

**INDIANA PUBLIC DEFENDER COUNCIL
BOARD OF DIRECTORS MEETING
Marriott Hotel, Texas Room
350 W. Maryland St., Indianapolis, IN**

**February 16, 2017
7 p.m.**

Minutes

I. Call to Order

A meeting of the Board of Directors of the Indiana Public Defender Council was called to order at 7:03 p.m. EST on February 16, 2017, in the Texas Room of the Marriott Hotel, Indianapolis, IN by Board Chairperson Neil Weisman.

Board members present were: Neil Weisman (Chairperson), Laura Paul (Vice Chairperson), David Shircliff (Secretary), Gojko Kasich, Chris Shema, Mark Nicholson, Steve Owens and Bob Hill. Jim Abbs attended via phone. David Hennessy attended part of the meeting via phone but was disconnected due to technical difficulties. Micki Kraus was absent. Also in attendance were Council staff Paula Sites, Toni Schaney, and Larry Landis.

II. Approval of Minutes from Last Meeting

The minutes of the Board meeting on 1/12/2017, were reviewed. Steve Owens moved to accept the January minutes and David Shircliff seconded. The minutes were approved unanimously.

III. Review and Approve Agenda

Chris Shema suggested that the Board address Laura Paul's transition during the meeting; Larry Landis suggested it could be discussed as new business. Chris/Mark Nicholson moved to approve the agenda and Steve Owens seconded. The agenda was approved unanimously.

IV. Executive Director's Report

A. Administrative

Larry Landis reported that the Juvenile Grant staff has been hired. Joel Wieneke, Pirie Lyles, Rachel Roman-Lagunas (part-time), and Jill Johnson (part-time) have all starting work as of this week. An MOU with Marion County is in the approval process. The Office of the State Public Defender is also part of the project. An Advisory Board meeting will be held on February 17.

B. IPDC Budget Request

Larry reported that HB1001, the budget bill, does not include any additional monies for the Council. Larry requested assistance from Board Members and Chiefs over the next 2 months.

C. Public Defender Commission Funding

SB 525, which would have authorized reimbursement in misdemeanor cases, increased non-capital reimbursement from 40% to 50%, and increased reimbursement for CHINS & TPR cases from 40% to 75% reimbursement is dead. HB1405 which authorizes reimbursement in misdemeanor cases and increases non-capital reimbursement from 40% to 50% will be heard in the House Courts and Criminal Code Committee next week. The state budget bill, HB 1001, did get amended to add \$2.5 million for the Public Defender Commission which will allow the Commission to continue to reimburse the 57 counties at the current rate add some new counties, including Jefferson and Hendricks. HB1405 could go into the budget bill so additional monies could be made available.

Chris Shema asked Larry if he could prepare a sample letter or email for members to send. Larry stated it was counter-productive to have form letters sent that look like they are mass produced by a lobbyist, but that he would prepare some talking points and send it out on Defendnet.

Larry also stated that HB 1001 will add an additional \$50 million for DCS which will surely increase CHINS & TPR cases. Larry suggested that members need to continue contacting members and explain the need for additional funding.

Larry also suggested that perhaps the only way for defenders to get the attention of legislators is if there is a crisis, e.g., if public defenders follow ABA Ethics Rule 06-441 refuse to accept cases in excess of what they can competently handle. Public Defender offices cannot opt out of taking CHINS cases, but they can and should assess how many cases they can handle based on the funding they have been provided.

Jim Abbs asked if the Commission can go back later to get more money. Larry stated that augmentation language was added to HB 1405 and he will continue to seek to have this language added to the budget bill. Another approach for increasing funding is to have language added to the budget bill to increase the public defender administration fee and have the appropriation from the state user fees increased.

Larry suggested that the Chief Public Defenders should start defining how many cases their office is funded to handle and give the judges notice to when they are approaching the cut-off on new case assignments.

Laura Paul suggested that there is a reporter in Bloomington who is very interested in this topic and, perhaps, someone should reach out to her.

Chris Shema asked if there are any key individuals to talk to. Larry stated that every one of the 150 legislators is important. Chris also suggested that something be put on the website about how to find out who the legislators are. Larry said he had done this on Defendnet and will add something to the IPDC website.

D. EBDM

Larry reported that materials from the meeting of the 10 pilot counties last week are in the binder. Larry said he discovered last week that there was a case decided in 2016, *State v. Taylor*, that stated that the right to counsel attaches at arrest. Larry was asked to send this out to everyone. This case supports the need for counsel to be appointed prior to the first hearing. Larry said the challenge for the 11 pilot counties will be to figure out how

to change the process of appointment to make the first hearing a meaningful event without slowing down the release process. Larry asked for suggestions for improving the acknowledgement of rights form that he prepared for the pilot projects.

Don is holding some meetings about case management grants on 2/20. Is he aware that this is a holiday? Larry will look into this.

E. OJJDP Juvenile Grant Report

Larry reported that the project has received its first appeal out of Porter County.

F. Board Election Procedures

As requested at the last Board meeting, Paula Sites presented information about the proposed election process. Paula said she contacted a company called ElectionRunner.com who has a program for electronic voting available for \$117. Voting can be done up to the day of the election via online voting. Absentee voting by paper ballots would need an earlier cut-off. Neil Weisman asked Paula to send out notices all persons on our mailing lists before the election and ask that everyone who intends to vote to verify in advance that they are members. Gojko Kasich asked what would happen to the data if the system crashes. The consensus was that the data would be backed up on the cloud and that there should be adequate safeguards in place. Bob Hill suggested that Paula send out a demo survey so the Board members can see how it will work. Paula said she could do that. Dave Shircliff asked about how much time is needed to set up the demo. Paula said there should be ample time.

A discussion was held that included comparing the ElectionRunner.com process to Survey Monkey, the I.U. Board of Trustees electronic voting process, and the Indianapolis Bar Association electronic survey for rating judges. Dave Shircliff moved to approve the proposed election process for usage for the IPDC Board election this year, conditional on the demo working satisfactorily. Chris Shema seconded the motion. Mark Nicholson asked if the motion including both digital and paper. Neil stated the proposal includes absentee voting by mailed paper ballot or online electronic voting and in person voting at the Annual Meeting by paper ballot or electronic voting. The motion carried by a vote of 7-2, with Bob Hill and Gojko Kasich opposed. Larry Landis suggested that there be a conference call after the demo to determine if the demo was successful and to re-affirm the process for the board election.

V. Committee Reports

A. Executive Director Search Committee

Larry reported that the job announcement has been posted on a number of websites, including: I.U. Maurer School of Law, I.U. McKinney School of Law, ABA website, IBA website, ResGestae, NACDL, NLADA, NAPD, and IPDC website and newsletter.

B. Training Committee

Neil reported that David Shircliff would be replacing Laura Paul as chair of this committee. Larry Landis reported that in addition to the current training calendar, there were two additional options for training programs. He received a call from Larry Posner who said he was available to do a seminar on cross examination for a cost of \$50 per

person. Don Murphy has been in contact with Sunwolf, a/k/a Linda Hotes, about her doing a training program. The consensus to do a program with Posner but not with Sunwolf.

Mark Nicholson suggested there was a need for additional training on immigration and the consequences of a criminal conviction.

C. Publications/Technology Committee

Mark Nicholson reported that they are working with the Outreach Committee on Paula's member survey and expect it to go out next week. This will cover what members want re: training, website, and what they want the Council to do for them. David Shircliff suggested that the Council have students who are do creating surveys review the questions and recommend refinements and improvements to ensure we get the results that are useful. The consensus was to proceed with the survey prepared by the committee. It was suggested that the Council notify members about the survey one week before it was sent and that it be sent out multiple times.

D. Policy Committee

Micki Kraus will be the new chair of this committee. David Shircliff urged board members to contact legislators.

E. Outreach Committee

Chris Shema reported that he and Paula Sites met before the board meeting to review and finalize the survey questions. He agrees with announcing it in the Defender and then sending out later.

F. Legislation

Larry Landis provided updates on bills of interest. The Council supports 40 bills, opposes 68 bills, and is watching 111 bills. Bills need to pass out of committees by 2/23 and pass the chamber of origin by the end of the month or they will die.

VI. Old Business

Seminar Registration Fees

David Hennessey asked before contact was lost that the issue of the seminar registration fees be placed on the agenda. The issue was referred to the Training Committee to review and make a recommendation prior to the next board meeting.

VII. New Business

Laura Paul announced her resignation from the Board due to her acceptance of a job with the Ninth Circuit Court of Appeals in Los Angeles. Neil Weisman thanked Laura Paul for her service. Bob Hill moved to congratulate Laura on her years of service; Dave Shircliff seconded the motion, which passed unanimously.

A discussion was held as to procedure for filling this board vacancy. The consensus was to follow the procedure previously approved for filling a board vacancy. Larry Landis was asked to research the procedure previously approved and report back to the Board as soon as possible. Dave Shircliff moved that the board vacancy be filled by the election of members at the next Annual Meeting and that the person with the 6th highest number of votes serve out the remainder of Laura Paul's term which expires in June of 2018. Laura Paul seconded the motion. Gojko Kasich stated that if there was a previously established procedure here was no need for a motion. The vote on the motion was 8-1, with Gojko Kasich voting against the motion.

VIII. Next Meeting

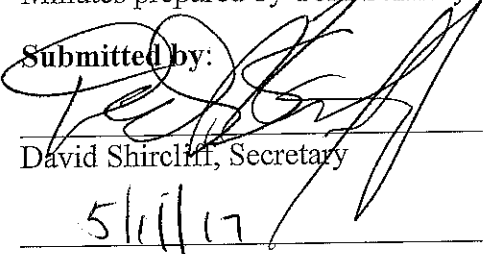
The next Board meeting was not set.

ADJOURNMENT

The meeting was adjourned at 8:55pm, EST.

Minutes prepared by Toni Schaney and Larry Landis.

Submitted by:



David Shircliff, Secretary

Date

5/11/17

Approved by:



Neil Weisman, Chairperson

Date

5/11/17