

**Probation Committee
Judicial Conference of Indiana**

**Minutes
January 10, 2020**

The Probation Committee of the Judicial Conference of Indiana met by conference call on January 10, 2020.

1. **Members present.** The following members were present: Daniel Banina, Angela Davis, Tom Felts, Carolyn Foley, Jeff Marchal, Patrick Miller, James Muelhausen, Brant Parry, Douglas Tate, Kevin Wallace, Randy Williams, Linda Wolf, and Lori Quillen (chair).
2. **Staff present.** Jenny Bauer, Angie Hensley, Michelle Goodman, Nancy Wever, and Diane Mains provided staff assistance.
4. **Approval of minutes.** The minutes from the October 2019 meeting were approved.
5. **Indiana Child Welfare Program Improvement Plan.** Jenny Bauer reported that Judge Quillen and Magistrate Foley met with IOCS staff in November to discuss the PIP language proposed by DCS. IOCS staff recommended placing the proposed amendments into the probation standards instead of the preliminary inquiry, predisposition, and modification documents. The committee requested IOCS staff to continue work on the amendments and report back at the next meeting.
6. **Herran case.** Jenny Bauer reported that the Supreme Court denied transfer in the case of Herran v. State and requested that the Probation Committee review the home detention condition at issue in the case. The Court of Appeals issued its not for publication opinion in June 2019, holding that the standard condition of the home detention order and agreement having the effect of precluding Herran from living with her spouse was not an abuse of discretion. The committee discussed the condition and did not see a need for further action.
7. **Legislative Update.** Jenny Bauer reported that the 2020 session of the Indiana General Assembly is underway and is set to end in March. The deadline for submitting bills was January 9, so bills are still being posted to the IGA website. Michelle Goodman highlighted the following bills: HB 1047 (expanding membership of the Justice Reinvestment Advisory Council and adding jail overcrowding as a task), HB 1120 (DOC education credit time), HB 1137 (addiction treatment), HB 1140 (criminal code study), and SB 114 (marijuana—provides a person’s probation may not be revoked solely on the basis that the person tested positive for marijuana or a metabolite of marijuana).
8. **Updates from Indiana Office of Court Services.** Diane Mains reported that problem-solving courts have run into an issue with warrants in transfers to another county. The transfer case gets an MC case number in the new county, but the MC case number cannot be used to issue a warrant for the participant’s arrest because IDACS

requires a criminal charge. The Problem-Solving Courts Committee recommends that courts use the original charge to issue a warrant in this circumstance. According to Ms. Mains, the downside of this is that a criminal history is created. The committee requested that IOCS inform chief probation officers of the issue and the possible implications for preparation of presentence investigation reports. Angie Hensley reported that the 2020 Justice Services Conference is scheduled for April 27-29, with the probation track on the first day of the conference. Angie Hensley reported that IOCS staff is scheduled to meet with exam consultant Dr. Jody Sundt to discuss validation of the exam. She also reported that she and Jenny Bauer presented on the incentives and sanctions project at the American Probation and Parole Association Winter Training Institute in New Orleans earlier in the week. Michelle Goodman reported that risk assessment re-certification has been extended for people due for re-certification in 2019 because of issues with the transition to the new online platform. The re-certification window is extended to June 2020. She also reported that the University of Cincinnati recently submitted results from the IRAS/IYAS validation study.

9. **Next meeting dates.** The next committee meetings are scheduled for February 14 (Noon by phone, if necessary) and March 13 (10:30 a.m. at the Office of Court Services).

Respectfully submitted,

Jenny Bauer
Staff Attorney
Indiana Office of Court Services

**Probation Committee
Judicial Conference of Indiana**

**Minutes
March 13, 2020**

The Probation Committee of the Judicial Conference of Indiana met by conference call on March 13, 2020. Judge Lori Quillen chaired the meeting.

1. **Members present.** The following members were present: Angela Davis, Tom Felts, Carolyn Foley, Jill Wesch, Linda Wolf, and Lori Quillen (chair).
2. **Staff present.** Jenny Bauer, Nancy Wever, and Janelle O'Malley (Court Technology) provided staff assistance.
4. **Approval of minutes.** Due to the lack of a quorum, the committee did not vote on the January 2020 meeting minutes. The minutes will be approved at the May meeting.
5. **Proposed amendments to Indiana Probation Standards.**
 - a. **AR 9 references.** Jenny Bauer reported that most of Administrative Rule 9 on confidentiality of court records was moved into the new Indiana Rules on Access to Court Records, effective January 1, 2020. She stated that there are two references to AR 9 in the Probation Standards—in Standard 1.4 on confidentiality and Standard 1.9 on records management. Ms. Bauer explained that the proposed amendments to Standards 1.4 and 1.9 update the references to the Indiana Rules on Access to Court Records. Judge Quillen made a motion to approve the proposed amendments to Standard 1.4 and 1.9. Mag. Foley seconded the motion. Judge Quillen asked staff to conduct an email vote on these proposed amendments due to the lack of quorum.
 - b. **Indiana Child Welfare Program Improvement Plan.** Jenny Bauer reported that IOCS staff drafted PIP amendments to the Indiana Probation Standards, as requested by the committee in January. She explained that the proposed amendments are in the investigation and supervision sections of the Standards. The proposed amendments are as follows: 3.4 Interview—adds language clarifying that a probation officer shall immediately report suspected neglect or abuse of a child (similar language added to Probation Safety and Security Guide in 2018); 3.6 Recommendations—adds language requiring a probation officer to recommend necessary family services in the predisposition report; 4.4 Expectations for supervision—adds language from statutory list of probation officer duties (IC 11-13-1-3), language on reporting child/endangered adult abuse/neglect, and language on recommending family services; 4.6 Contact requirements—adds language from Social Security Act requiring monthly face-to-face visits with children placed in non-secure out-of-home facilities; 4.12 Review of case plans—adds language from IC 31-37-19-1.5 requiring review of case plans for children placed in non-secure out-of-home facilities at least once every 180 days; 4.25 Case audit and quality assurance for juvenile out-of-home placements—new section requiring

quality assurance reviews for juvenile non-secure out-of-home placements funded by DCS. Judge Quillen made a motion to approve the proposed amendments to Standards 3.4, 3.6, 4.4, 4.6, 4.12, and 4.25. Magistrate Foley seconded the motion. Judge Quillen asked staff to conduct an email vote on these proposed amendments due to the lack of quorum. Nancy Wever suggested that IOCS staff send the approved amendments to the Department of Child Services for review. Ms. Bauer stated that the Judicial Conference Board of Directors will consider the amendments at its next meeting.

6. **Access to Court Records Rule 5.** Jenny Bauer reported that Rule 5 of the Rules on Access to Court Records seems to have omitted “probation” supervision. The comments to AR 9 made clear that probation records are confidential pursuant to the Indiana Probation Standards, but the current rules only cover pretrial supervision and problem-solving court supervision. Ms. Bauer stated that she brought this to the attention of the Supreme Court’s Committee on Rules of Practice and Procedure. The committee requested that the Probation Committee discuss the issue and send a letter requesting amendment if deemed necessary. The committee members discussed adding “probation supervision” to the ACR Rule 5(B)(6) and agreed that it is a necessary amendment. Judge Quillen made a motion to propose the amendment to the Rules Committee and Judge Davis seconded the motion. Judge Quillen asked staff to conduct an email vote on these proposed amendments due to the lack of quorum.

7. **Innovation Initiative.** Janelle O’Malley reported that the Innovation Initiative reported that the Technology Workgroup of the Supreme Court’s new Innovation Initiative recently discussed the presentence investigation report. The workgroup asked if the PSI could be a “living document” that could be edited by the judge during a sentencing hearing. She explained that the group is interested in allowing the sentencing judge to make edits when requested by the defendant, rather than waiting for up to 30 days for the probation officer to edit/make corrections to the document based on the court’s order. Judge Quillen requested IOCS staff and Court Technology staff discuss if and how such a change could be accomplished in the PSI application. Ms. O’Malley also reported the Technology Workgroup is interested in allowing broader judicial access to the PSI in other case types. The committee discussed the statutory restrictions on distribution of the PSI in IC 35-38-1-13, which only allows access to the sentencing judge.

8. **Legislative Update.** Jenny Bauer reported that the 2020 session of the Indiana General Assembly is ended on March 11. She stated that HB 1047 (expanding membership of the Justice Reinvestment Advisory Council and adding jail overcrowding as a task) passed in the Senate and is waiting for the governor’s signature. The bill is effective upon passage. She also stated that JRAC will restructure based on the directive of HB 1047, likely similar to the structure of the Children’s Commission with committees and task forces under the umbrella of the larger council.

9. **Continuity of operations for probation departments.** Judge Quillen led a discussion of continuity of operations for probation departments. The members discussed county’s suspending in-person supervision of probationers and allowing office staff to work remotely. The members also discussed the possibility of conducting only

emergency hearings in-person with just the parties and attorneys. Judge Quillen encouraged the members to work with their counties on AR 17 petitions as the situation with coronavirus continues to evolve. IOCS staff will share the court's telework policy with the committee members.

10. **Next meeting dates.** The next committee meetings are scheduled for May 8, July 10, and October 9 (10:30 a.m. at the Office of Court Services with conference call available).

Respectfully submitted,

Jenny Bauer
Staff Attorney
Indiana Office of Court Services

**Probation Committee
Judicial Conference of Indiana**

**Minutes
July 10, 2020**

The Probation Committee of the Judicial Conference of Indiana met by Skype video conference on July 10, 2020. Judge Lori Quillen chaired the meeting.

1. **Members present.** The following members were present: Tom Felts, Carolyn Foley, Elizabeth Hardtke, Jeff Marchal, Patrick Miller, Jim Muelhausen, Randy Williams, Linda Wolf, and Lori Quillen (chair).
2. **Staff present.** Jenny Bauer, Angie Hensley, Nancy Wever, and David Sexton provided staff assistance.
4. **Approval of minutes.** The January and March meeting minutes were unanimously approved.
5. **Indiana Child Welfare Program Improvement Plan.** Jenny Bauer reported that the program improvement plan amendments to the Probation Standards (3.4 Interview, 3.6 Recommendations, 4.4 Expectations for supervision, 4.6 Contact requirements, 4.12 Review of case plans, 4.25 Case audit and quality assurance for juvenile out-of-home placements) were approved by email vote after the March 13 meeting. Judge Quillen was scheduled to present the amendments to the Board of Directors on March 31, but the meeting was cancelled due to COVID-19. Ms. Bauer also reported that Chief Justice Rush requested revisions to make the language more concise. The committee discussed the “face-to-face” meeting requirement in 4.6 considering coronavirus restrictions. The committee decided to leave the language as it is. Lori Quillen made a motion to approve the amendments program improvement amendments to the Probation Standards and Jim Muelhausen seconded the motion. The motion carried unanimously.
6. **Access to Court Records Rule 5.** Lori Quillen reported that she sent a letter to the Rules Committee requesting review of ACR Rule 5 regarding the omission of confidentiality of probation records. Jenny Bauer reported that she is the staff attorney for the Rules Committee and the issue is on the committee’s agenda for the July 17 meeting.
7. **Legislative Update.** Jenny Bauer reported on the following enrolled acts from the 2020 session of the Indiana General: HEA 1047 (expanding membership of the Justice Reinvestment Advisory Council and adding jail overcrowding as a task); HEA 1120 (community corrections and DOC credit time); SEA 47 (expungement); SEA 209 (search warrants); SEA 216 (disclosure of personal information to offenders); SEA 302 (indigency determinations); SEA 335 (criminal law issues). She also reported that the Court Services education division is working on a plan to provide the new legislation and caselaw to probation officers.

8. **IOCS Updates.** Angie Hensley reported that IOCS is resuming in-person testing for the probation officer and CSAMS exams. The exams will be conducted in the Capitol Center's conference center and follow CDC guidelines. High risk exam applicants can request remote testing with a proctor. IOCS is also planning virtual training for risk assessment certification, either live or recorded, and is planning the same for EPICS and Real Colors. Chief Probation Officers received the training update earlier this week. Ms. Hensley also reported that IOCS received 28 applications for certification of pretrial services. IOCS staff completed the certification reviews for Hamilton and Grant Counties. She further reported that IOCS continues to work on the incentives and sanctions technical assistance project and is planning for the state-wide rollout. Ms. Hensley announced that David Sexton is a new staff person in the Justice Services Division.

9. **Resuming operations for probation departments.** Angie Hensley reported that many probation departments have used Zoom to conduct remote appointments with persons on probation. IOCS published guidelines for resuming operations. The members discussed minimum guidelines, staggered shifts, and saliva tests as ways to safely resume operations. Judge Quillen noted that the Zoom meetings with probationers have led to increased participation rates and a reduction in missed appointments. She would like to see her department continue with this practice and suggested documenting successful new practices used during the pandemic. Nancy Wever reported that JDAI has information that can help with the documentation.

10. **Next meeting date.** The next committee meetings are scheduled for October 9.

Respectfully submitted,

Jenny Bauer
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Indiana Office of Court Services

**Probation Committee
Judicial Conference of Indiana**

**Minutes
October 9, 2020**

The Probation Committee of the Judicial Conference of Indiana met by video conference on October 9, 2020. Judge James Muehlhausen chaired the meeting.

1. **Members present.** The following members were present: Dan Banina, Angela Davis, Carolyn Foley, Elizabeth Hardtke, Jeff Marchal, Patrick Miller, Mark Smith, Jason Thompson, Linda Wolf, and James Muehlhausen (chair).
2. **Staff present.** Jenny Bauer and Angie Hensley provided staff assistance.
4. **Approval of minutes.** Carolyn Foley made a motion to approve the minutes and Linda Ralu Wolf seconded the motion. The July meeting minutes were unanimously approved.
5. **Amendments to Probation Standards.** Jenny Bauer reported that Judge Muehlhausen presented the proposed PIP amendments to the probation standards at the September 15 Board of Directors meeting. The Board unanimously approved the amendments with a January 1, 2021 effective date. Ms. Bauer also reported that the Board approved the AR 9 amendments by email vote in March.
6. **Amendment to Rules on Access to Court Records.** Jenny Bauer reported that the Supreme Court Committee on Rules of Practice and Procedure approved the Committee's recommendation to include commentary about the confidentiality of probation records in Access to Court Records Rule 5. The Supreme Court approved the amendment and will publish the order in the next week.
7. **Probation Officer Exam update.** Angie Hensley reported that Court Services began the pilot for the new probation officer exam in April 2019. The current cut-off for a passing score is two standard deviations below the average mean score (80% has been the average, so 70% is the cut-off). The exam has been administered to 68 applicants so far in 2020. The number is low because the exam was suspended from April to June due to coronavirus restrictions. Court Services resumed in-person testing in July with screening for COVID-19 symptoms and offers remote testing for applicants with health concerns. Ms. Hensley also reported that Probation Standards 2.5 and 2.6 on re-taking after failing the exam were suspended as part of the pilot. She stated that Court Services would like to reinstate the rules now that the exam has been administered for over a year. In addition, Ms. Hensley reported that the exam consultant recommended adding questions to the exam to ensure that it is sufficiently difficult. She stated that Court Services would like to add the questions after two years of exam data are available. Angela Davis made a motion to reinstate Probation Standards 2.5 and 2.6. Linda Wolf seconded the motion, which passed unanimously. Carolyn Foley made a motion to continue using two standard deviations below the average mean score as the cutoff for passing the exam. Patrick Miller seconded the motion, which passed unanimously.

8. **Probation Statistics.** Jenny Bauer reported that Court Services publishes a yearly report of probation statistics. The deputy director for the legal support and statistics division requested that the Committee review the statistics to make sure the reported information is useful. Mark Smith suggested making data reporting easier for probation departments. Angie Hensley reported that the Probation Officers Advisory Board is currently reviewing the statistics and will send a recommendation to the Committee for review.

9. **JRAC/Legislative Update.** Jenny Bauer reported that the Justice Reinvestment Advisory Council met by livestreamed video-conference in June, August, and September. JRAC plans to review proposed amendments to driving while suspended statutes and the bail statutes at the October meeting. Ms. Bauer also reported that the 2021 session of the Indiana General Assembly is a long budget session scheduled to end in late April. Court Services staff will monitor bills filed before the session and report on probation-related bills.

10. **IOCS Updates.** Angie Hensley reported that the education division is working to move trainings online. The probation officer orientation will be conducted with on-demand modules and in-person skills building. Court Services is planning to offer refresher training on the STATIC/STABLE sex offender assessment instrument and racial/ethnic disparities data. Ms. Hensley also reported that IRAS training is on-going, but the re-certification is on hold. Probation officers are still required to obtain 12 continuing education hours for 2020 and remote training sessions are available on-demand. The 2021 probation officer annual conference will be conducted virtually.

11. **Thanks to retiring member.** Judge Muehlhausen reported that Tom Felts is retiring from the Allen Circuit Court at the end of the year. The Committee members thanked him for his service to the committee. Jenny Bauer reported that Judge Felts will serve as a senior judge with Court Services, working with the education division and problem-solving courts.

12. **2021 meeting dates.** Judge Muehlhausen announced the 2021 meeting dates. Meetings begin at 10:30 a.m. Eastern time and will be conducted by Microsoft Teams video until in-person visits resume at the Office of Court Services.

- January 8
- February 12 (if needed)
- March 12
- April 9 (if needed)
- May 14
- July 9
- October 8

Respectfully submitted,

Jenny Bauer
Staff Attorney
Indiana Office of Court Services