

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

Courtyard Marriott
Alumni Room
310 S. College Avenue
Bloomington, IN 47403
Wednesday, April 11, 2012
6:30 p.m.

Minutes

I. CALL TO ORDER

A meeting of the Board of Directors of the Indiana Public Defender Council (IPDC) was called to order by Board Chairperson David Cook at 6:40 PM on April 11, 2012, in the Alumni Room of the Courtyard Marriott, Bloomington.

Board members present were: David Cook, Robert Hill, Michael McDaniel, Steve Owens, Lorinda Youngcourt, Neil Weisman, and Michelle Kraus.

Board members participating via teleconference were: none

Board members absent were: David Hennessy, Zaki Ali, and Sonya Scott.

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

A. Approval of minutes

A motion to approve the minutes of the January 21, 2012 Board Meeting was made by Michael McDaniel. Steve Owens seconded the motion. The minutes were approved as submitted.

B. Review and approval of agenda

Larry Landis submitted a revised agenda. The agenda was approved by consent.

II. EXECUTIVE DIRECTOR'S REPORT

A. Administration

Larry Landis advised the board that Chief Justice Shepard authorized a 2.2 percent pay increase for Judicial Branch employees. He indicated that this would be the subject of the Executive Session.

B. Training Update

Larry reported that planning for the Child Abuse Seminar is progressing smoothly.

Larry asked the board for recommendations for training time that is still available during the Annual Update Seminar. He offered several suggestions, which included: (1) the two recent U.S. Supreme Court cases of *Lafler v. Cooper* and *Missouri v. Frye* dealing with the right to effective assistance of counsel at a guilty plea; (2) what to do upon receiving a letter from the Department of Toxicology regarding re-testing of samples; (3) the new legislation allowing for swift and certain sanctions for probation violations; (4) combining an ethics session with #1; (5) new provision for motions to seal a record and expungement; (6) the structure and funding of public defense services in Indiana; and (7) a preview of the Criminal Code Evaluation Commission's recommendations.

A general discussion was held regarding the options and the board agreed by consensus to recommend numbers 1 and 7.

C. Gideon/Gault Awards

Larry asked the group to encourage nominations for the Gideon/Gault Awards, with nominations due May 18. Bob Hill indicated that IPDC should take a more prominent lead in encouraging nominations, but Larry indicated he would publicize the awards in the Indiana Defender and on Defendnet but that he wanted nominations to come from members, not staff or board members.

D. PDIS Update

Larry gave a status update on the development of the Public Defender Information System (PDIS) system. He informed the group that there would soon be a total code freeze on the system. Lorinda Youngcourt indicated that, in regards to Lawrence County's use of the system, a total code freeze has already occurred. Larry indicated that there were issues with the case assignments and calendaring that needed to be fixed before the code freeze and testing would start.

E. Board Election

Larry reminded the board that the terms of the following members will expire this year: Michelle Kraus, Neil Weisman, David Hennessy, and Zaki Ali. There is also an open seat, due to the resignation of Jeff Lockwood.

III. PERFORMANCE GUIDELINES

Prior to the meeting, all board members had been provided copies of the Revised Performance Guidelines for Criminal Defense Representation. Larry indicated that staff has made the changes recommended by Lorinda Youngcourt and David Hennessy and updated some of the commentary. Larry reported that he thought the Guidelines were ready for consideration for final adoption.

Bob Hill moved to approve the Performance Guidelines and moved that the Performance Guidelines be an agenda item for all future Board Retreats to ensure that the Guidelines are reviewed annually. Michael McDaniel seconded the motion, which passed unanimously.

A discussion was held about methods to further improve performance. Michelle Kraus explained that Allen County had recently experienced some issues due to poor performance in appellate cases. Lorinda Youngcourt questioned whether IPDC's Appellate Training should be more focused on new lawyers. Bob Hill suggested including a session on beginning appellate practice at the Trial Practice Institute (TPI). Larry expressed concerns that the training methods used at TPI may not be complimentary with the methods used for training on appellate advocacy.

Bob Hill further suggested that it may be beneficial to have Ann Sutton from his office offer training on Performance Standards at a future Chief PD meeting.

IV. CRIMINAL JUSTICE POLICY & LEGISLATION

A. 2012 Legislation Update

Larry Landis and Andrew Cullen distributed a summary of the 2012 Enrolled Acts that effect criminal justice issues. There were two pieces of legislations drafted at IPDC's request this session: HEA 1033 (Conversion of Class D Felonies to Class A Misdemeanors); and SEA 97 (Public Intoxication). Both were passed and signed by Governor Daniels.

Larry and Andrew answered various questions and both expressed a general satisfaction with the results from the legislative session. There were few new crimes or sentence enhancements enacted, and several bills that IPDC supported were passed.

B. 2013 Legislative Priorities

A discussion was held regarding IPDC's 2013 legislative priorities. Larry asked for the board's input on the possibility of the creation of a statewide office for TPR/CHINS cases. Lorinda Youngcourt expressed some concern about centralizing those cases because of the local and time-sensitive nature of the cases.

Bob Hill asked about the possibility of state reimbursement for TPR/CHINS cases through the Public Defender Commission. Larry indicated that could be done if additional funding was provided by the legislature. The board agreed by consensus that a legislative priority should be to increase funding for the Public Defender Commission to 100% for Chief Public Defenders and Chief Deputies and 40% for TPR/CHINS cases.

Andrew Cullen indicated that this would certainly have a significant fiscal impact to the state, and success in achieving this goal would depend greatly on who is appointed to replace the retiring Rep. Jeff Espich as the House Ways & Means Committee Chair as well as the state's revenue forecast for the 2013-2014 biennium.

C. Interim Study Committees

1. Criminal Code Evaluation Commission

Andrew Cullen distributed a work product of the Criminal Code Evaluation Staff Workgroup that is nearing completion which creates a 6 felony class system for the State of Indiana. Larry asked the board members to carefully review the chart and forward any comments as soon as possible. Andrew explained the work plan of the CCEC for this summer and fall and answered various questions about the process.

Bob Hill requested that the tentative drafts of the new felony ranges be distributed to the board.

2. DCS Study Committees

Andrew Cullen explained that the IPDC Executive Director or his designee has been made a member of two new statutory interim study committees covering DCS issues. Bob Hill offered the assistance of TPC/CHINS attorneys from his office on those committees.

V. NEW BUSINESS

A. Listserv Policies

Larry Landis distributed a current draft of the IPDC Listserv Guidelines. The board held a general discussion about some recent issues that have arisen with Defendnet, including appropriate rules for who should have access to the listserv. The board decided to take no action regarding the policy. Bob suggested that appropriate use of the listserv may be included in a future Ethics Seminar.

B. Death penalty cases

Bob Hill expressed a concern that some counties are adopting a specific budget for death penalty cases which may have an adverse impact on counties that do not have restricted budgets. He suggested that IPDC should do more to educate chief public defenders on the risk of trying to fund death penalty cases on a fixed budget. Michelle Kraus expressed ethical concerns about trying to defend a death penalty case on a fixed budget.

Lorinda Youngcourt suggested that an informal group of experienced death penalty lawyers should be established who would be available to discuss death penalty cases. David Cook agreed but stressed that the group should be clear that it is available to offer assistance and would not be acting in a supervisory capacity.

VI. EXECUTIVE SESSION

The board went into Executive Session at 8:10 p.m. to discuss personnel issues and returned to regular session at 8:30 p.m. Chairperson Cook announced that the board had approved the salary adjustments recommended by the Executive Director.

VII. ADJOURN/NEXT MEETING DATE

The board decided that the next meeting should occur the evening prior to the Annual Update Seminar.

The next meeting of the IPDC Board of Directors will be Thursday, June 28, 2012, at 6:00 p.m. at the JW Marriott in Downtown Indianapolis.

The board adjourned at 8:35 p.m.

Minutes prepared by Andrew Cullen, IPDC Staff.

Submitted by:

Approved by:

Lorinda Youngcourt, Secretary

David Cook, Chairperson

Date

Date