



The Indiana Prosecutor

1st Quarter, 2020

2020 Training Calendar Adapted to Demands of Safety First

Naylor's Notes

By Chris Naylor



In just a few short weeks, COVID-19 has impacted nearly every aspect of life here in America and around the world as the number of people contracting the virus continues to climb. The IPAC team is wishing each of you good health, and we encourage you to support and watch out for each other and take care of your family and loved ones in these uncertain times. IPAC staff members are all doing well in weathering the storm. We continue to stand at the ready to assist with any of your needs.

As authorities order people to stay at home and to avoid large crowds and gatherings, IPAC is taking steps to adapt the ways we deliver world class training to reflect the current realities. Our training methods will emphasize the important goal of keeping everyone safe and healthy. This means that for the coming weeks, and perhaps months, IPAC will implement physical distancing practices and work to bring training and CLE programming to you through virtual resources.

On March 31, 2020, the Indiana Supreme Court handed down an order addressing the hour limitations on distance education. The Supreme Court has waived any credit-hour limitations on distance education for attorneys whose three-year educational period ends on December 31, 2020. There will be a limit of 24 hours of distance education for attorneys whose three-year period ends on December 31, 2021, and a 36 hour limit for attorneys whose three-year period ends on December 31, 2022.

In order to meet your training needs in this time of pandemic, the IPAC training team, headed by Assistant Executive Director Courtney Curtis, is developing a host of virtual training events that will be offered on just about a weekly basis for a number of weeks. So that you may plan your schedules and earn CLE credits while developing your knowledge and skills, the idea will be to target Thursday afternoons as the dedicated time slot for the IPAC virtual events. We thank Drug Resource Prosecutor Dan Miller and Deputy Director of Criminal Law Jim Oliver who each recently hosted well attended IPAC webinars. We look forward to our next installment of IPAC online training on April 30, 2020, when Legislative Counsel Lacey Berkshire and Senior Counsel Dave Powell will report much good news regarding the recent Legislative Session, as they provide the 2020 IPAC Legislative Update.

Unfortunately, the ongoing health threats have already made it impossible for IPAC to hold two of its major annual training events. The IPAC Spring Seminar scheduled for May 15, 2020 and the IPAC Child Support Conference scheduled for June 2-5, 2020 have both been canceled due to the risks of bring large numbers of people together. Below is a status report on the other IPAC training events that were scheduled for April and May:

DV Trial Ad I: Rescheduled for August 24-27

Traffic Safety Conference: Rescheduled for April 2021

Voir Dire I: Canceled

Cross Examination: Looking to schedule in Fall 2020

IPAC is hopeful that we'll be able to host the IPAC Summer Conference in Fort Wayne on June 17-19, 2020. Stay tuned and stay home as much as possible. The health outcomes in the coming days and weeks will dictate whether we can be together in Fort Wayne. Also, stay tuned to the IPAC Website (www.ipac.in.gov) for scheduling of the entire 2020 training calendar and registration details for the IPAC virtual events that the IPAC team will bring to your homes and offices.

Legislative Update

By **Lacey Berkshire**
IPAC Legislative Counsel

Contact Lacey: lberkshire@ipac.in.gov

The Indiana Senate adjourned sine die late in the evening of Tuesday, March 10, and the House followed suit shortly after midnight on Wednesday, March 11, ending this year's legislative session. Of the 452 bills introduced by the House, 89, or 20 percent, were eligible to be signed into law by the governor. Of the 451 introduced by the Senate, 79, or 17 percent, made it to the governor's desk.

As usual, many criminal law changes were enacted this year, several of which will be of special importance to prosecutors.

SB 206

- SB 206 provides that a defendant may not depose a child victim of a sex crime, unless the prosecutor agrees to it, the child is unavailable for trial, or the court finds that extraordinary circumstances exist and it is in the interest of justice. It establishes procedures accordingly.
- This bill was IPAC's highest priority bill this session. It passed the Senate 49-1 and the House unanimously, with significant assistance from Senators Messmer, Koch, and Young,

and Representatives Torr, Steuerwald, and Delaney. We are grateful to these legislators for their help and support.

- SB 206 was signed into law by the governor on March 18 and is now law.

SB 335

SB 335 was a very large bill containing various provisions related to criminal law, and it underwent many reiterations throughout the process. Significant provisions for prosecutors include:

- Creates a 12-year lookback period if criminal penalties are increased for prior unrelated convictions. In order to be eligible for enhancement, the new offense must be committed within 12 years from conviction or release from incarceration, probation, or parole, whichever is later. Excluded from this are crimes of violence, crimes that result in bodily injury or death, sex offenses, domestic battery, strangulation, OWI with a prior conviction for OWI resulting in death/serious bodily injury/catastrophic injury, and drug dealing offenses.
- Adds strangulation and domestic battery as crimes of violence.
- Expands the current Level 5 felony for obliterating serial numbers on a handgun to apply to all firearms, long guns included.
- Creates the offense of organized theft at a Level 6 felony level for a person who agrees with two or more people to commit theft and performs an overt act in furtherance of that agreement.
- Increases the penalty, from a Class C Misdemeanor to a Level 6 felony, for operating while intoxicated with a controlled substance in the person's blood if the person is transporting a child in the vehicle.
- Addresses part of the US District Court's holding in *CY Wholesale v. Holcomb* regarding the shipment of smokable hemp.
- SB 335 originally passed the Senate 40-9 and the House 84-11. After the conference committee process, the report passed the Senate 48-1 and the House 89-2.
- The entirety of the bill takes effect July 1.

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Thank you to the Legislative Committee and all prosecutors who worked hard to make this session a success. As we look ahead to 2020, interim study committee assignments and topics should be announced in early May. Potential topics for the criminal committee to study include a review of criminal code reform, codifying consent in the rape statute, and penalties for drug dealing.

News & Notes

Pat Harrington voted Association President

Tippecanoe County Prosecutor Patrick Harrington will lead the Association of Indiana Prosecuting Attorneys, Inc. as President in 2020. He takes over for Greene County Prosecutor Jarrod Holtsclaw.

Pat was elected to the position during an Association meeting during IPAC's Winter Conference in December. He served as President-Elect under Holtsclaw during 2019. Pat has been the Tippecanoe County Prosecutor since 2007 and also serves as co-chair of the Legislative Committee.

Joining Pat on the Association slate is President-Elect Amy Richison (Huntington County), Vice-President Lee Buckingham (Hamilton County) and Secretary/Treasurer Rodney Cummings (Madison County).



Chris Naylor (left) and Tippecanoe Prosecutor Pat Harrington honor outgoing Association President Greene County Prosecutor Jarrod Holtsclaw

Senate Bill 206 a Big Legislative Win

IPAC's priority bill for the 2020 Session, Senate Bill 206 (Deposition of Child Victim), went into effect immediately when Gov. Eric Holcomb signed the bill on March 18, 2020. SB 206 will limit depositions of child sexual assault victims and is an initiative that prosecutors have been working towards for a long time. As prosecutors well know, depositions can be particularly difficult for child victims who have been traumatized by a sexual assault. Each time the child has to re-live that painful experience, whether it be during a forensic interview, deposition and possibly testifying in court, they are re-traumatized by this process.

Fortunately, depositions for these children will now only be allowed in very rare circumstances. After some initial amendments, the bill was met with resounding approval by legislators, passing unanimously out of the House of Representatives and receiving only one no vote in the Senate. When you see one of your local legislators after stay at home orders have expired, make sure you thank them for supporting this important initiative.

We fully expect there to be some push back from defense counsel on this new rule of engagement and there might be a number of motions filed in an attempt to push depositions through as normal. Each judge will be faced with the decision of whether a deposition may be taken, and we're hopeful they will use their discretion to allow depositions only in rare circumstances.

Outgoing IPAC Chair Lisa Swaim honored

Former Cass County Prosecutor Lisa Swaim was also honored at IPAC's Winter Conference after she was appointed by Gov. Eric Holcomb to serve as judge in Cass County. Swaim was elected chair of the IPAC Board of Directors this past June but had to step down to fill the judicial vacancy. Dubois County Prosecutor Anthony Quinn, the current Vice-Chair of the Board will run IPAC Board meetings in her absence.

Swaim was given a plaque as a thanks for her service as Chair and for the many years she served the state as prosecutor. Swaim was a deputy prosecutor at Marion County prior to being elected in 2015.



Former Cass County Prosecutor Lisa Swaim receives a plaque for her service as Chair from Dubois County Prosecutor Anthony Quinn

Dave Powell receives Sagamore of Wabash

Dave Powell stepped down as Executive Director of IPAC this past October, starting a new, part-time role at IPAC as Senior Counsel.

During IPAC's Winter Conference, Powell was surprised with a Sagamore of the Wabash, a prestigious Indiana award to honor Hoosiers who perform exemplary service to the state of Indiana.

Powell was given the award by Rep. Greg Steuerwald, on behalf of Gov. Eric Holcomb. Steuerwald has worked with Powell extensively in his interactions with the legislature. Steuerwald thanked Powell for his eight plus years of service as Executive Director assisting Indiana prosecutors.



Dave Powell was awarded the Sagamore of the Wabash by Rep. Greg Steuerwald at IPAC's Winter Conference

IV-D Region V Border Training

By Amy Burgher

Over 180 child support professionals from eight states, and one tribal IV-D program were represented at the first ever Region V Border Training Workshop, which was held November 20 and 21, at the Das Dutchman Essenhaus Conference Center in Middlebury, Indiana. This event focused on improving communication and understanding between the various child support programs, and working through difficult and interesting situations that are encountered when working on intergovernmental cases. During the workshop, representatives from Illinois, Michigan, Minnesota, Ohio, Wisconsin, Indiana, and the Ho-Chunk Nation presented overviews of their child support programs to attendees which also included representatives from the Federal Office of Child Support Enforcement, Indiana's Child Support Bureau, Kentucky, and Colorado.

In addition to the overviews of the six states and tribal IV-D programs, attendees also shared best practices for communications on mutual intergovernmental cases, including tools available for sharing documents through a secure portal, discussed several scenarios involving multiple jurisdictions, and were provided with an intergovernmental case law update. The Federal Office of Child Support Enforcement also presented an update on the status of new requirements and the status of their implementation.



Left: A packed house in Middlebury as IV-D professionals gather for the Region V Border Training.
Right: Elkhart County Prosecutor Vicki Becker opens up the training.

INPCMS Update

It is probably not apparent to most who use the Indiana Prosecutor Case Management (the INPCMS), but on a daily basis, changes get made to the system. Recounting the many adjustments, tweaks, and improvements would take up the entire newsletter, but in this New Year, it is well to recognize a few highlights.

The Indiana Supreme Court mandated that all criminal cases be initiated electronically. While there was some initial consternation in some offices, the switch to this procedure went well. Many states are e-filing, but it is understood that Indiana is the only state where criminal cases can be initiated electronically. Even the federal Pacer system does not provide this functionality.

The INPCMS Child Support Module is now being used in a number of counties. The module allows prosecutors to initiate cases electronically and to file into existing cases. It is anticipated that the Child Support Bureau's INVEST system will more

seamlessly provide these e-filing capabilities, but in the meantime the INPCMS offers the current best solution.

A final highlight that should have gone unnoticed by those who use the system is the movement of the INPCMS from IPAC-owned servers to the Amazon Web Service – Government Cloud, a service used by many federal defense and law enforcement agencies. This service gets the IPAC out of having to purchase new servers every few years. It will also provide a platform that will allow the INPCMS to broaden certain services.

In the coming year, the plan will be for the IPAC Technology Committee to work with BCforward to develop a new user interface. The system's presentation and its navigability are sufficient, but could stand to be updated and modernized.

Winter Conference Awards

By Zach Osowski
IPAC Public Information Officer

One of the best events of the year for IPAC staff, leadership and county prosecutors is the annual IPAC Awards Ceremony held during Winter Conference. The ceremony is an opportunity for prosecutors to recognize those that have made an outstanding difference in their offices and to honor prosecutors who have performed exemplary service during the past year.

2019's ceremony during Winter Conference was a fun evening showcasing some of the best from law enforcement to legislative

Bernie Carter, who marveled at Terry's ability to handle a county the size of Marion County. Lake County's office is roughly half the size of Marion County and Bernie joked that he constantly has his hands full.

The Awards Ceremony is also an opportunity for prosecutors to recognize people who make huge contributions to public safety. Every year, IPAC hands out awards for office managers, victim advocates and law enforcement officers for their service in assisting prosecutors on a day to day basis.

Longtime Office Administrator Tonia Sievers received the Kathy Falkner Richey Award thanks to her long career in the Daviess County Prosecutor's Office. She was nominated by Dan Murrie who said he simply wouldn't be able to do his job without Tonia running the show in his office.

"Her deep love of public safety and other members of our team have made her the bedrock of this office," Murrie said.

Melinda Padgett, who recently announced her retirement from Madison County as the Director of Advocacy Services, was given the Outstanding Victims' Advocate Award. She was nominated by Madison County Prosecutor Rodney Cummings who credited Melinda with molding the county's victim advocacy program to what it is today, especially for young victims. Rodney told those in attendance at the awards ceremony that Melinda played a crucial role in the creation of the county's Child Advocacy Center. She also served on multiple boards and task forces

throughout the county to ensure that victims had a voice in the community.

IPAC also honored two legislators whose efforts in 2019 helped promote issues that were important to prosecutors and law enforcement. Sen. Mark Messmer authored a Victims' Rights package that contained several new provisions that prosecutors have been pushing for over the last several years, including an enhancement for strangulation offenses and more protections for victims in court documents and police reports. Sen. Mike Young was also honored at the ceremony. As the Chair of the Senate Corrections and Criminal Law Committee, Sen. Young plays a crucial role in making sure bills important to prosecutors are thoroughly vetted and heard before the committee. In 2019, he had an important hand in toughening penalties on drug dealers, among other legislative pieces.

Finally, IPAC also honored the law enforcement officers that prosecutors work so closely with every day. Dr. William Smock, with the Louisville Metro Police Department, and Trp. Josh Allen with the Indiana State Police were both given the Law Enforcement Award. Dr. Smock has been an invaluable resource for prosecutors across the state in terms of training and as an expert witness. Trp. Allen was nominated by Lawrence County Prosecutor Samuel Arp for his tireless efforts to clean up the county's drug problem.



From left: IPAC Executive Director Chris Naylor, Lake County Prosecutor Bernie Carter and former Marion County Prosecutor Terry Curry

excellence, to honoring employees who have given the majority of their career to serving the state through prosecution. All in all, eight awards were handed out, along with a countless number of service awards, which honor prosecutors and staff who have hit the 10, 20, 30 or 40 year marks in service to the state of Indiana.

The biggest award was the Eugene Shine Feller award, the highest honor given out by the Association of Indiana Prosecuting Attorneys, Inc. This year, the award was given to Terry Curry, who announced in the fall of 2019 that he would be stepping down as Marion County Prosecutor due to his ongoing fight with cancer. As the leader of Indiana's largest prosecutor's office and most populous county, Terry has been a steady hand in Marion County since taking over in 2011. He has also been a strong force and valuable member of IPAC's Board of Directors for years. Terry was nominated and introduced by Lake County Prosecutor



Sen. Mark Messmer, R-Jasper, (left) receives his Legislative Excellence Award from Washington County Prosecutor Dustin Houchin



Sen. Mike Young, R-Indianapolis, (left) was presented with the 2019 Legislative Excellence Award from Tippecanoe County Prosecutor Pat Harrington

Staff Changes at IPAC

Three new resource prosecutors joined at end of 2019

At IPAC, we are well aware that the biggest interactions most of you have with us is when you call into our office to speak to one of our resource prosecutors. These calls often happen when prosecutors encounter something new they haven't seen before, are unsure of how best to proceed or want confirmation that how they are reading the law is correct.

There are five different resource areas with a dedicated prosecutor. Traffic, domestic violence/sexual assault, child support, drugs and juvenile. The idea of the dedicated resources is to have experts who are able to assist with those specific areas of the law that can be technical and are constantly evolving through case law or new legislation.

At the end of 2019, we added three new staff attorneys, two to fill newly created roles and one to replace a departing staff attorney.

Tracy Fitz was named as the new Juvenile Resource Prosecutor, becoming the first IPAC staff attorney in that role. Juvenile law is a complex subject and IPAC leadership and the Board of Directors felt it was past time to create a full-time position in order to handle the needs of prosecutors. The General Assembly is also set to start looking at a possible revamp of the state's Juvenile code, similar to what happened to the state's criminal code several years ago with HB 1006. Rest assured that Tracy and IPAC will be keeping a close eye on that effort.

Tracy comes to IPAC from the Marion County Prosecutor's Office where she spent most of her career in the juvenile department. As part of IPAC's ramp up in training for 2020, Tracy will be heading up a Juvenile Summit in September. This will be essential training for anyone who handles juvenile cases and a great opportunity to meet other prosecutors who deal with juvenile cases on a regular basis.

Amy Blackett was also hired on as the new Domestic Violence and Sexual Assault Resource Prosecutor as a replacement



Erica Dobbs

for Shaunette Terrell, who recently departed to join a private law firm in Indianapolis. Amy is also a veteran of the Marion County Prosecutor's Office and has hit the ground running at IPAC, taking part in IPAC training and helping craft Senate Bill 206, which will limit the depositions process for child sex abuse victims.

Amy will be spearheading several trainings on domestic violence throughout the year, so be sure to sign up or send prosecutors in your office who handle most of the sexual assault and domestic violence crimes.

IPAC plans on hosting two, one-day Sex Assault summits in October. These courses will be held in South Bend and Columbus and will focus on a review of essential sexual assault prosecution skills as well as topics relating to victim advocacy.

Erica Dobbs, like Tracy, is taking over a newly created position at the office, serving as Assistant Traffic Safety Resource Prosecutor. A significant number of prosecutor cases in Indiana deal with Title 9 and traffic related matters and IPAC felt it was necessary to bring in a second attorney to assist Chris Daniels with trial advocacy training and seminars and helping prosecutors with research and data analysis.

This is Erica's second stint at IPAC,



Tracy Fitz

where she served as an intern while she was in law school. After graduating she went to work in Boone County as a Deputy Prosecutor where she handled all of the OWI and habitual traffic offender cases in the county. In 2018, she became a prosecutor for the Indiana Department of Insurance before coming to work at IPAC.

In keeping with the theme of more training throughout 2020, Erica will be helping with several traffic related conferences, including a traffic safety conference currently planned for April, a Trial Advocacy related to OWI in August.

IPAC is excited to have all three of these talented attorneys join our staff.



Amy Blackett



Prosecutors in the News

How the coronavirus pandemic is upending the criminal justice system

"Tough calls are being made on a number of rightfully held inmates. We are balancing safety of the community against the benefit of a low jail population."

ClaraMary Winebrenner
DeKalb County
USA Today
March 19, 2020

Clark County chosen to study trends in child fatalities

"The question is, what can we do to possibly have things turn out differently in the future? I'm eager to get into the numbers."

Jeremy Mull
Clark County
WHAS 11
February 4, 2020

Three chemicals found in vape investigation at MCHS

"The rise in the use of vaping devices among minors has presented new and dangerous challenges due to the combination of chemicals involved. The health and safety risks are too high. I hope this is a wake up call."

David Sutter
Jefferson County
Madison Courier
February 18, 2020

Prosecutor kicks off National Crime Victims' Rights week

"We understand the challenges of balancing the rights of a defendant with a victim's right to be treated with respect and dignity. This bill (SB 206) will help restore that balance and provide a more victim-centered approach for child victims."

Pat Harrington
Tippecanoe County
WBIW
January 16, 2020

Boone County commissioners declare state of emergency

"The prosecutor's office is open but we are asking people not to come to the prosecutor's office. We can virtually do everything by mail, email and phone."

Kent Eastwood
Boone County
Rushville Republican
March 17, 2020

Police, Courts adjust to exposure concerns

"Arrests are not going to stop. We're going to continue to file cases. We're going to go to court. We're going to do what we need to do to Hancock County safe."

Brent Eaton
Hancock County
Greenfield Daily Reporter
March 14, 2020

Courtney Curtis Hired as New Assistant Executive Director

With Chris Naylor stepping into the role of Executive Director for IPAC this fall, it left an opening for the role of IPAC's number two in the office. After interviewing several qualified candidates, the Board of Directors chose Courtney Curtis to serve as IPAC's new Assistant Executive Director.

Courtney is well known to many of you. Not only has she had a long career as a prosecutor in Indiana, including stints in Marion and Johnson counties but she has also frequently been a faculty member for IPAC trainings, as well as trainings and lectures around the country. In fact, Courtney was recently notified that she will be recognized this summer by the National District Attorneys Association with the Distinguished Faculty Award. Courtney is a frequent speaker at NDAA events and trainings and has been working as faculty for the National District Attorneys Association for seven years and teaching at both their national and regional courses in the areas of Trial Advocacy, Homicide, Sexual Assault, Child Fatalities, and Domestic Violence.

For those of you not as familiar with Courtney's work, she started at the Marion County Prosecutor's Office upon graduation from IU Law School as a Deputy Prosecutor,

where she handled a wide variety of cases from domestic battery and rape to burglaries and homicides. She also held multiple supervisory roles while at MCPO, including Division Chief of the Special Victims Team.

One of Courtney's primary roles as Assistant Executive Director at IPAC will be the scheduling of the training and conference calendar. Obviously, COVID-19 and the state's stay-at-home order have impacted this for the early part of 2020 but, hopefully, the trainings will be able to continue as scheduled in the fall and winter.

Courtney's main objective is to plan the training calendar a year in advance so individual prosecutor's can plan their year out in advance and decide who in their office can be sent to what training. As always, IPAC strives to offer trainings that offer education for a wide spectrum of prosecutors from brand new prosecutors fresh out of law school to seasoned veterans. Under Courtney's direction, IPAC will continue to adjust its training schedule for 2020. Part of that will include weekly webinars while the stay-at-home order continues.

IPAC is honored to have Courtney officially on the team.