



The Indiana Prosecutor

3rd Quarter, 2017

Fall 2017 is here and we are thankful for what each new season offers. We are especially thankful for your dedication and attention to Indiana's public safety needs. Our republic's vitality is fostered through your good work enforcing the rule of law. Unfortunately, much of what you do is misunderstood and certainly taken for granted. We at the Indiana



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Prosecuting Attorneys Council remain committed to your support. Your needs are always our priority and spreading the good news about prosecutors is a responsibility we take seriously.

Your board of directors asked that I send everyone a reminder concerning **rape kit reporting**. As you may recall, I forwarded a message from the Indiana State Police a few months ago wherein the Indiana State Police Lab requested your assistance to survey local law enforcement agencies and hospital emergency rooms to determine the number of untested rape kits. The message contained a form to record and report the number

of kits. A **deadline of October 27th** was established. The Indiana State Police have a December 1st deadline to respond to the Indiana Legislature with this data. I know that has been more challenging than expected, but please do your best to comply with the request. The Indiana State Police will take care of counting the kits in their custody. However, they are counting on you to check with other law enforcement agencies or entities in your jurisdiction that may have kits in their evidence rooms or vaults.

Last, I am pleased to report that the vast majority of prosecutors - 78 - are reporting misdemeanor disposition data in the Prosecutor Case Management System (PCMS). A few counties, approximately nine, are not reporting or are reporting incomplete data. I encourage you to stay on top of this. It has been my experience thus far that good data always helps us. Candidly, we are currently the best

and most complete source in the state for misdemeanor disposition data. The courts do a good job with felony dispositions, but not misdemeanors.

Some Thoughts...

By
David N. Powell
IPAC Executive Director



As we move forward with our public safety concerns we need accurate sentencing data and outcomes for both felonies and misdemeanors. If it is not already, please make this an administrative priority in your office. If you are one of the nine counties with incomplete data and need help, please contact IPAC and we will provide assistance. We would like to start with 2017 data as a first step.

Looking forward to a busy fall and winter.

Dave

Association anticipates marijuana efforts in 2017 legislative session

It's anticipated that proponents of legalized medical and recreational marijuana will be focusing on Indiana during the 2018 legislative session, with the arguments that marijuana, legalized in some form, will generate tax revenue for education, roads or other needs; that veterans require medical marijuana to combat PTSD, depression and chronic pain; that medical marijuana will somehow solve Indiana's opioid crisis; or that law enforcement resources are wasted on "harmless" drugs.

The Association of Indiana Prosecuting Attorneys, Inc. (AIPA), is seeking allies to assist with resources to avoid

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Delaware County Prosecutor Jeff Arnold confers with Tony Coder of Smart Approaches to Marijuana.

Legislative Update

By **Lacey Berkshire**
IPAC Legislative Liaison

Contact Lacey: lberkshire@ipac.in.gov

Preparing for the 2018 Legislative Session

As the summer comes to end, IPAC is gearing up for the 2018 legislative session. We have been compiling suggestions for potential legislation from prosecutors throughout the state over the past few months. Some of these proposals have received approval from the Legislative Committee in recent meetings, and will become introduced bills when the General Assembly convenes in January. Legislators are currently compiling their bill packets now, so time is of the essence to find prospective authors for our legislation. If you have a proposal you would like the Legislative Committee to consider, please let me know as soon as possible. January will be here before we know it!

2017 Interim Study Committees

The Interim Study Committee season has been a busy one for IPAC. We are currently attending meetings and advocating for our issues in five study committees: Corrections and Criminal Code, Courts and the Judiciary, Public Health, Judiciary and Public Policy, and Roads and Transportation. Topics up for discussion in these committees include civil forfeiture reform, adult protective services funding, unlicensed carry of a firearm, improvements to the INSPECT program, review of criminal code reform, mental illness and the death penalty, providing indigent defense services for persons charged with a misdemeanor and parents in CHINS cases, extending treatment programs to misdemeanants, implementing a traffic amnesty program, and requiring criminal law bills to pass an interim study

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committee before introduction in the legislature.

Many prosecutors have been working diligently on these issues and we are grateful for their passion and participation. A special thank you to Delaware County Prosecutor Jeff Arnold, St. Joseph County Prosecutor Ken Cotter, Marion County Prosecutor Terry Curry, Monroe County Prosecutor Chris Gaal, Marion County Chief Legal Counsel Charnette Garner, Vanderburgh County Prosecutor Nick Hermann, and Allen County Prosecutor Karen Richards for testifying before the legislature on behalf of IPAC this interim.

Regional Legislative Dinners

We will be hosting regional legislative dinners this fall in South Bend, Fort Wayne, Evansville, Indianapolis, and Lafayette. Keep an eye out for invitations in your email inbox soon!

Association

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the marijuana mistakes found in Colorado or Washington state. An organization that has seen success in states that have turned aside the marijuana threat is Smart Approaches to Marijuana (SAM). SAM representative Tony Coder met with AIPA and prospective allies in August, with a more public, followup meeting scheduled for later this year.

Association President Dustin Houchin noted that since 2012, marijuana-related legislative proposals have been steadily increasing, with five proposals in 2016 and 10 in 2017. A bill legalizing cannabidiol for patients of intractable epilepsy, who participate in a patient registry, was passed in 2017. Additional proposals for expansion of the 2017 legislation are anticipated.

Despite a few studies finding limited evidence that some people substitute marijuana for opiate medication, people generally do not substitute marijuana for other drugs. A National Academy of Sciences report found that "with regard to opioids, cannabis use predicted continued opioid prescriptions one year after injury..."*

A three-year study of adults found that marijuana compounds problems with alcohol. According to the Rocky Mountain HIDTA Investigative Support Center, alcohol consumption in Colorado has increased slightly since legalization of marijuana.*

(*Source: Smart Approaches to Marijuana publication, "Marijuana & Other Drugs: A Link We Can't Ignore")

Marijuana – Wrong for Indiana



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EBDM Pilot Counties Implementing Criminal Rule 26 Differently

By Dan Miller

While full implementation of Criminal Rule 26 is not scheduled to begin until 2020, for nine Indiana counties, CR 26 is being fully implemented. Six of those counties – Porter, Tipton, Hendricks, Hamilton, Bartholomew and Jefferson – are Evidence Based Decision Making (EBDM) pilot counties. Three additional counties – Monroe, Starke and Allen – round out the pretrial pilot project. The efforts of these counties will inform the statewide implementation of CR 26.

While adhering to specific standards and data-collection requirements from the state EBDM policy team, each pilot county is implementing CR 26 differently. Tipton County, the smallest of the pilots, has the boldest reform. It has abolished its bail schedule. Each arrestee is administered the pretrial assessment tool (IRAS-PAT). Arrestees who are determined to be low-risk are released without bond. Those who score high-risk are held until their initial hearing where the judge determines whether they can be released and under what conditions. According to prosecutor Jay Rich, one immediate result of holding the worst of the worst in custody is that he is trying more cases.

In Porter County three of the six judges are participating in the pilot while three judges are not. Porter County is set up to produce some interesting comparisons. In Hamilton County, an independent pretrial services department has been created to administer the pretrial assessment. Most counties are implementing a court notification system, and a process for a post-initial hearing bail review for those defendants who do not post bail after the initial hearing. Also, prosecutors and a public defender attend the initial hearings where bail is reviewed. While all the counties have different implementation start dates, those counties with several months experience have not seen notable reductions in jail populations. However, the composition of their pretrial jail populations has changed from low/



Tipton County Prosecutor Jay Rich discusses his county's EBDM pre-trial efforts.

moderate risk to higher risk. Probation violators also continue to populate their jails.

Jefferson County is reporting reductions in failure to appear and re-offense rates. For example, before the pilot the FTA rate was 14%. Post implementation, they are able to report an FTA rate of 9.5% within 90 days of release and 11.5% within 180 days of release.

The pretrial prosecutors and IPAC meet periodically to review progress and problems with the pretrial project. Prosecutors continue to voice frustration with the IRAS-PAT and are proposing to test other pretrial assessment tools in addition to IRAS-PAT. Additionally, prosecutors are interested in testing other screening tools, particularly for lethality and domestic violence, along with the tool that screens only for court appearance and re-offense. Additionally, nearly all of the counties have added staff – prosecutor, public defenders, assessment officers – using various grant funding sources. Sustaining the reforms measures financially into the future remains a question for most of the pilot prosecutors.

Calendar of Events

Indiana Covert Narcotics Investigation School
Edinburgh - September 24-30

Trial Advocacy 3: Voir Dire
Indianapolis - October 3-5

Domestic Violence Trial Advocacy I Program
Muncie - November 7-9

IPAC Winter Conference
Indianapolis - December 3-6



Nearly 70 prosecutor's office staff participated in the IPAC Staff Development Conference, September 6-8. Above IPAC Deputy Director of Civil/Administrative Law J. T. Parker discusses Adult Protective Services.



Sharon Wilson (center) of the LaPorte County Child Support Office received the Beatrice Deuel Child Support Superior Service Award. With her are LaPorte County Deputy Prosecuting Attorney Kristina Armstrong (left) and Indiana Prosecuting Attorneys Council Policy Liaison Karla Mantia.



Decatur County Deputy Prosecuting Attorney Wendy Whitehead (left) and Debi Garrett of HYCA pose with 176 pairs of shoes destined for the Academy's young athletes.



At left, Glenda Gooch of Marion County and Kimberly Hitchcock of Jasper County were honored for 35 years of service to their county's child support office.

Child Support Conference trains IV-D staff, honors service, donates shoes to Youth Academy

The 2017 annual IV-D conference was held at French Lick Springs on June 27-30, with 578 attendees. Fifty-six training sessions were offered, 36 of which were approved for CLE credits.

It took three wooden pallets to hold 176 pairs of shoes, which were presented to the Hoosier Youth Challenge Academy, during the June Child Support Conference. The shoes were collected by community members and child support offices throughout the state.

During an awards ceremony, Sharon Wilson of the LaPorte County Child Support Office received the prestigious Beatrice Deuel Child Support Superior Service Award. Wilson is an administrative assistant/caseworker who was retiring after working for LaPorte County for 22 years.

Additional honorees received the Indiana Prosecutors' K.I.D. (Kudos for Inspiration and Dedication) Award:

- Melinda Danner, Kosciusko County
- Kathy Fisher, Tippecanoe County
- Linda Kiefer, Scott County
- Rhonda Stallworth, Allen County
- Leisha Terrell, Crawford County
- Kathie Warner, Bartholomew County
- Derrah Yancy, Lake County
- Delores Young, Decatur County

An additional 77 child support workers from 18 counties, as well as the Indiana Child Support Bureau, were recognized for years of service to their offices.



Above, David Brown of Steuben County served as moderator for a session on the statute of limitations.



Above, Daviess County Prosecutor Dan Murrie and family display his appreciation plaque as retiring IPAC chairman.



Crawford County Prosecutor Nick Haverstock speaks with ISP Sgt. Phil D'Angelo.

IPAC Summer Conference



Above, Sullivan County Prosecutor John Springer and Monroe County Prosecutor Chris Gaal attend a session on domestic violence.



At left, is Pulaski County Prosecutor Daniel Murphy.



At left, is Jennings County Prosecutor Brian Belding.



Above, Jim Oliver, IPAC's Deputy Director for Criminal Law draws on the assistance of Bloomington Herald Times reporter Laura Lane (left) and Indianapolis Fox 59 Producer Ruthanne Gordon on the subject of the media and ethics.



Scott County Prosecutor Chris Owens (left) and Tipton County Prosecutor Jay Rich stand during a break in the conference action.

Powell: Enforcement Plays Vital Role in Indiana Drug Crisis

The Indiana Commission to Combat Drug Abuse heard a law enforcement perspective on the opioid and drug crisis in August from commission member and IPAC Executive Director David Powell. He discussed synthetic drug dangers, the impact of current drug penalties and asked the commission to help halt marijuana legalization efforts.



Despite the highly dangerous nature of synthetic drugs in Indiana, they are carved out for special penalty treatment and are treated as infractions and misdemeanor offenses. Powell urged that persons charged with synthetic drug possession or dealing be charged at the same level as any other Schedule I controlled substance.

Concerning current drug penalties in the state, Powell noted that commitments to the Indiana Department of Correction by persons who have committed new crimes have been decreasing but parole and probation violations have increased in some cases.

In regards to marijuana legalization proposals that might come before the Indiana legislature during its 2018 session, Powell urged the commission to study lessons learned in Washington and Colorado from those states' legalization experiments. He noted that overall use of marijuana by youth, ages 12-17 is much greater in Washington and Colorado than the national average.

Prosecutor Appointments



Meyer



Travis



Hermann



Hartley

Four Indiana prosecutors have been appointed to statewide boards or committees:

Governor Eric Holcomb appointed Boone County Prosecutor Todd J. Meyer and Jackson County Prosecutor AmyMarie Travis to four-year terms to the Indiana Criminal Justice Institute Board of Trustees.

Vanderburgh County Prosecutor Nicholas G. Hermann and Wabash County Prosecutor William C. Hartley, Jr. received five-year appointments to the Indiana Supreme Court Committee on Rules of Practice and Procedure.



Indiana Prosecutors were represented at the American Legislative Exchange Council in Denver. Attending, from left, were Daviess County Prosecutor Dan Murrie, Allen County Chief Deputy Prosecutor Mike McAlexander and Madison County Prosecutor Rodney Cummings.

Media Quotes of Note

Hamilton County councilman admits taking rival's campaign signs, must send letter of apology

"Mr. Hern was treated in the same manner as similarly situated defendants. The reality is that he had no prior criminal history, has accepted responsibility for what he had done and has agreed to apologize and make restitution."

Brent Eaton
Hancock County
Indy Star
May 24, 2017

Whitley County prosecutor talks about joys of job

"The one thing I've discovered in this job, and it gives me hope, is that there are a lot of people who make bad decisions but I don't think there are a lot of bad people. I think largely people are good, and particularly in this community I've seen so much good come from the work that we've done."

D.J. Sigler
Whitley County
KPC News
June 14, 2017

County considers options for when heroin crisis hits

"I know there are thousands out there struggling with heroin and opioid addiction... I think we need to identify the people who got hooked up and made a few bad choices. Let's incarcerate those people for awhile, then let them step out to work release and then to home detention. Let's get them a job. The number one indicator you aren't coming back is having meaningful employment... I am trying to protect everybody in Daviess County. I am afraid heroin is going to be our next big challenge."

Dan Murrie
Daviess County
Washington Times Herald
July 20, 2017

Prosecutor: Goshen police bravely shot, killed a 'profound threat to public safety'

"In no circumstance do I not want officers to do their jobs. The problem is there are people that do not respect the safety and dignity of our communities. When they start engaging in their selfish behavior and do not respect the safety of others, that is something we can't tolerate. We don't want law enforcement to think twice or back down from their training."

Vicki Becker
Elkhart County
The Elkhart Truth
June 21, 2017

Prosecutor considers criminal charges for moms who give birth to drug-addicted babies

"If you're consuming drugs, you have to know the impact that's going to have on your baby. It's so incredibly selfish to inject drugs like heroin and meth when you're pregnant. And, it's unacceptable and it shouldn't be tolerated anywhere."

Rodney Cummings
Madison County
Anderson Herald Bulletin
June 21, 2017

Decatur County man sentenced to 17 years in criminal confinement case

"McCarter took responsibility for his actions and for his ongoing substance abuse issues, which led my office to pursue treatment for him at the Department of Corrections. His heavy sentence can be modified if he takes his recovery seriously... We hope Mr. McCarter will weigh the incentives he has to rehabilitate himself and rejoin society and his family on the other side of incarceration."

Nathan Harter
Decatur County
WRBI
July 19, 2017

Police arrest two Peru men accused of bootlegging

"The alcoholic beverage laws in Indiana are pretty schizophrenic. You don't know how it was made? You don't know what is in it? You don't know the sanitary nature of the process? It's just a risk."

Bruce Embrey
Miami County
CBS4Indy
July 20, 2017

Love of football, coaching puts attorney in charge at Chatard

"Some days, you have to deal with things that aren't that great in a courtroom. It's nice to go outside and work with kids and be a positive influence on them. I think the nice correlation between football and life is, things happen very quickly, and they're not always going to go your way."

Dan Askren
Fountain County
The Indiana Lawyer
July 26, 2017

A doctor's murder over an opioid prescription leaves an Indiana city with no easy answers

"If you're someone who is just profiting off another person's addiction and misery, I have zero problems getting you in prison for as long as I can...I'm against drug safe zones. I'm not a fan of needle exchanges. I think all we're doing is allowing people to die in a very nice place."

Ken Cotter
St. Joseph County
STAT
August 8, 2017



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