

**INDIANA PUBLIC DEFENDER COUNCIL
BOARD OF DIRECTORS MEETING**

Wyndham Hotel - Airport
Indianapolis, IN
December 6, 2012
6:00 p.m.

Minutes

A meeting of the Board of Directors of the Indiana Public Defender Council was called to order at 6:09 p.m. on December 6, 2012, in the restaurant of the Wyndham Hotel – Airport, Indianapolis, IN, by Board Vice-Chairperson Lorinda Youngcourt.

Board members present were: Michelle Kraus (Chairperson), Lorinda Youngcourt (Vice Chairperson), David Cook, David Hennessy, Robert Hill, Gojko Kasich, Michael McDaniel, Steve Owens, Sonya Scott, and Joel Wieneke.

Board members participating via teleconference were: none

Board members absent were: Neil Weisman (Secretary)

IPDC Staff present were: Larry Landis, Teresa Campbell, and Andrew Cullen.

I. APPROVAL OF MINUTES FROM LAST MEETING

David Hennessy proposed the following change to the September 29, 2012 minutes: page 3, paragraph 6, change “widely distribute the performance guidelines” to “distribute the performance guidelines to the Office of the State Public Defender and other relevant offices so they can be cited in briefs.”

Lorinda Youngcourt proposed the following change to the September 29, 2012 minutes: Page 5, paragraph 4, add a new sentence: “She also suggested that the ‘Newbie’ Seminar should have a section covering mental health issues.”

Joel Wieneke moved that the minutes be approved with those two amendments. Sonya Scott seconded the motion. The minutes were approved as amended by unanimous voice vote.

II. REVIEW AND APPROVE AGENDA

Robert Hill moved to change agenda item V to agenda item III from the Tentative Agenda that had been distributed. Michael McDaniel seconded the motion. The agenda was approved as amended by unanimous voice vote.

III. INDIANA PUBLIC DEFENDER COMMISSION

A. Standard G

Larry distributed a proposal for a new Public Defender Commission Standard G. Larry reported to the board that he advocated for changes to the Standard at the last Public Defender Commission meeting to make salaries for public defenders equal to prosecutors by eliminating the “substantially similar” language that currently exists. Larry suggested that each county should identify one person in the county whose salary should be used as a comparison.

There was general discussion of the salary data and the most effective method to compare public defender salaries with those of prosecutors. Larry distributed a document from IPAC with prosecutor salaries, and Andrew distributed a document with data from the various county budgets. The board held a general discussion about the data

Robert Hill commended Larry for the new Standard G Document and his efforts to advocate for the new standard with the Public Defender Commission. He then moved to approve the Standard G Document as submitted. David Cook seconded the motion. The motion carried by a unanimous voice vote.

Board Chairperson Michelle Krause arrived at 6:40 p.m., and Board Vice Chairperson Lorinda Young turned the meeting over to her.

IV. EXECUTIVE DIRECTOR'S REPORT

A. Public Defender Information System (PDIS)

Larry Landis reported that work is ongoing with the Public Defender Information System, and they are currently attempting to refine the issues into priorities.

Lorinda Youngcourt reported on a meeting she recently attended with consultants from Crowe Horwath, LLP. She indicated that the immediate focus will be to complete the administrative functions. She indicated that they are re-exploring some issues based on updates to technology that have occurred since the project began.

Lorinda indicated that any county that uses Odyssey will be able to use the program to pull data. She also reported that Monroe County is currently doing some re-programming of their old case data to make it compatible with the PDIS System. She anticipated that this may be something that can be explored by other counties as well.

Bob Hill reported that Ann Sutton from the Marion County Public Defender Agency attended the meeting as well and reported that she received a positive impression of the recent progress on PDIS.

B. Administration

Larry presented the board with an update on county-based training that was prepared by Don Murphy. Larry indicated that he is hopeful that some of these county-based training sessions can become regional trainings.

Larry reported that IPDC will be applying for a National Science Foundation grant in conjunction with the IU School of Law.

C. Personnel & Contracts Budget

Larry distributed an updated contracts budget and some information provided to the State Budget Agency as part of the ongoing budget process. He indicated that he intends to use a portion of the contracts budget to contract with one or more persons to assist with training & programs until we know whether our request for additional funding for a Training Director is approved.

David Hennessy questioned why the Training Director needs to be a member of the bar. Larry indicated that the document he distributed was not an official job description. It was a document provided for the budget process. He indicated that hiring a person who is a member of the bar would be a preference, but that issue would be negotiable based on experience or background.

David Hennessy asked if there would be overlap between the position of Training Director and the position of Director of Performance Improvement currently filled by Don Murphy. Larry indicated that his intent is for the positions to complement each other. In addition to being responsible for the development of the PSIS, he is also responsible for developing a quality assurance process for indigent defense services.

V. TRAINING COMMITTEE REPORT

Michael McDaniel (Chairperson of the Training Committee) indicated that the Training Committee met and discussed the plans for training in the upcoming year. The following seminars are being recommended: TPR/CHINS, Appellate Advocacy, OWI, Capital/Homicide, Trial Practice Institute (TPI), Juvenile Law, Ethics, and Exclusionary Motions.

David Hennessy asked why a "Newbie" Seminar is not being recommended. Mike McDaniel indicated that the issue was discussed, and it was determined that the first "New Lawyer" seminar should take place in 2014. David Hennessy also inquired about a possible Sentencing Seminar. Mike McDaniel replied that it was considered, and the

committee did recommend a section on plea bargaining to be conducted at the Annual Update.

Larry Landis distributed a current listing of seminar fees and indicated that some increases may be necessary, particularly in the case of non-member fees for TPI.

VI. LEGISLATION

A. Criminal Law & Sentencing Policy Study Committee

Larry reported on the changes to the Sex Offender Registry that were discussed and endorsed by the Criminal Law & Sentencing Policy Study Committee (CLSPSC). He indicated that Cara Wieneke was very helpful during the committee hearings. The committee endorsed changes to the registry which will make it clear that a person should no longer be listed on the registry once their registration time has ended, and it also endorsed several changes to the type of crimes that require registration. This will become an introduced bill during the session that IPDC will likely be able to support.

Andrew Cullen explained some of the discussions of the CLSPSC with regard to criminal history providers. The County Clerk's Association expressed concerns about the restricted records statutes, and an association of Criminal History Providers represented by Barnes & Thornburg suggested several changes to the liability sections of the statute. Andrew indicated that he expects many of these issues to be addressed by an expungement bill that Rep. Jud McMillin is currently in the process of drafting for the 2013 session.

B. Department of Child Services Interim Study Committee

Larry gave a general update on the meetings of the Department of Child Services Interim Study Committee. He indicated that the general theme of the concerns raised centered on the competing interests of local control of decision-making versus more centralized control. He reported that the committee endorsed the concept of returning control of screening reports of abuse or neglect back to the local offices. The committee also endorsed restoring the ability of prosecutors to file CHINS petitions. Larry indicated that both concepts will likely be included in legislation for the 2013 session that IPDC will likely be able to support.

C. Criminal Code Evaluation Commission

Larry reported that the Criminal Code Evaluation Commission (CCEC) has now expired after having made its final recommendations. He distributed an updated proportionality sentencing chart as approved by the Commission. He expressed frustration that the CCEC did not make several key decisions, including deciding on sentencing ranges, habitual offender sentencing, and credit time issues. Larry explained to the board that IPDC and IPAC are now beginning the process to work with Rep. Greg Steuerwald, the author of the bill in the House, to arrive at a potential amendment to determine the unresolved issues.

Michelle Kraus indicated that we should be considering the need for training opportunities once the new bill is passed, to educate members about the new provisions.

There was a general discussion of the potential ameliorative effects of the drug penalty reductions. Michelle mentioned that there is some precedent for how to deal with that issue on the federal level. She also mentioned the importance of focusing on a reduction in the penalty for Resisting Law Enforcement by means of an automobile because of the extensive collateral consequences of a conviction for that crime.

David Hennessy mentioned that he would like to see a provision allowing credit time to be earned while a person is serving a sentence in an alternative placement.

D. Other Legislation

There was a general discussion about the current status of marijuana legislation. Andrew indicated that the CCEC did endorse the elimination of all felony levels for Possession of Marijuana. He indicated that Senator Karen Tallian has indicated her intention to introduce legislation to decriminalize some possession charges during the 2013 session, and she seems to have the support of Senator Brent Steele. However, he cautioned about including it in the "CCEC Bill" because it could become a poison pill for the legislation.

VII. OLD BUSINESS

David Hennessy stated that on page 7, paragraph 8 of the 9-29-2012 minutes, he did not believe that the word "objected" accurately reflected his position. Andrew Cullen indicated that he could change the word. However, the board took no official action and the minutes from the 9-29-2012 meeting had been previously approved as amended by unanimous voice vote.

VIII. NEW BUSINESS

There was no new business.

IX. ADJOURN

The next meeting was set for Saturday, January 26, 2013 at 1 p.m. at a location TBD. The meeting was adjourned at 7:48 p.m.

Minutes prepared by Andrew Cullen, IPDC Staff.

Submitted by:

Approved by:

Neil Weisman, Secretary

Michelle Kraus, Chairperson

