

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

May 9, 2013
7 p.m.
Radisson Star Plaza
800 E 81st Avenue
Merrillville, Indiana 46410

A meeting of the Board of Directors of the Indiana Public Defender Council was called to order at 7:10 p.m. on May 9, 2013 at the Radisson Star Plaza, 800 E 81st Avenue, Merrillville, Indiana, 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, Steve Owens, Sonya Scott, and Joel Weineke.

Board members absent were: Michael McDaniel.

Staff members present: Larry Landis.

I. APPROVAL MINUTES FROM LAST MEETING

Robert Hill requested a correction to page 5, the first paragraph: "based on minutes from January meeting and Board Retreat, he believes . . . Sonya Scott moved the correction be made. David Hennessy seconded the motion. The motion was approved by unanimous voice vote.

Joel Wieneke requested a correction to page 5, the second paragraph: "The board reviewed five to six letters which had been submitted". David Hennessey moved the correction be made. David Cook seconded the motion. The correction was approved by unanimous voice vote.

Joel Weineke moved the minutes from the March 14, 2013, meeting be approved as corrected. David Cook seconded the motion. The minutes were approved as amended by unanimous voice vote.

II. REVIEW AND APPROVE AGENDA

Larry Landis distributed a tentative agenda. Lorinda Youngcourt moved to approve the agenda as submitted. Robert Hill seconded the motion. The agenda was approved by unanimous voice vote.

III. EXECUTIVE DIRECTOR'S REPORT

A. Appointment of Chief Defenders to Capital Cases

Larry Landis reported that the Indiana Public Defender Commission received the recommendations of the Indiana Chief Defenders Association and the Indiana Public Defender Council Board of Directors that Chief Public Defenders be exempt from appointment to capital cases. The Commission has sent a letter to the Indiana Supreme Court stating that they were considering adopting a standard or guideline prohibiting the appointment of a chief public defender to a capital case and would like comment from the Court since it involves a court rule. Larry expressed his opinion that even if CR 24 is amended or a new guideline is adopted, it is not likely to affect the appointment of counsel in the two pending Floyd County death penalty cases. However, a new death penalty case was recently filed in Clark County and the Chief Public Defender was not appointed as defense counsel in that case, in part, because the judge was aware of the pending issue before the Commission and the Court.

B. State funding of Chief Defenders Salaries and Benefits

Larry Landis reported that state funding for Chief Probation Officers was removed from legislation this session because a few key legislators were concerned that if the state accepted responsibility for paying these county employees, the savings to the county was not required to be spent on probation services. Thus, the door was closed on the possibility of using this as an opportunity to request that the state also pay salaries of Chief Defenders.

Larry suggested that the next best strategy is to seek legislation authorizing the Public Defender Commission to reimburse counties in compliance with commission standards one hundred percent (100%) of the salary and benefits of the Chief Public Defender.

C. Removal of "substantially comparable" Language in Standard G of Standards for Indigent Defense Services in Non-Capital Cases

Larry Landis reported on the issues before the Public Defender Commission re: amending Standard G. The IPDC's recommendation was to remove the requirement of "substantially comparable" and replace it with a requirement of equal pay. This is relatively easy to apply to full-time employees, but problematic for part-time employees and contractors because of the difficulty in comparing the compensation of part-time defenders with an office overhead with deputy prosecutors who have no

office overhead. Larry Landis suggested that IPDC should recommend that the PD Commission first deal with full-time employees by amending Standard G to require equal compensation for full-time defenders with prosecutors. He also suggested that additional work needed to be done to devise an alternative to the present standard of “substantially comparable” because it is difficult to apply due to the overhead issue which is so variable. What is needed is an objective and easily understood standard that is enforceable by the PD Commission.

Bob Hill moved to recommend that the PD Commission amend Standard G to provide that full-time public defenders be paid the same as prosecutors, and that the Guidelines from 6/8/95 and 7/14/98 be repealed or rescinded. Gojko Kasich seconded the motion which was adopted.

David Hennessy stated that he thought the task of equating part-time public defenders with deputy prosecutors was previously given but there were no results. Larry said he thought the PD Commission members wanted a standard that was uniform, objective, and verifiable so when compensation was set by a county they would be able to determine whether it was in compliance the PD Commission standards. Bob Hill asked where we go from here to make sure the issue of part time equal pay does not get lost.

Larry was requested to confer with the chief public defenders and report back to the Board at the Board about how to create equal pay for public defenders and deputy prosecutors.

D. Public Defender Commission Funding

Larry Landis reported that the General Assembly increased the funding for the Public Defender Commission by \$2 million as requested to allow the Commission to reimburse CHINS and TPR cases. That brings the annual funding for the Commission to \$22.25 million.

E. Funding for PDIS

Larry Landis reported that the General Assembly did not provide the funding requested for the Public Defender Information System (PDIS). The budget bill, HEA 1001, does contain a requirement that the new Judicial Technology Oversight Commission review the Council’s request for funding. However, it is unlikely that this new Commission will begin meeting until the fall and no new money was appropriated so the only way funding from PDIS could be provided through the Commission is if they divert funding allocated to JTAC’s Odyssey system. Larry reported that maintaining the functionality of PDIS after the current grant from ICJI expires on December 31, 2013, will require funding for a programmer to make code changes whenever JTAC makes changes to Odyssey. He also indicated that we are in the 4th and final year of funding form ICJI and that additional grant funding from ICJI will be difficult.

Based on the current uncertainty of funding for PDIS, Larry reported that he will be recommending that no additional counties install PDIS until the funding uncertainty is resolved.

F. Training Director

Larry gave a report on the background of the training director position as a framework discussion and decision about how to fill the training director position.

1. In the 2008 and 2009, the Board decided to change the direction of training by (1) reducing the number of one-day statewide training programs primarily in Indianapolis to four statewide programs each year that would be videotaped and replicated in counties; (2) assist in the development of in-house training programs in county public defenders offices that would be used as hubs for regional training; and (3) transition from lecture format to more interactive programs focused on building skills and improving attorney performance.

2. As reported in the minutes of the Board meeting on September 25, 2009, 15 of the 29 chief public defenders committed to starting in-house training programs. However, few of the public defenders offices committed any staff to the task of training. Thus, the use of county public defender offices as regional hubs for training did not develop as quickly as planned. Nevertheless, as indicated in the report submitted by Don Murphy, we are currently actively engaged in regional training. In 2013, we will conduct 15 regional seminars in 10 counties.

3. The primary reason that a training director was not hired after Jodie English departed in 2009 was assessment of staff that a training director was not needed for only 4 statewide training programs and that the money would be better used to contract for program directors for individual seminars, trainers, and mentors. A second and even more significant reason for not filling the training director position was the requirement of Governor Daniels that due to the recession all agencies were expected to revert 10% of their budget. As reported in the minutes of the Board Meeting on June 5, 2010, the \$100,000 allocated to the training director position was the primary source of funds used to comply with the requested 10% reversion.

4. At the Board Retreat on October 1, 2011, the Board approved a motion to hire a training director "as soon as economically feasible." At the time, I explained that there was no salary position or money available at the moment and that all contractual money not otherwise committed needed to be allocated to the completion of the PDIS which would take at least another year.

5. At the Board Retreat on September 29, 2012, I reported that funding for a new position of training director was included in our biennium budget request and that it was unlikely we would know whether funding would be provided until the legislature passes a state budget at the end of April, 2013.

6. The General Assembly did not include any funding the training director position or any funding for PDIS. Instead, they referred the funding request for PDIS to the newly created Judicial Technology Oversight Commission.

7. Thus, the issue for the Board is whether a training director position is still desired, and if so, where should the money come from? We can use the \$100,000 of contract funds for PDIS or terminate one or more position and use that funding for the training director position. I need the Board to prioritize the organizational goals so I can decide how to fund this position.

IV. TRAINING DIRECTOR POSITION

After a discussion of the Council's statutory duties, programs, and priorities, a consensus was reached that training and legislative liaison are the two highest organizational priorities, and that PDIS is a lower priority. David Cook moved that the Executive Director should present the Board with a proposal within 30 days as to how to hire a training director consistent with training and legislative liaison being the highest priorities and PDIS being a lower priority. The motion was seconded by Bob Hill and unanimously approved.

V. TRAINING PROGRAMS

Larry Landis distributed the training calendar for the remainder of the year and indicated that he needed help in planning the Exclusionary Motions program set for December 6. The task was delegated to the Training Committee.

VI. LEGISLATION

Larry Landis reported briefly on HEA 1006 and encouraged board members to submit suggestions for changes to be considered by the Criminal Law and Sentencing Policy Study Committee this summer and fall. He also suggested that the Board create a Legislation Committee to assist in reviewing HEA 2006 and the revisions to Title 7.1 and Title 9.

VII. EXECUTIVE DIRECTOR EVALUATION

Micki Kraus stated that she thought the Board needed a process and criteria for the evaluation of the executive director. She stated that she would appoint a five person committee chaired by Steve Owens and asked for volunteers.

VIII. OLD BUSINESS

None

IX. NEW BUSINESS

Dave Hennessy raised the issue of whether board members should be required to be members of the Council. He also suggested that a form be sent to members so they can recommend others to members of the board. Micki suggested that the issue be discussed that the Board Retreat.

Gojko Gasich asked if e-mails could be regularly sent updating members on what is going on in the legislature. Larry Landis said he would see that more frequent legislative updates are posted.

Gojko Gasich also requested that Board minutes be posted on the IPDC website. Larry responded that Board minutes will be posted when the website redesign is finished.

NEXT MTG: June 6, 2013, 7pm.

Adjourn: 9:50 eastern/8:50 central.

Minutes prepared by Neil Weisman, Lorinda Youngcourt, and Larry Landis.

Submitted by:



Neil Weisman, Secretary

Date

Approved by:



Michelle Kraus, Chairperson

Date