

**INDIANA PUBLIC DEFENDER COUNCIL  
BOARD OF DIRECTORS MEETING**

**March 14, 2013**

**7 p.m.**

**Sheraton Indianapolis Hotel at Keystone Crossing  
8787 Keystone Crossing  
Indianapolis, IN 46240**

**Minutes**

A meeting of the Board of Directors of the Indiana Public Defender Council was called to order at 7:05 p.m. on March 14, 2013 at the Sheraton Indianapolis Hotel at Keystone Crossing, 8787 Keystone Crossing, Indianapolis, IN, by Board Chairperson Michelle Kraus.

Board members present were: Michelle Kraus (Chairperson), Lorinda Youngcourt (Vice Chairperson), Neil Weisman (Secretary), David Cook, David Hennessy, Robert Hill, Gojko Kasich, Michael McDaniel, Steve Owens, and Joel Wieneke.

Board members participating via teleconference were: none

Board members absent were: Sonya Scott

IPDC Staff present were: Larry Landis, Teresa Campbell, and Andrew Cullen.

**I. APPROVAL OF MINUTES FROM LAST MEETING**

David Cook moved that the minutes from the January 26, 2013, meeting be approved as submitted. Lorinda Youngcourt seconded the motion. The minutes were approved by unanimous voice vote.

**II. REVIEW AND APPROVE AGENDA**

Larry Landis distributed a tentative agenda. Mike McDaniel moved to approve the agenda as submitted. Neil Weisman seconded the motion. The agenda was approved by unanimous voice vote.

**III. EXECUTIVE DIRECTOR'S REPORT**

**A. IPDC Budget Update**

Larry Landis reported that the additional \$844K in funding requested for the Public Defender Information system (PDIS) was not included in the House version of the State Budget. He indicated that he has met with staff from the State Budget Agency and will

meet with Senate Appropriations Committee Chair, Senator Luke Kenley. He also reported that he is scheduled to testify before the committee regarding IPDC's budget request.

Larry reported that IPDC has been successful in receiving \$440K in grant funding from ICJI for the PDIS for this calendar year.

#### **B. Public Defender Commission Budget Update**

Larry reported that there was a \$2 million increase included in the House version of the budget for the Public Defender Commission to enable them to reimburse defense expenditure for CHINS & TPR cases. The original request was for \$3 million. Larry indicated that since some county public defender offices eligible for reimbursement do not provide CHINS & TPR representation and some counties will need a grace period to get into compliance, \$2 million should be adequate for the next two years for reimbursing these expenditures.

Neil Weisman asked whether these funds would be used for both CHINS and TPR reimbursements and when the guidelines would be available. Larry responded that those issues will not be decided by the PD Commission until they know that funding is available for reimbursement.

#### **C. State Funding for Chief Public Defenders**

Larry mentioned that the House version of the State Budget did contain funding for Chief Probation Officers. He indicated that this is a helpful precedent for a future request for state funding for Chief PDs

Robert Hill asked for an update on what Larry's plan is to pursue state funding for Chief PDs. Larry explained that this would need to be something discussed during summer study committees and pursued as part of the Judicial Branch's budget for the FY 2015-2016 budget cycle.

#### **D. Update on IJC Probation Incentive and Sanctions Committee**

Larry reported that the Indiana Judicial Center's Probation Incentive and Sanctions Committee held its first meeting and plans to conduct monthly meetings. Robert Hill asked who the members of the committee are, to which Larry replied: Lorinda Youngcourt, Victoria Bailey, Greg Miller, and Della Swisher.

#### **E. PDIS**

Larry and Lorinda gave a general update on the current status of the PDIS development. Neil asked when the system would be functional. Larry indicated that the consultants say it will be available for installation in additional counties in the fall.

## **F. Training Update**

Larry distributed a current listing of the seminars planned for the upcoming year. He pointed out that there was one additional seminar added to the list covering the topic of "Making Meth." He also mentioned that the location for TPI has been changed from South Bend to Lake County due to lack of available facilities in South Bend.

Bob asked for an update on Larry's plan to employ a Training Director for IPDC. Larry indicated that individuals would continue to be hired on a contractual basis to plan and conduct seminars as needed until IPDC's budget is finalized for FY 2013-2014. The issue will be on the agenda for the next board meeting.

## **IV. POLICY ISSUES**

### **A. Appointment of Chief Public Defenders to Capital Cases under CR 24**

Larry discussed the Public Defender Commission's proposed rule to prohibit chief public defenders from being appointed to capital cases, and distributed a draft of a proposed rule.

Mike McDaniel discussed several concerns he has, based on his experience. The board held a general discussion about the pros and cons of allowing this practice, referencing specific cases.

David Hennessy asked what the timetable is for a new rule and how such a rule may influence judges in specific cases. Larry replied that the PD Commission is currently awaiting a response from the Supreme Court, from which the Commission has sought guidance on the issue. David Hennessy indicated his desire that this process be expedited. Bob Hill asked if the rule could be made applicable to pending cases.

David Hennessy moved that IPDC support the proposed change to Criminal Rule 24 to prohibit Chief Public Defenders from being appointed to capital cases. Neil Weisman seconded the motion. The motion was approved by unanimous voice vote.

David Hennessy asked if it would be possible for the Chief Public Defender Association to adopt a similar motion. Lorinda Youngcourt indicated that she believed that is unlikely.

David Hennessy made the following motion: "The Public Defender Council Board of Directors believes that the responsibilities of a Chief Public Defender are incompatible with the responsibilities of an attorney appointed to a capital case. The Public Defender Commission should establish guidelines to prohibit reimbursement in the case of such an appointment." Lorinda Youngcourt seconded the motion. The motion was approved by unanimous voice vote.

Bob Hill made the following motion: "The IPDC Board of Directors directs the IPDC Executive Director to communicate the board's disapproval of the Floyd County Chief Public Defender's appointment to a current capital case to the Floyd County Chief Public Defender." Neil Weisman seconded the motion. The motion was approved by unanimous

voice vote. Mike McDaniel pointed out that this situation is time-sensitive, particularly because there has been discussion of sending jury questionnaires within the coming weeks.

#### **B. Appointment of Counsel in Juvenile Delinquency Cases**

Larry distributed a proposed rule for the appointment of counsel in juvenile delinquency cases for consideration. Bob Hill moved that IPDC should support the proposed rule. Lorinda Youngcourt seconded the motion. The motion passed by unanimous voice vote.

### **V. LEGISLATION**

#### **A. House Bill 1006 – Sentencing Reform (House Version Update)**

Larry gave a general update on HB 1006 as it passed the House. A general discussion was held, with many board members expressing frustration with the current state of the sentencing ranges and the changes to the credit time provisions.

Larry explained that the major sentencing provisions contained within the current bill (sentencing ranges, credit time calculations, habitual offender statutes, and suspended sentence provisions) were not approved by the Criminal Code Evaluation Commission (CCEC). Andrew Cullen reported that the staff workgroup was not able to reach a consensus on those four issues and had hoped that the CCEC would engage in substantive and meaningful debate on those issues. Larry expressed his frustration that those issues were left up to one legislator to decide when he drafted his amendment to HB 1006 prior to the first hearing in the House Courts and Criminal Code Committee.

A general discussion was held about the fiscal impact of the current bill, noting the disparities of the information being provided by the Department of Correction and the Legislative Services Agency. There was also general concern expressed that other actors in the criminal justice system (Judges, Sheriffs, Chiefs of Police, county fiscal bodies, etc.) are not taking an active role.

David Hennessy made a motion that IPDC should oppose HB 1006 on the grounds that the bill is bad public policy. Bob Hill seconded the motion. Neil Weisman made a secondary motion to amend David Hennessy's primary motion to state that IPDC should oppose HB 1006 on the grounds that the bill is bad public policy unless changes are made to the sentencing ranges and credit time provisions. Lorinda Youngcourt seconded Neil's secondary motion to amend David Hennessy's primary motion. Neil Weisman's motion to amend was approved by a non-unanimous voice vote. The amended primary motion was then approved by a non-unanimous voice vote.

#### **B. House Bill 1482 - Expungement**

Andrew Cullen gave a general update on the state of the expungement legislation, HB 1482. He reported that the House-passed version of the bill is much broader than the current "restricted record" bill and may be the most expansive expungement legislation in the country.

## **VI. OLD BUSINESS**

Bob Hill raised the issue of an IPDC Training Director and indicated that he believes based on the minutes of the January board meeting and the last board retreat that the position should be filled no later than June of this year based on the plan that has been in place.

Bob Hill raised the issue of the Public Defender Commission standards for salary equivalency between public defenders and prosecutors. Bob informed the board that the Chief Public Defender Association passed a unanimous motion favoring the equalization of pay. Larry said the members of the PD Commission all seemed supportive of requiring equal pay for full-time public defenders with prosecutors. The more difficult issue is how to determine equivalency of part-time contract public defenders with an overhead with full-time prosecutors with no overhead. Also of concern to some Commission members is the 5 or 6 letters of opposition to the proposed change in standards and guidelines from counties and a few public defenders that were reviewed by the Board. Larry said the issue was on the agenda for the Commission meeting on March 20, 2013.

Bob Hill asked for an update on the strategy for achieving full state funding for Chief Public Defenders and Chief Deputy Public Defenders. Larry indicated that there are two options to be considered: (1) increasing the reimbursement for compensation of chiefs and deputy chiefs from the PD Commission from 40% to 100%; and (2) state payment through the Office of the State Court Administration like is done for judges and prosecutors.

## **VII. NEW BUSINESS**

There was no new business.

## **VIII. NEXT MEETING**

A tentative meeting to discuss legislation was set for April 4 at 7 p.m. and will be called at the discretion of the Chairperson in consultation with the Executive Director.

The next meeting was set for Thursday, May 9, 2013, at 7 p.m. at the Radisson Star Plaza, 800 E. 81<sup>st</sup> Ave, Merrillville, IN, 46410.

## **IX. ADJOURNMENT**

The meeting was adjourned at 9:10 p.m.

Minutes prepared by Andrew Cullen, IPDC Staff.

Submitted by:

  
Neil Weisman, Secretary

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Date

Approved by:

  
Michelle Kraus, Chairperson

3-14-14

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Date