

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

**JW Marriott
10 S. West Street, Room 208
Indianapolis, IN 46204**

**Thursday, June 28, 2012
6:00 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 6:04 PM on June 28, 2012, in Room 208 of the JW Marriott, Indianapolis.

Board members present were: Steve Owens, Sonya Scott, Lorinda Youngcourt, Neil Weisman, David Hennessy, David Cook, Zaki Ali, Robert Hill, and Michelle Kraus.

Board members participating via teleconference were: none

Board members absent were: Michael McDaniel.

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

A. Approval of minutes

A motion to approve the minutes of the April 11, 2012, Board Meeting was made by Robert Hill. Lorinda Youngcourt 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. Public Defender Commission Update

Larry Landis gave an update on the June 20 meeting of the Public Defender Commission.

1. The Commission approved all the capital and non-capital reimbursement expenses submitted by counties with the exception of Clark County, which is currently out of compliance with the Commission's caseload standards, and Delaware County, which is out of compliance because of the inadequate compensation of the chief public defender.
2. Jim Abbs, Noble County Chief Public Defender, sent a letter to the Commission asking whether pension benefits should be included in compensation when comparing the chief public defender's compensation with the elected prosecutor's compensation for the purpose of assessing compliance with Standard G. This standard requires that the compensation of these positions be "substantially comparable." The Commission's Guideline adopted on 6/8/95, provides that "[a]s it pertains the Chief Public Defender's salary, the Commission defines "substantially comparable" as not less than 90% of the Prosecutor's compensation."

The consensus of the Commission was that pension benefits are a future interest that may or may not ever be received and because of they are contingent on vesting and survival. Thus, it would be nearly impossible to calculate a present value for the purpose of comparing pension benefits of chief public defenders to elected prosecutors.

Although the issue was not on the agenda for a discussion or decision, there appeared to be a consensus of the Commission members that chief public defenders and chief deputy public defenders should be state paid at the same salary and with the same pension benefits as prosecutors, and that this would be alleviate the problem of comparing different pension benefits.

3. In determining the amount of funding to request in the next biennium budget, the Commission reviewed IC 33-40-6-4, which provide that a county auditor may submit a request to the Commission "for an amount equal to 40% of the county's expenditures for indigent defense services provided in all noncapital cases except misdemeanors," and IC 33-40-6-5, which provides that upon a determination that the county's request is in compliance with the guidelines and standards adopted by the commission, the commission shall authorize 40% reimbursement of the county's expenditures for defense services provided in all noncapital cases except misdemeanors.

Based on the recommendation of staff, the Commission determined that the current annual funding of \$20.25 million would be adequate to fully reimburse the existing eligible counties, and that an additional \$3.2 million per year would be needed to reimburse expenditures for TPR and CHINS cases. In view of the statutory mandate requiring reimbursement of all noncapital cases except misdemeanors, the Commission voted to request an annual appropriation of \$23.5 million in FY 2013-15.

4. Lorinda Youngcourt asked whether there was discussion about changing the standard requiring "substantially comparable" compensation for similar positions in the offices of prosecutors and public defenders. Larry indicated that the

Commission had discussed on previous occasions the problem of determining compliance with the adequate compensation requirement in Standard G because in the majority of counties do not have “similar positions” in the office of the Prosecuting Attorney and even in the few prosecutor offices that do have part-time deputy prosecutors they work in the prosecutor offices whereas the part-time contractual public defenders work out of their private office and have an office overhead that deputy prosecutors do not have. Larry said that changing “substantially comparable” to “equal” would not solve the problem of comparing compensation if there are no “similar positions.”

Robert Hill indicated that the IPDC Board has previously endorsed the concept of changing “substantially comparable” to equal in Standard G and said he believed that Larry should be more assertive in pushing that issue before the Commission.

Larry indicated that such a change would not help the vast majority of counties that do not have “similar positions” in the two offices, and that a state salary schedule would more effective at increasing compensation and be easier for the Commission to enforce.

David Cook indicated that IPDC’s first concern should be to convince the Commission to remove the language “substantially comparable” in Standard G, and once that is accomplished, the Council could focus on determining how to assess “equal” compensation with similar positions in the prosecutor’s office. Robert Hill indicated his agreement with that approach. Robert Hill moved that IPDC’s official policy should be to continue to advocate for “equal” compensation, as opposed to “substantially comparable”. Lorinda Youngcourt seconded the motion. The motion carried by unanimous voice vote.

David Hennessy moved that IPDC should gather all budgetary information from the prosecuting attorneys’ offices from the 91 judicial circuits in the state and analyze the information in an effort to determine how much total funding is provided to prosecutors. Bob Hill seconded the motion. The motion carried by a voice vote. David Hennessy directed Andrew Cullen to conduct this research. Andrew will report back during the Board Retreat in September.

B. PDIS Update

Larry reported that there are currently two overlapping grants from ICJI being used to fund the development of the Public Defender Information System (PDIS). These grants will expire on December 31, 2012. A new grant application for approximately \$280,000 will be submitted to ICJI in August. If approved, this grant would be for CY 2013.

Larry reported that there have been numerous problems with the development of (PDIS). He has contracted with Crowe Horvath to provide project management services for diagnosing the problems and getting the project back on track. So far, the Crow Horvath consultants have advised that the code development work on PDIS is of good quality but the lack of documentation and testing need to be addressed by stopping further

development until the current program is completely tested and fixed. Thus, a code freeze had been implemented and thorough testing is being done to identify bugs and fix them. He expects this phase to be completed by the end of August and that new program development should begin in September. He also indicated that the project managers expect that the projected work for the current grant period should be completed by the end of this year.

C. Training Update

David Hennessy indicated that he believes a conference call for additional planning of the forensics seminar is necessary. Bob Hill indicated that he believes planning for that seminar is going well.

III. CRIMINAL JUSTICE POLICY & LEGISLATION

A. Criminal Code Evaluation Commission

Larry Landis and Andrew Cullen distributed the work product of the Criminal Code Evaluation Staff Workgroup, a chart identifying all the felonies in Title 35 placed into a new 6-level felony class.

Andrew gave an overview of the chart. He indicated that the Staff Workgroup will be finalizing their draft report to the full CCEC by the middle of July. Although the chart had been distributed previously, he indicated that if any board members had comments, he needed to hear them now in order to reflect those positions before the final draft report is finalized.

Lorinda Youngcourt mentioned that specific concern should be drawn to the fact that misdemeanor caseloads will be rising significantly because of the misdemeanor level of theft that is being considered.

B. Data Analysis Work Group (DAWG)

Larry distributed some very preliminary results from the Data Analysis Work Group. He explained the process and intent of the report.

IV. NEW BUSINESS

David Hennessy suggested that we should begin a "court watch" program, by which volunteers could be used to monitor the actions of courts with an eye toward improving efficiency. He indicated that he would be moving in that direction himself.

VII. ADJOURN/NEXT MEETING DATE

The next meeting of the IPDC Board of Directors will be the annual Board Retreat on Saturday, September 29, at Culver. Details will be distributed to the members.

The board adjourned at 7:22 p.m.

Minutes prepared by Andrew Cullen, IPDC Staff.

Submitted by:

Approved by:

Lorinda Youngcourt, Secretary

David Cook, Chairperson

Date

Date