

**INDIANA PUBLIC DEFENDER COUNCIL
BOARD OF DIRECTORS MEETING
Blue Chip Casino Hotel
Michigan City, IN**

**September 26, 2015
9 a.m.**

Minutes

I. CALL TO ORDER

A meeting of the Board of Directors of the Indiana Public Defender Council was called to order at 9:03 a.m. CST on September 26, 2015, in the Board Room of the Westin Hotel, Indianapolis, IN by Board Chairperson Steve Owens.

Board members present were: Steve Owens (Chairperson), Joel Wieneke (Secretary), Jim Abbs, Laura Paul, Bob Hill, Neil Weisman (Vice Chair), Gojko Kasich, Michelle Kraus, David Hennessy, and Chris Shema. Also in attendance were Council staff Paula Sites, Don Murphy, Toni Schaney and Larry Landis.

II. APPROVAL OF MINUTES FROM LAST MEETING

The minutes of the Board meeting on June 11, 2015, were reviewed. Neil Weisman moved to accept the minutes as presented. Joel Wieneke seconded the motion, which was passed unanimously.

III. REVIEW AND APPROVE AGENDA

David Hennessy moved to accept the agenda as presented. Joel Wieneke seconded the motion which was approved unanimously.

IV. EXECUTIVE DIRECTOR'S REPORT

A. Budget and Finances

Larry Landis reviewed the expenditures of the Council for the current fiscal year and the projected expenses for the remainder of the year. The discussion included the following explanations:

- the amounts for Board member reimbursement is different because they are based on past claims and estimated future claims;
- the amounts paid to contractors are contained in the three accounts (state, publications and training). Some of the contractors, such as Toni Schaney and Stacy Uliana are paid from different accounts depending on what they are working on.
- if the training account balance runs low, funds in the state account will be used - training events will not be cancelled;
- the purpose of paying all training expenses from the training account and all publications expenses from the publications account is so that we can identify how much we are spending on training and publications;
- the payment to JTAC in the current fiscal year was for services provided in the last quarter of the prior year; future payments for PDIS should be paid by JTAC, now Court Technology.

Bob Hill requested that a summary page with the total amount paid to contractors be provided. Larry said that would be done at future meetings.

Larry reported that the publications account was currently in good shape, but the balance in the training account will be nearly depleted after the TPI program in October. Budgets for other future seminars have not yet been developed.

Chris Shema asked if there are vendors who would be willing to provide pen giveaways for future seminars. Larry said he was not aware of any at this time but would check with other organizations providing training.

Bob Hill stated that the Marion County Public Defender Agency has free use of the Public Meeting room in the City-County Building and that it could be used for future seminars. The room will accommodate up to 150 people.

B. Strategic Directions

Larry reviewed the four groups of activities engaged in by the Council as a means to achieve the mission of improving indigent defense services in Indiana.

1. Statewide indigent defense system
2. Improve county indigent defense delivery systems
3. Improve criminal justice policy
4. Improve performance of members

By consensus the Board agreed to change Proposed Strategic Direction I.C. to read as follows: "Increase state funding for CHINS and TPR cases, and create a new and separate funding and delivery system for CHINS and TPR cases."

David Hennessy requested that the four strategic directions be prioritized, with training being the most important. A discussion was tabled until later in the meeting.

Questions were raised about the future of PDIS. Larry said we are transitioning operational management from Crowe Horwath to Court Technology. Barry Clouser will continue as the programmer for the short term until Court Technology hires and trains a programmer for this project. Larry also said that he is relying on Ann Sutton and the other users to tell him if there are issues with the quality of service we are getting. He also indicated he thought the new E-filing system would be a good test of the functionality and utility of PDIS. It was suggested that other counties provide some funding (as Marion County did) for further enhancements. No action was taken on this suggestion. David Hennessy suggested that we sell access to PDIS to non-PDs and the revenue could be used to fund help desk and training services. No action was taken on this suggestion.

C. Criminal Justice Policy Report

Larry Landis briefly discussed several initiatives:

- Indiana Supreme Court Pre-trial Release Project. There will be 5-6 counties that will establish pilot projects. Larry will send a list of the counties to the Board.
- Larry has requested to be on the agenda of the DCS Oversight Committee to discuss the issue of indigent defense funding for CHINS and TPR cases.
- The Governor has created a new Task Force on Drugs that will hold 3 regional meetings to gather information.
- Justice Reinvestment Advisory Council (JRAC) has had 5 meetings since 7-1-15 to plan the distribution of \$69m over the next 2 years. The DOC funding should be announced in late October and the new DMHA voucher system should be operational by 11/2/15.

V. Staff Reports

A. Don Murphy

Don reported that he has been working on an OJJDP Juvenile Planning Grant. He was recently asked to increase our request from \$125,000 to \$205,000. Joel Wieneke asked if any of this money could be used to get legislation passed. The funds may be used to help develop and statewide plan and to develop support, but it cannot be used to lobby the legislature.

It was suggested that the Council develop a CLE program to train on recognizing mental illness and addiction, and how to get treatment and services for clients.

Don was asked to get ethics violation information out to PDs, both as part of the ethics training and online.

Don was asked to provide feedback on the mentoring request by a member who said she could not get local attorneys to provide mentoring because they are competing for the same client base.

D. Paula Sites

Paula provided an update on publications. Several suggestions for new or updated publications were presented:

- Performance Guidelines – should be updated in December 2015 for substantive changes and then provided as part of the packets for new attorney training.
- New pamphlet on DUI and related issues
- Update the Expungement pamphlet
- New pamphlet containing resources available to PDs, e.g., community programs, health programs, etc.
- New publication providing practical tips surrounding probation and parole, community corrections, pre-trial release, etc.
- Ensure that members receive the Juvenile Performance Guidelines for free.

Paula also reviewed usage data re: research, online training and other resources.

VI. Committee Reports

A. By-laws

Gojko Kasich provided a copy of the by-laws last used with comments and changes discussed over the past year included in red. It was decided Section I was acceptable. Further discussion was suspended because not everyone was familiar with an Attorney General opinion that the Council requested. It was decided to hold a special Board meeting on 11/12/15 to discuss the by-laws. Joel Wieneke moved to schedule this meeting and Chris Shema seconded. The motion passed with one vote against by Gojko.

On the issue of Board composition, Bob Hill suggested that there needs to be more racial diversity.

Joel Wieneke and Neil Weisman were asked to be prepared to discuss adding a provision authorizing online voting as part of the by-laws.

E. Outreach

Laura Paul reported that she and Steve Owens have completed their assignments. Joel Wieneke has done some and will send a report to Laura. Laura will re-assign territories to others since there has been a change in the composition of the Board since the original assignments, but she asked if anyone does not want to participate, they need to let her know as soon as possible.

F. Policy and Liaison

Joel Wieneke reported that we have a draft of a reverse waiver proposal and that there are several issues that need to be addressed in the next legislative session. Larry indicated that the issues identified were listed on the agenda under Legislation.

G. Technology

Larry Landis reported that there was no update from the Technology Committee.

H. Training

David Hennessy provided an update on training activities. These included:

- Participants have been asked to send in their case summaries early for TPI.
- Bob Hill is moving the Ethics training to 12/11/15.
- An Evidence Seminar will be presented in April 2016, with a breakout session to cover what to do to preserve erroneous exclusion of error.
- Sentencing will be presented in December instead of Forensics.
- Domestic violence/trafficking will be a topic, but it may not be a full day.
- Search and Seizure will be replaced by Drugs and Forensic Cross.
- Maria Baldini will be preparing and recording a webinar on Immigration Consequences.
- Mental Health – recognizing symptoms and available community resources is a proposed new topic.

Paula Sites was asked to see if Voir Dire could be taped for video replay.

David indicated that the Training Committee is OK with continuing electronic evaluations at least for the time being, while we evaluate if this is providing more or better results. However, the Committee members are requested to attend various seminars to critique the content and quality. David also reminded board members that if they request that a seminar be held in their geographic area, they should make an effort to ensure that local attorneys attend.

It was suggested that we make an effort to use the same hotels for multiple seminars rather than moving around so much. This could save money since venues would be more likely to give discounts if they know they have the opportunity to provide bids for groups of seminars. He also suggested that: (1) we should not discontinue providing lunches since this is a good time to share individual experiences; (2) we could eliminate afternoon snacks; and (3) we should never discontinue coffee. Finally, he asked if there were other venues which could accommodate 600 people for the Annual Update since the Convention Center is so expensive.

I. Training Director

Bob Hill reported that Larry Landis has a job description for the Seattle training director that can be used as a model. The plan for this person is to plan and coordinate 12-13 annual seminars, the skill based training programs, develop a mentoring program, and get more national speakers. The general pay level is thought to be \$100k. Bob stated that Stacy Uliana would be a great candidate, but that they will reach out to others. The anticipated timeframe is that the goal is to hire someone by spring.

David Hennessy asked the Board to think about how the regional training that Don does fits in with a full-time training director.

VII. Indigent Defense Services

A. 6th Amendment Center

Larry Landis reported that David Carroll was scheduled to deliver a preliminary report to the Public Defender Commission on September 16, but cancelled at the last minute due to a family emergency.

B. Next Steps

Larry Landis stated that it was time to revisit the issue of state funding for indigent defense and that the Board needed to decide what kind of delivery system it wanted for indigent defense services. Bob Hill stated that he had a model for quality control that he will share with Jim Abbs and present it at a future Chief Public Defender meeting for discussion.

Larry asked if the Board was interested in changing the indigent defense system in Indiana. After a discussion of the types of changes possible, Gojko Kasich moved that the delivery system should be changed and that a committee be formed to define the recommended approach. Laura Paul seconded the motion which passed by a vote of 5 in favor and 4 opposed.

Steve Owens asked members to let him know if they wanted to be on a particular committee or wanted to change committees.

VIII. Succession Planning

A. Legislative Liaison

Larry Landis stated that the Council needed to create a new position of legislative liaison and that this position did not necessarily need to be an attorney. Larry recommended that this position be created prior to his retirement so he could work with person during the 2017 legislative session.

B. Overlap with Successor

Larry recommended that his successor be hired at least six months prior to his departure so there would be an overlap with his successor.

IX. Legislation

A. Recommended Positions

Larry Landis reviewed the following recommended legislative positions:

1. Juvenile - Reverse Waiver
2. State funding for CHINS/TPR

3. Create new right to counsel for child in CHINS/TPR
4. 100% state funding for chief and deputy chief PDs
5. Misdemeanor sentence – change max. to 364 days
6. Reinstate credit time for pretrial home detention
7. Eliminate battery enhancement for Level 5 felonies for bodily injury on certain persons
8. CDL drivers should be eligible for special driving privileges while suspended
9. Remove change that made sex offenders lifetime registrants who previously were required to register for 10
10. Restrict forfeiture of assets
11. Other

B. Additional Positions

1. Appointment of counsel should be at initial hearing
2. Dual status
3. Reduce possession of hypodermic syringe (paraphernalia) from a Level 6 felony to a misdemeanor
4. Maintaining a common nuisance should not be enhanced to a felony until two priors
5. Bob Hill moved that CHINS and TPR cases should be provided and funded by the State and counties should not be responsible for either. Neil Weisman seconded the motion which passed with Joel Wieneke voting in opposition. Chris Shema and Jim Abbs suggested that even if these cases were state funded, the State could still contract with county based attorneys, including county public defender offices.

X. IPDC Awards

Neil Weisman expressed his concern that there was not enough nominations for the Gideon and Gault Awards. No decision was made as to how to increase nominations. Neil also suggested that we should present an annual lifetime achievement award.

XI. Luther Garcia Scholarship

It was determined that this scholarship is a one-time event and that it should go to someone who could not otherwise afford to attend a national training. NCDC was suggested and it was felt that this would be a good one to send someone to. Chris Shema suggested using the NACDL model for nominating a person and he will provide a sample form. It was determined that the scholarship would need to be awarded by February in order to meet the entry deadline. It was also suggested that since the money collected to date falls short of the amount needed to award a full scholarship, we have donation boxes at the next few seminars. Donations would need to be by check only.

Chris moved that we use the scholarship funds to award a scholarship to send someone to NCDC and cover their registration and basic housing fees. Micki Kraus and Laura Paul seconded. The motion passed unanimously.

XII. NEW BUSINESS

David Hennessy asked if Board members would continue to receive free publications and seminar attendance. Larry Landis stated that there was no plan at the present time to change this policy, and that the justification for giving board members free seminars and publications

has been that Board members are expected to provide feedback on the quality and content of publications and seminars.

Bob Hill moved that training should be the number one strategic goal. Five members voted in favor of the motion and five members voted against the motion. Thus, the motion failed.

XIII. Election of Officers

Neil Weisman moved that Steve Owens continue as Chairperson of the Board. David Hennessy seconded and the motion passed unanimously with Steve abstaining.

David Hennessy moved that Joel Wieneke be elected to the Vice-Chairperson position. Chris Shema seconded and the motion passed unanimously with Joel abstaining.

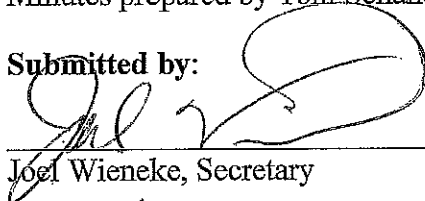
David Hennessy moved that Gojko Kasich be elected to the Secretary position. Bob Hill seconded and the motion passed unanimously with Gojko abstaining.

XIV. ADJOURNMENT

The meeting was adjourned at 3:53 pm, CST.

Minutes prepared by Toni Schaney and Larry Landis.

Submitted by:

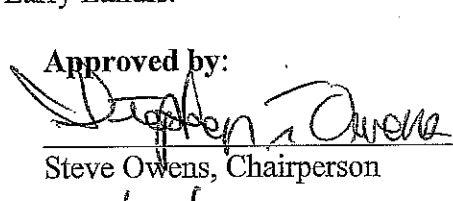


Joel Wieneke, Secretary

11/12/15

Date

Approved by:



Steve Owens, Chairperson

11/12/15

Date