

INDIANA PUBLIC DEFENDER COUNCIL
Board of Directors Meeting
June 5, 2010
Belterra Resort and Casino
Florence, Indiana

MINUTES

I. CALL TO ORDER

The meeting of the Board of Directors of the Indiana Public Defender Council (IPDC) was called to order by Chair Mike McDaniel at 9:05 AM in the Cedar Room of the Berteroa Resort and Casino. Board members present were Zaki Ali, David Cook, David Hennessy, Bob Hill, Mike McDaniel, Neil Weisman and Lorinda Youngcourt. Staff present were Larry Landis, Don Murphy, Teresa Campbell, and Loretta Jackson.

II. APPROVAL OF MINUTES

The minutes were unanimously approved as submitted. The agenda was modified by acclamation to consider the Gideon and Gault awards, training, and election of officers before the lunch break.

III. AWARDS

After discussion of the qualifications of those nominated, Jill Johnson was selected to receive the Gault Award and Eric Koselke the Gideon Award.

David Hennessy proposed adding a third annual award for attorneys working primarily on post-conviction and appellate cases. After discussion, a motion was unanimously adopted to establish such an award, to be named later.

IV. ELECTION OF OFFICERS

The following slate of officers was nominated and unanimously approved for FY 2010-11:

Chair:	Dave Cook
Vice-Chair:	Micki Kraus
Secretary:	Lorinda Youngcourt

V. TRAINING

A. Budget

Larry Landis reported that training is going well even without a training director. TPI was a success. The evaluations were great and participants enthusiastic. Juvenile (50 attendees) and appellate (65 attendees) were also a success.

Larry reported that the money not used for a Training Director is the primary source of the funds used to comply with the Governor's requested reversion of 10% of an agency's budget. He also reported that state agencies will also be requested to revert 10% of their budget in the fiscal year beginning on July 1. After the legislature passes the FY 2011-13 budget, we will re-evaluate the need for a training director and the possibility of offering scholarships to TAI or

lowering the registration fees for our one-day seminars.

B. Trial Practice Institute (TPI):

1. After a discussion of the most recent TPI, a general consensus was reached on the following:
 - a. the current format is working but we will continue to make changes as needed in the future;
 - b. even though the time commitment from private attorneys as faculty is difficult, faculty attendance at pre-seminar training should be mandatory so they understand the teaching methods and techniques used for TPI;
 - c. Don Murphy should be present to help with completing performance development forms; and
 - d. the attendees should be provided basic information in writing, DVD, or on-line, on subjects such as jury selection, direct and cross-examination, opening statements, closing arguments, etc., prior to TPI.
2. Lorinda Youngcourt suggested that a staff attorney should be present each day to answer questions and assist with research demonstrations (perhaps with "canned" evidence issues) and that Dawn Nolan should be present for technical issues and videos.
3. Mike McDaniel stated that it may be time to consider expanding the DUI section to more days since it takes at least half a day to teach just SFST. Another suggestion was made to provide on-line training prior to attending TPI. No decision was reached as to the best response.

C. Other Training Programs

1. Annual Update Seminar - Larry Landis reported that Brian Lovins, University of Cincinnati, will be speaking on the new risk assessment instruments which Indiana will be using for juveniles to set bail, probation and detention.
2. Drugs, Search, Evidence - The committee (David Hennessy, chair, Mike McDaniel, and Micki Kraus) are handling details.
3. Advanced Courtroom Persuasion - Will be held September 24, 2010. It will be restricted to 12 attendees: 6 from the Marion County Public Defender Agency and six other IPDC members.
4. Ethics - Bob Hill is in charge of this program and will report on the progress at a later time.

D. 2011 Training

1. Trial Practice Institute (TPI) - same method of delivery and same committee.
2. Juvenile - Kim Tandy Brooks of the Child Law Center will assist us in conducting a two day program.
3. Appellate - same format with Ann Sutton in charge.
4. Death Penalty - Bob Hill suggested expanding the DP seminar to include LWOP and

homicide cases. It was also suggested that mitigation, mental health issues and domestic violence be included, perhaps by concentrating on the death penalty on day one, and other issues on day two. The training committee will discuss these recommendations and report back to the board on changes in the death penalty seminar.

5. David Hennessy proposed adding a seminar next year on the "science of a trial", including information on openings, cross-examinations, closing, evidence – techniques that would apply to all trials. Zaki Ali suggested that we do a series of videos on different subjects that would be available for purchase. After discussion it was decided to schedule a "science of the trial" seminar for 2011. The seminar can be videotaped, broken down into segments, with a short intro before each segment. The video will be made available on DVDs or on-line. Larry requested that the board submit subjects to be included to him and he will send them to the training committee which will meet on the evening before the Annual Update Seminar.
6. Lorinda Youngcourt suggested that instead of having an ethics seminar in December 2011, we do a program on child molest/child abuse/domestic violence. The Training Committee will decide the final topic and consider requesting the assistance of Kim Hart.
7. Teresa Campbell reported that the downtown JW Marriott will open next year and they have offered us a deal to hold the annual update seminar there in 2011. After a discussion, the board voted to hold the annual update seminar at the Marriott instead of at Primo's.

E. County Public Defender Office Training

1. Don Murphy reported on his work re: in-house training programs in county public defender offices. The Case Review program with Ernie Lewis has been well received. There have been two sessions in Monroe County, and one each in Tippecanoe and Allen Counties. The plan is to have a local person within the county facilitate the review rather than have IPDC do it. This program has highlighted just how little brainstorming and collaboration is being done within county offices.
2. Don reported that no progress has been made by the Indiana Chief Defenders Association (ICDA) in creating a uniform performance management system. Thus, he has started meeting with County Public Defender Boards. All board members interviewed expressed a belief that the quality of representation is high in their county, but they have no way of measuring it. Currently the Public Defender Commission does not require quality standards for reimbursement. IDC has developed five tools to measure quality and we are trying to get counties to try the different methods so we have a measurable method to present to the Commission.

VI. PUBLICATIONS

The search and seizure pamphlet and the sentencing manual will be ready for sale at the Annual Update Seminar. The Goggle search engine is not being used as much as we hoped. There will be a demonstration at annual update.

VII. EXECUTIVE DIRECTOR'S REPORT

A. Budget

Larry reported the two-year budget request is due in August. IDC funding has been flat since

2007. He hopes to maintain current funding levels.

B. Systems and Funding

Larry reported that the Public Defender Commission will need \$21.5 million in FY 2011-12 and \$23 million in FY 2012-13 in order to fully reimburse all counties eligible for reimbursement. He believes it will be very difficult to increase funding or even maintain current levels. State revenues are down approximately \$1 billion. It is possible that the budgets for all state agencies could be reduced by 10%. Larry's concern is that if the Public Defender Commission budget is cut and reimbursement is prorated down to 25% - 30%, counties will decide it is no longer cost-effective to comply with state standards and withdraw from the reimbursement program. The result will be a reduction in the number of public defenders and an increase in caseloads. Therefore, he and Andrew Culler will be initiating a Key Contact Program to get our members contact their legislators to explain the importance of state funding for indigent defense. Information of this program will be distributed at the Annual Update Seminar.

C. Criminal Code Evaluation Commission

The Criminal Code Evaluation Commission was created last year and will start meeting soon. The Commission has asked for assistance from the Pew Center and the Council for State Governments in developing state data and making suggestions on how to reduce Indiana's prison population. Larry hopes to: (1) increase felony classes from 4 to 6, which will make it easier to reduce some sentences; (2) eliminate the 1000 feet enhancement for drug offenses; (3) eliminate the requirement of prosecutor's consent for a sentence modification after 365 days; and (4) increase the use of cash deposit bail.

D. Legislation

In the next legislative session, he will also attempt to get passed prohibition of execution of the mentally ill, expungement, and no waiver of counsel by juveniles.

E. Public Defender Module

Don reported on the progress of the Public Defender Module being developed by JTC to interface with the Odyssey case management system. The module is being built so that it can be used with Odyssey, CAI, or Courtier.

VIII. NEW BUSINESS

A. *Padilla v. Kentucky*

Bob Hill expressed concerns about the repercussions of the *Padilla* requiring attorneys to inform clients of immigration consequences of convictions. David Cook said he reads *Padilla* as saying if it is a deportable offense the attorney has an affirmative duty to tell the client or it is ineffective assistance of counsel under the 6th Amendment, and a public defender office must either educate their lawyers or contract with someone who can explain the consequences to clients. David Cook agreed to look at a list of deportable offenses and speak with Maria Baldini, who is an expert on this subject and has contracted to update our Immigration Consequences of Criminal Convictions pamphlet. Neil Weisman also suggested that the Council identify immigration lawyers around the state that can be contacted for advice.

B. Committees

Lorinda Youngcourt was added to the Training Committee.

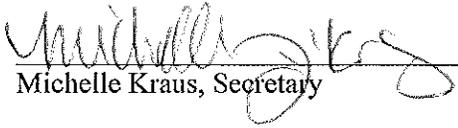
IX. MEETINGS:

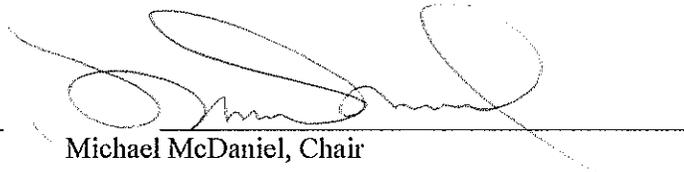
A short board meeting will be held on Friday, June 25 after the Annual Update Seminar to discuss the "Science of Trials" seminar for 2011. The Training Committee will meet on Thursday, June 24 at 6:00 PM. A board meeting will be held September 22 at 6:00 PM prior to the Drug, Evidence, Search & Seizure Seminar

The meeting was adjourned at 3:00 P.M.

Prepared by Loretta Jackson, Executive Assistant.

Submitted:


Michelle Kraus, Secretary


Michael McDaniel, Chair