funded by the DOC with community corrections funding. None of the seven provide mental health treatment. An additional forensic diversion program was created by Mike McDaniel in Floyd County that does provide mental health treatment. Larry reported that the DOC estimates that 80% of inmates have addiction issues or mental health disorders. Larry reported that one method discussed for funding forensic diversion programs is to increase the alcohol tax on beer and wine. He estimated that a 5 to 10 cent increase in the alcohol tax would generate \$10 million. There was a discussion concerning whether the funding should be placed in the Division of Mental Health, Department of Correction, Community Mental Health Centers, Drug or Re-entry Courts, or the counties.

## **C. Performance Improvement**

Don Murphy reported that Vanderburgh County is now offering in-house

training with CLEs and Monroe County is trying to get a program started. Terry Richmond provided coaching to attorneys in Henry and Dearborn Counties, and Henry County is now doing case reviews each month. Don also reported that he is doing post-training followup surveys to determine if our members are using what they learned at our seminars.

Don reported that Dave Schneider of Lake County is interested in instituting performance evaluations of the attorneys. There was a discussion on how best to accomplish this: whether we should come up with a model, what are the relevant criteria to base an evaluation on, the importance of the evaluation. David Hennessy requested Don Murphy obtain performance review forms used by other states.

## **D. Training**

### **1. Distance Learning**

Larry Landis reported on distance learning activities. IPDC currently has a \$20,000 contract with WebEx to provide on-line, live, interactive teleconferences for up to 30 people. The conferences can be archived for later access.

Larry reported that ICLEF uses Legalspan for on-line training. ICLEF offered IPDC the option of piggy-backing on the ICLEF contract with Legalspan. Under this arrangement, if we videotape a training program, Legalspan will transfer our training videos to their web-based system. The financial arrangement would be that Legalspan keeps 50% of whatever we charge. Legalspan would certify the CLEs directly to the Commission.

Larry stated that IPDC could also rent ICLEF's equipment and tape short vignettes on specific topics, e.g., DNA, ethics, gunshot residue, blood spatter, etc., and make them available for on-line viewing on a 24/7 basis without CLE credit.

The question was raised whether there would be fewer attendees at our live seminars if we offer them on tape. It was pointed out that a person can receive only six CLE credits in a three year period via online training.

There was a discussion of what to charge for this training. Lorinda Youngcourt did not think we should charge people if they don't receive any CLE credits. It was decided to refer this topic to the Training and Technology Committees for further study on the pros and cons of WebEx vs. Legalspan.

### **2. Seminars for 2006**

Don Murphy reported on the Death Penalty seminar. He stated that he

thought the new LWOP track was well received. His opinion was that the Train the Trainers program was not a success.

Don Murphy reported that Kathleen Sweeney would like to find a way to follow-up with MCPDA participants after they attending TPI. Don suggested an action plan. Lorinda Youngcourt pointed out that if trainers move from room to room during training they will not have the knowledge to prepare an action plan and suggested that one trainer should stay in the same room all four days. Bob Hill stated that we need to do meaningful video review of the trainees to give them feedback of their performance. It was moved, seconded and passed to add video review to TPI.

Don Murphy also reported that Kentucky training uses a roving facilitator to give feedback on the trainers. It was recommended that we bring in an outside person to give feedback to the trainers at TPI.

### **3. Seminars for 2007**

There was a consensus that the training committee needs to meet to discuss topics for the fundamentals program. Neil Weisman asked if we could plan a seminar for more experienced attorneys. Bob Hill asked if we can do non-law training, such as managing stress, avoiding burn-out, and quality-of-life issues.

Bob Hill inquired as to whether we need to do a death penalty seminar every year since CR 24 certification requires 12 hours of training every two years. Lorinda Youngcourt responded that she thinks we do because there are new death penalty cases filed every year. There was a discussion as to whether the DP seminar could be broadened to draw in people defending non-death penalty murder cases. Paula Sites suggested including sentencing advocacy, and noted that the ABA Guidelines include a detailed list of what CR 24 training should include. Bob Hill saw a need to have a planning session with the community of lawyers that defend death penalty cases. The consensus was to continue to offer DP training yearly.

### **D. Publications**

Paula sites reported that the appellate pamphlet being written by Joel Schumm should be ready in December. The draft of the Immigration Consequences of Felony Convictions is completed. We are still looking form someone to write the TPR pamphlet. Micki Kraus said there is an agency in Fort Wayne that represents people in CHINS cases and perhaps someone there could write it.

Larry reported that the website will be redesigned to make it more user friendly, including indexing the seminar materials to make them easier to locate by subject.

Neil Weisman requested that when a "big" case comes out the Council should put out a notice, post it on the IPDC website.

#### IV. NEW BUSINESS

Bob Hill stated that he thinks it is a bad policy to appoint counsel to a death penalty case prior to the person attending the mandatory training required by CR 24. He asked whether the Council can take a position opposing this practice. Larry Landis responded that currently this is just an isolated incident that was approved by Chief Justice Shepard. He did not recommend that the IPDC take a position opposing the appointment of counsel before the attorney attended the training unless it becomes a common problem. Bob responded that he thinks it already is a problem and we shouldn't wait until it becomes a disaster. No further action was taken on this subject.

#### V. ELECTION OF OFFICERS

The following slate of officers was nominated and unanimously approved for FY 2006-07:

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

#### VI. BOARD RETREAT FOR 2007

The consensus of the board was to schedule the board retreat for 2007 during early July in French Lick.

The meeting was adjourned at 2:50 PM.

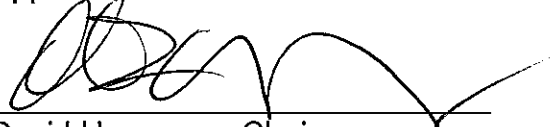
Prepared by Loretta Jackson, Executive Assistant

Respectfully submitted:

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Sonya Scott, Secretary

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

Approved:

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

Date: 2/19/07