

INDIANA PUBLIC DEFENDER COUNCIL  
BOARD OF DIRECTORS MEETING  
505 Event Centre  
502 East Carmel Dr.  
Carmel, IN

June 06, 2019

7:00 pm

Minutes

**I. Call to Order and Approval of Minutes from last meeting**

A meeting of the Board of Directors of the Indiana Public Defender Council was called to order at 7:03 pm EST on June 6, 2019 in a conference room at 502 Event Centre, Carmel, IN by Chair David Shircliff.

Board Members present were: David Shircliff (chair), David Hennessy (secretary), Ashley Spolarich, Jennifer Sturges, Jennifer Culotta, Gojko Kasich, Robert Hill, Deana Martin, Stephen Owens, and Christopher Shema. Council Staff present were: Bernice Corley, Michael Moore, P. Michael Wilson, Mark Carnell, Diane Black, Suzan Ristich and Juli Byrne. Also present was Derrick Mason from PD Comm. Present via webex were: Ruth Johnson, Mark Nicholson (vice-chair), and Amy Karozos.

Approval of the minutes from the April 25, 2019 meeting was tabled due to a motion made by David Hennessy to amend the minutes from the April 25, 2019 meeting to include anyone present via webex/electronic/call-in. Seconded by Chris Shema. Chris Shema also stated that he wants the minutes circulated to the board sooner. Bernice Corley stated that there were extenuating circumstances for the April meeting that caused these minutes to be delayed in the circulation. David Hennessy changed his earlier motion to now approve the minutes once the changes have been made, seconded by Robert Hill. Motion passed unanimously.

David Hennessy made motion to approve agenda, seconded by Jennifer Culotta. Passed unanimously.

**II. Executive Director report – Bernice Corley (7:32)**

The IPDC and the Supreme Court have entered into an MOU to transfer \$157,000 from the Supreme Court to IPDC for the support of the Juvenile Delinquency Project. The next step before the transfer can be completed is approval by the Indiana Board of Finance. Bernice Corley does not anticipate any problems. Chris Shema asked if this was to support the Juvenile project for a year, Bernice Corley confirmed his statement. Bernice Corley also stated that the Chief Justice Rush will look to see if she has the money in her budget to again

help support the Juvenile Project for the 2020 – 2021 budget year. Robert Hill wanted confirmation on the date that this money would extend the Juvenile Project and Bernice Corley responded that the \$157,000 would take the project all the way to June 30, 2020.

Bernice Corley discussed the BJA Sixth Amendment TTA grant that PD Comm. received to help develop quality indicators for public defense services. The grant expires September, 2020 (see handout).

Derrick Mason explained that PD Comm. is considered the lead agency for this grant due to the requirements from the Federal Government. Derrick Mason has developed a draft proposal which he handed out to all the board members and employees in attendance of the meeting. He also stated that he wanted Bernice Corley to sign off on the language of this proposal before he would send it out. Derrick Mason brought up the argument on whether we should be focusing on what attorneys are doing on a case or should we be focusing on case load? Derrick Mason stated that this would help us develop Indiana based quality indicators. He wants the work to be informed by data and statistical analysis. He plans to have a work group to develop adult criminal performance, quality indicators for Indiana. David Hennessy stated that in order to have a quality assessment model, you need to include the recipient of the services. David Hennessy also stated that he wants Derrick Mason to keep the board involved as much as he can. Derrick Mason stated that this grant is viewed as a joint grant.

### **III. Assistant Executive Director Report – Mike Moore (17:46)**

Mike Moore brought up the IPDC's draft proposed new rule concerning eyewitness identification procedures: Indiana Rules of Criminal Procedure. Rule 27, Eyewitness Identification Procedures (handout provided in packet), changes highlighted in yellow. He stated that Section 6 was substantively changed after Board approval and wanted to bring it back to the Board for review and approval. Robert Hill wants Section 6 C to state that the funds should not come out of a PD Agency Budget. David Hennessy responded that this would be a county by county decision and would like to hear from the board. Robert Hill reiterated his concern about public funds and PD budget funds. He wants it added that they cannot use the PD funds. Deana Martin made comment that it needs to state, not out of the public defender fund for non-public defender client.

Derrick Mason stated that if a Judge ever demands that you pay out of your supplemental funds for private attorneys to call him at PD Comm.

Mike Moore added language to the Section 6C which states: However, when the accused making such request is not represented by a court appointed attorney, the funds ordered shall not be paid out of any public defense fund, including the supplemental public defense fund. David Hennessy stated that he wanted it to say: However, when the request had been granted for an accused not represented by a court appointed attorney etc. . . .

Mike Moore changed the wording to read: However, when the request is granted for an accused, not represented by a court appointed attorney, the funds ordered shall be paid from funds other than the funds dedicated to public defense which includes the supplemental public defense fund. Robert Hill made a motion that this language be included in the rules for Section 6 C of the Eyewitness Identification Procedures as read. Seconded by Gojko Kasich. Passed unanimously.

Chris Shema made a proposal to change the wording on section 2D to read: Individuals or photos shall be presented to witnesses sequentially, with each individual or photo presented to the witness separately, in a previously determined order, and removed before the next individual or photo is presented. Motion made by Robert Hill, Seconded by Jennifer Culotta, passed unanimously.

#### **IV. New Business – Bernice Corley**

Legislative Plan and Interim Study Committee Topics (handout). Bernice Corley stated that for 2020 she wants to narrow down our legislative agenda and start with the bills that passed at least one house, but then keep one statement piece of legislation that might still have a difficult time passing and that is our bill that required appointment and assistance of Council at an initial hearing. Robert Hill made a motion to adopt Bernice Corley's strategy to start with the bills that passed one house, seconded by Chris Shema, motion passed unanimously.

David Hennessy wants Bernice Corley to find out what IPAC's breakfast for legislators costs. He also wants a deadline for board comments and feedback in regards to his PD Agency document. David Hennessy stated that he wants Mark Carnell, Bernice Corley, and Mike Moore to have the opportunity to read the study over and make any revisions, then send out a final draft to the board by July 12, 2019. The board is to get their comments back to Mark Carnell, Bernice Corley, and Mike Moore by July 21, 2019.

Franklin County's new policy of charging for discovery documents (handout) – this was put on the agenda for discussion at Chris Shema's request, he feels that this is a serious problem. David Shircliff wants the Council to look into it and find out what the general consensus is and what is going on and discuss this at the retreat. Other board members stated that it is happening in other counties as well. David Hennessy feels that this needs to be handled by the chiefs. David Shircliff will bring this up at the chief's meeting June 12, 2019.

Robert Hill raised Barb Fuller's request (a retired public defender from Marion Co. who is now doing private practice), to access Lexis at the PD rate. Mike Moore expressed concern that the Lexis contract, due to the negotiated rates and the amount of attorneys with access, the more attorneys we add can actually raise our negotiated rate. If Barb Fuller's request were adopted, it could cause IPDC to pay more for lexis services for people who are not doing public defense work.

IPDC Board Retreat (handout). David Shircliff set the dates of the retreat to September 20<sup>th</sup> and the 21<sup>th</sup> in Indianapolis, right after TPI. David Shircliff wanted to know if there is any reason to have another board meeting before the retreat. He also stated that there will be a brief board meeting right after the retreat if there is anyone new elected. If no one new gets elected then there will be no meeting.

David Shircliff adjourned meeting at 8:15 pm.