

Indiana Public Defender Council
Meeting of Board of Directors - July 24, 1986

MINUTES

A. CALL TO ORDER

The meeting of the Board of Directors of the Indiana Public Defender Council was called to order by John Surbeck, Chairman, at 9:15 a.m. on July 24, 1986, at the Embassy Suites North Hotel in Indianapolis, Indiana. Council Board members present: John Surbeck, Terry Richmond, Dan Weber, Gene Hollander, Susan Carpenter, Sandy Bryant, Dan Toomey and Mark McNeely. The following members of the IPDC staff attended: Larry Landis, Mary Sinnock, Michelle Mays, Monica Foster and Kit Keller.

B. APPROVAL OF MINUTES

Minutes from the previous Board meeting held June 6, 1986 were not available. The sole business conducted at that meeting was the election of the following Board officers: Chairman - John Surbeck; Vice-Chairman - Gene Hollander; and Secretary - Dan Weber. This was confirmed by those present.

C. EXECUTIVE DIRECTOR'S REPORT

Larry Landis presented the Executive Director's Report of the agency's services, programs, projects, etc. for the past year. A copy of the report is attached as Addendum A. The following is a summary of recommendations made by the Executive Director:

1. Staff. To meet increased demand for present services one additional clerical person and one additional lawyer is needed for FY 1987-89. The money for the unfilled lawyer position is being used to contract with experienced attorneys to do the Trial Manual and to pay Maureen Keefe as a law clerk and Sharon Foster as a clerical assistant. This position is not adequately funded to hire an experienced lawyer to produce manuals.
2. Programs. If more than 4 training programs are needed per year, additional staff support for the Program Director is necessary.
3. Manuals. Unless the Board directs otherwise, the following manual production schedule will be followed:

<u>Title</u>	<u>Author</u>	<u>Publication Date</u>
Trial Manual	Jill Grueling Linda Wagoner	12/86
Sentencing Update	Monica Foster	3/87
Juvenile Update	J. Richard Kiefer	6/87
Evidence Update	unknown	11/87
Motions Update	unknown	3/88
Appellate Manual	unknown	6/88

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D. PUBLICATIONS

1. Death Penalty Manual

Kit Keller advised the Board that the Issues Directory of the Death Penalty Manual should be updated regularly. She recommended that owners of the manual be charged \$5 or the actual cost of printing and mailing each update. Terry Richmond so moved; Susan Carpenter seconded the motion, and the recommendation was passed.

2. Case Bank

The Board discussed whether the present cost of the Case Bank inhibits purchase by IPDC members. It was decided that following the reprinting of the Case Bank this summer/fall, the pricing should be re-evaluated and reduced for members if possible. Dan Weber recommended that lowering the initial price and maintaining or raising the subscription renewal price might encourage new subscribers yet keep the pricing adequate for costs.

E. PROGRAMS

1. Registration Fees

The Council presently has funding to do 3 one-day seminars and the trial skills program in FY 1986-87. Mary Sinnock recommended that if the Council conducts additional programs in FY 86-87, they would have to be self-supporting or be funded by a surplus in the conference account. Susan Carpenter moved that registration fees be increased immediately as follows: \$35 for members; \$50 for non-members. This motion was seconded by Sandy Bryant and passed.

2. Mandatory CLE

Mary Sinnock expressed concern that if mandatory CLE is passed, attendance at IPDC programs may increase tremendously due to our low registration fee and good speakers. Enrollment for the July 25th program is 140, with 26 participants non-members. Mary asked for guidance as to what could or should be done if non-member attendance increases dramatically in the coming months? Several suggestions were made for limiting attendance of non-members; including, (1) advertising of a non-member rate could be discontinued entirely with the thought that special non-members, such as past speakers, would still be invited to attend; and (2) the non-member fee could be raised to compare with that charged by ICLEF for programs. The consensus of the Board was that they would consider this problem again if mandatory CLE is passed and non-member registration dramatically increases.

3. Increased Programs for 1987-88

Discussion was held on increased attendance at IPDC programs over the past two years and the need for increased training. Following discussion, Dan Weber moved that beginning with fiscal year 1987-88, the Council should offer a minimum of six one-day seminars in addition to trial skills and death penalty defense. The Annual Meeting usually held in June should be expanded to one and a half days. The additional staff and funding needed to implement these training priorities (including clerical support for the Program Director) should be requested in the upcoming biennium budget. The motion was seconded by Susan Carpenter and passed. Regional programs were discussed with no action taken.

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4. Programs for 1987

The Board recommended the following topics for seminars in calendar year 1987. The IPDC staff could select from these priorities depending on availability of speakers, release of manuals, scheduling, etc. Topics are not listed in order of priority.

- a. Death Penalty Defense (including coverage of use of mitigation experts)
- b. Legislation (at the Annual Meeting)
- c. Trial Skills
- d. Appellate Advocacy - (with the release of the trial manual)
Emphasis should be on:
 - Preserving the record, making objections, etc.
 - Appellate procedure, spotting issues, writing briefs.
- e. Discovery problems; prosecutorial misconduct; plea bargaining.
- f. Sentencing or Evidence (with manual updates)
- g. Expert Witnesses.

F. MISCELLANEOUS BUSINESS

1. Death Penalty Assistance.

Kit Keller asked the Board for suggestions on how to improve our outreach program to those attorneys handling death penalty cases to offer them the services of the Council. She asked if calling on attorneys personally might improve their cooperation versus the phone and mail contact she now makes. She also asked the Board's opinion of a special newsletter for attorneys handling capital cases. Discussion was held but no action was taken.

2. Appointment of Executive Committee

Larry Landis requested the appointment of an Executive Committee to:

- a. review and approve the Council's biennium budget request for 1987-89;
- b. review reorganization of the agency's staff and recommend changes including reclassifications; and
- c. recommend a hiring or reorganization procedure to be used if Larry Landis leaves the Executive Director position.

John Surbeck appointed the present officers to the Committee: John Surbeck, Gene Hollander, Dan Weber, and Terry Richmond as past chairman.

G. NEW PROJECTS

The Board discussed and recommended the following projects for the coming three years. They requested that additional funding for these projects be included in the biennium budget request for 1987-89 in the amounts indicated. The projects are listed in order of priority.

1. Additional staff to handle present services and projects. Request one clerical (COMOT I) and one attorney (PAT I) at appropriate funding level. Motion by Susan Carpenter, seconded by Terry Richmond. Passed.
2. State funding to continue the Sentencing Alternatives Project upon expiration of grant funding. Request \$200,000 for fiscal year 1988-89, which would be the second year of the 87-89 biennium budget. Motion by Terry Richmond, seconded by Susan Carpenter. Passed.



3. State funding to continue the Juvenile Resource Director position and related services upon expiration of the current grant. Funds would continue the provision of technical assistance in placement and sentencing alternatives as well as manual update and programs as needed. Request \$35,000 each fiscal year. Motion by Susan Carpenter, seconded by Gene Hollander. Passed.
4. Mitigation Expert Project. Request funding for the Council to hire three mitigation experts who could be engaged by Council members for assistance in capital cases. Budget request: \$100,000 for each year. Motion by Susan Carpenter, seconded by Terry Richmond. Passed.
5. Issues retrieval system for Brief Bank. Budget request: \$32,000 per year for new staff attorney. Motion by Terry Richmond, seconded by Susan Carpenter. Passed.

H. PUBLIC DEFENDER LEGISLATION

Larry Landis asked the Board to give their alternative recommendations on the following issues regarding the Public Defender Legislation. These policy positions are to help those who serve as liaison between the Council and the bill's sponsors, committee members, and legislators in the 1987 General Assembly.

1. Assignment of Direct Appeals
 Present Bill: All appeals go to the State Public Defender's Office unless the defendant specifically requests appointment of trial attorney and trial attorney agrees.
 Alternative Position: Trial counsel may be appointed at the discretion of the State Public Defender.
2. Composition of County Board:
 Present Bill: One by county council; one by circuit court judge; one by president of county bar association.
 Alternative Position: One by county council; two by agreement of judges with criminal, felony jurisdiction.
3. Composition of State Commission:
 Present Bill: two appointed by governor; two appointed by Supreme Court of Indiana; two appointed by ISBA; one appointed by IACDL.
 Alternative Position: Five appointed by Indiana Supreme Court.
4. Funding level
 Present Bill: 50% by State.
 Alternative Position: 50% by State.
5. Elected Public Defender for Marion County
 Present Bill: Option is not included.
 Alternative Position: No position. Executive Committee authorized to take position.
6. Role of the IPDC
 Present Bill: No mention of IPDC. Position of Board is IPDC should remain independent agency to provide support services and training to county public defenders. IPDC staff should not be involved in evaluating or making recommendations to State Commission regarding counties' eligibility for state funding.

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I. NEW BUSINESS

1. Lake County backlog of appeals

Dan Toomey advised the Board that Lake County presently has a backlog of 110 appeals with 220 expected by year's end. Judge Kimbrough has requested trial level public defenders to assist with the backlog without payment. Discussion was held about whether the Council can and should get involved in this issue, as well as what action might be effective and who should take that action. Upon motion by Dan Toomey and a second by Dan Weber, the following resolution was adopted:

Whereas, Lake County has a backlog of approximately 110 indigent appeals and with the present caseload of the appellate public defenders the backlog is expected to be 220 indigent appeals by the end of 1986; and
Whereas, there is no money in the budget of the Lake County Superior Court, Criminal Division, to contract with attorneys to provide representation on appeal; and


Whereas, there is a constitutional right to counsel on appeal for indigents under the Equal Protection Clause of the 14th Amendment of the United States Constitution and Article 1, §23 of the Indiana Constitution; and
Whereas, attorneys in Indiana are not obligated and can not be compelled to provide representation without adequate compensation,
BE IT RESOLVED, the Board of Directors of the Indiana Public Defender Council urges the elected officials of Lake County, the Lake County judiciary, the Indiana Supreme Court, and the General Assembly to develop a plan which provides for prompt and effective representation on appeal by counsel who are adequately compensated for their services.

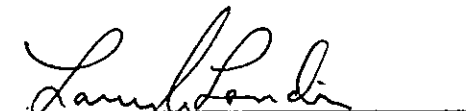
2. Next meeting. The next meeting of the Board of Directors will be held October 28, 1986 following the IPDC seminar at the Airport Holiday Inn in Indianapolis.

J. ADJOURNMENT

The meeting was adjourned at approximately 6 p.m.

Minutes prepared by:


Mary Sinnock


Larry Lajdis

Submitted by:


Dan Weber, Secretary

Approved:


John Surbeck
Chairman



EXECUTIVE DIRECTOR'S REPORT

I. OFFICE ADMINISTRATION

A. Staff - Present

1. Larry A. Landis - Executive Director
Duties: administration; manuals; liaison; technical assistance; emergency research
2. Mary Sinnock - Programs Director
Duties: programs; budget-bookkeeper trainer; administrative assistant
3. Michelle Mays - Administrative Secretary
Duties: budget-bookkeeper, office supplies, administrative secretary
4. Lisa Snyder - Publications Secretary
Duties: membership; publications; word processing
5. Kit Keller - Staff Attorney
Duties: Indiana Defender - Editor; Case Bank; technical assistance in death penalty cases.
6. Monica Foster - Staff Attorney
Duties: research; manuals; technical assistance; articles for Indiana Defender; special projects.
7. Maureen Keefe - Law Clerk
Duties: research
8. Sharon Foster - Clerical Assistant
Duties - photocopy; manual assembly; errands

II. BUDGET FINANCIAL REPORT

A. 1986-87 Budget

The budget for FY 1986-87 is attached hereto as Appendix A.

III. PROGRAMS

A. Past Seminars

A list of seminars conducted by the Council is attached as Appendix B.

B. Future Seminars

Topics for 1987 seminars should be selected at the Board retreat in July 1986.

C. Mandatory CLE

Planning for 1987 should include consideration of the mandatory continuing legal education program which is expected to be approved by the Indiana Supreme Court.

ADDENDUM - A

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IV. PUBLICATIONS

A. Indiana Defender

1. The Indiana Defender is mailed to over 700 members and approximately 150 subscribers.

B. Case Bank

The Case Bank was initiated in March of 1984. We now have approximately 115 subscribers. The purchase price is \$150 for members and \$225 for non-member criminal defense lawyers. Annual upkeep is \$50 for members and \$75 for non-members.

C. Manuals

1. Past Manuals. A list of manuals published by the Council is attached as Appendix C.
2. Juvenile Manual. A juvenile delinquency manual was prepared in 1984 and updated in 1986 by J. Richard Kiefer. Mr. Kiefer has agreed to contract with the Council to prepare an update for publication in the summer of 1987.
3. Instructions Manual. Monica Foster completed this manual with a committee. Distribution was at the seminar on June 6, 1986.
4. Death Penalty Manual. Kit Keller completed a 3 volume death penalty manual with a committee during the past year. Volume 3 was distributed in July of 1986.
5. Appellate Manual. An appellate manual was planned for publication in July of 1986. Work has not yet begun.
6. Trial Manual. Jill Greuling and Linda Wagoner are under contract to prepare a pre-trial and trial manual. Publication is planned for late 1986.

V. RESEARCH

The following is a list of research requests and technical assistance conducted since 1978.

<u>Year</u>	<u>Research</u>	<u>Technical Assistance</u>	<u>Death Penalty</u>	<u>Total Requests</u>
1978-79	95	*	*	95
1979-80	149	*	*	149
1980-81	120	*	*	120
1981-82	320	*	*	320
1982-83	329	57	21	407
1983-84	329	124	50	503
1984-85	286	231	54	571
1985-86	253	290	78	621

*no records kept

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VI. DEATH PENALTY PROJECT

Since August 1, 1983, the Council has provided technical assistance in death penalty cases. Services rendered include providing attorneys with listing of in-house resources, copies of motions and briefs, referrals to experts and venue assistance.

The Council sends slip opinions of Indiana Supreme Court death penalty decisions to all attorneys presently representing capital defendants. We also review Indiana and U.S. Supreme Court death penalty cases in the Indiana Defender.

Defenders in other states and media people also contact us for statistics or general information concerning our statute or our death row population.

There are 36 men and 3 women on death row in Indiana. Fourteen death penalty cases are pending trial.

VII. BRIEF BANK

The brief bank includes most briefs filed in the Indiana Supreme Court of Appeals from approximately 1973 to the present. They are catalogued alphabetically by the defendant's last name. Thus, briefs can be accessed only by case name.

Cataloguing by issue was considered and rejected because it was estimated that it would cost \$15,000 of staff time to index all briefs by issues plus additional staff time to index future briefs. The demand for briefs will be monitored in the coming year to determine whether the cost of an "issue" retrieval system would be cost effective.

IX. SENTENCING ALTERNATIVES GRANT

In April of 1986, we were awarded a \$114,813 grant from the Criminal Justice Institute to conduct a sentencing alternatives/client specific planning project. The staff will include a project director, 1 1/2 case developers and a secretary. The two target counties for the first year are Marion and St. Joseph. The staff will be:

Project Director:	Rita Akins
Case Developer:	unknown (50%)
Case Developer:	Tanya Dickinson
Secretary:	unknown

The project staff will begin in August. We should be accepting cases in early September.

X. JUVENILE GRANT

A grant application was filed on July 17, 1986 with the ICJI for \$25,000 of JJDPA funds. The grant project is designed to: (1) hire a juvenile resource director to work with members regarding services and placement options available to juveniles in Indiana; and (2) prepare an update for the Juvenile Manual.

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FY 1985-86 BUDGET SUMMARY

Indiana Public Defender Council

PERSONNEL

Staff salaries and fringe benefits 204,118

BOARD OF DIRECTORS MEETINGS

July 1986 meeting 1,000
 3 meetings at \$250 each 750

TOTAL BOARD EXPENSES 1,750

SEMINAR SPEAKERS

(Honorariums & travel exp.)
 Trial Skills 1986 10,476
 4 one-day, 1 two-day seminars 11,000

TOTAL SPEAKERS EXPENSES 21,475

OPERATING EXPENSES

Postage \$ 2,300
 Mailing Service 870
 Library 5,200
 Telephone 3,840
 Printing (Defender & I manual) 5,785
 Rent 20,784
 Westlaw 3,600
 Equipment Maintenance 4,320
 Copier Rental 2,700
 Training, Typesetting, Misc. 1,150
 Office Supplies 2,900
 Manuals Binders and Tabs 1,387
 Furniture 800
 Travel 3,229

TOTAL OPERATING EXPENSES 58,865

TOTAL 1986-87 BUDGET \$286,209

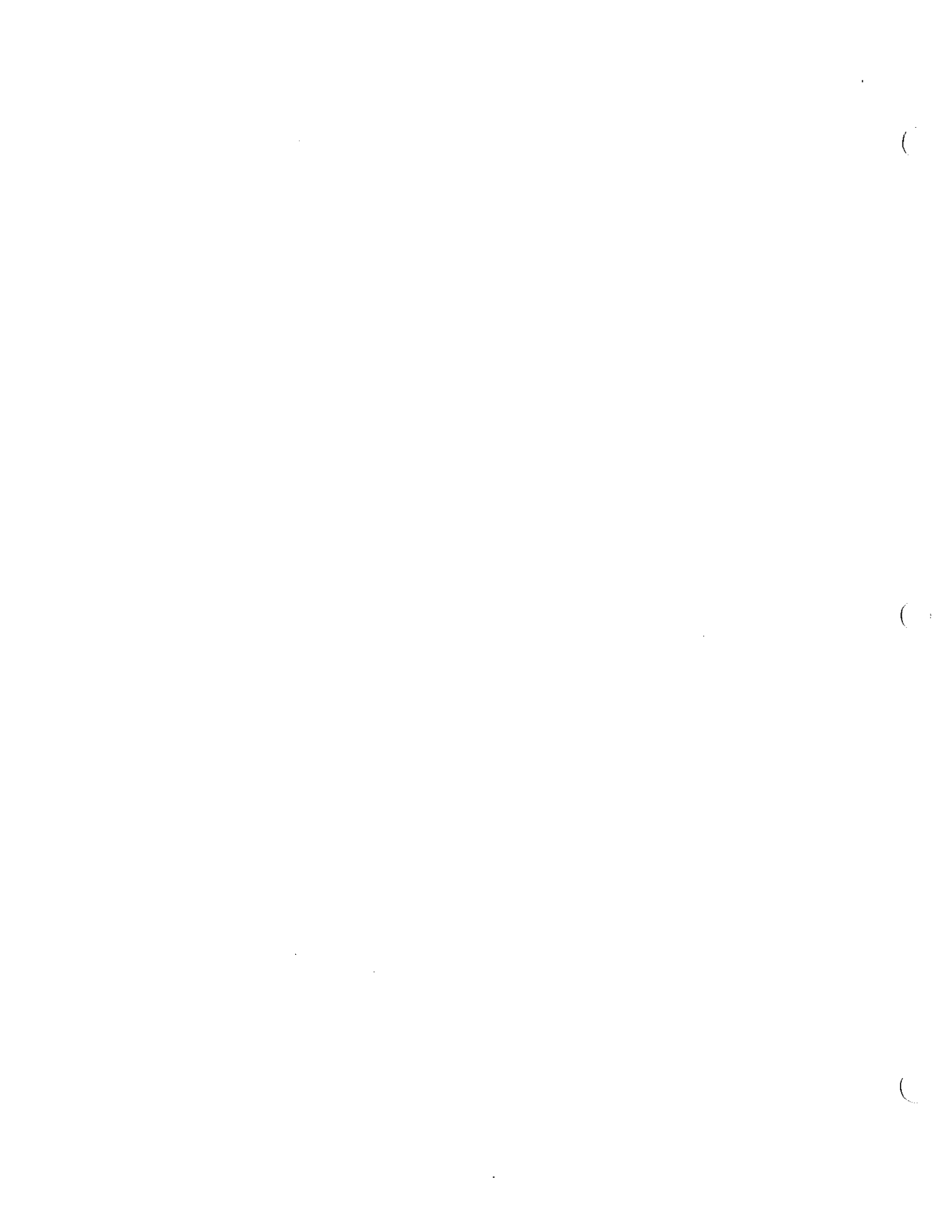
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IPDC TRAINING PROGRAMS & SEMINARS

<u>Participants</u>		
1. September 9 & 10, 1976	109	Criminal Defense
2. December 10, 1976	69	Evidence
3. April 27-29, 1977	81	Trial Practice
4. June 2-3, 1977	47	Juvenile Law
5. August 31, 1977	136	New Penal Code
6. April 21, 1978	122	Legislation
7. June 23, 1978	57	Evidence
8. October 30, 1978	84	Eyewitness Identification
9. January 19, 1979	90	Search & Seizure
10. May 18, 1979	102	Sentencing & Legislation
11. September 7, 1979	99	Juvenile Law
12. November 9, 1979	102	Forensic Evidence
13. March 28, 1980	68	Sentencing & Legislation
14. August 15, 1980	111	Defense of Insanity
15. September 26, 1980	49	Forensic - Northwest Lab
16. November 7, 1980	98	Evidence
17. February 7 & 8, 1981	54	Death Penalty Defense
18. March 26-29, 1981 May 14-17, 1981	19	Trial Advocacy Workshop (limited enrollment)
19. August 21-22, 1981	55	Summer Meeting & Seminar
20. November 6, 1981	52	Direct & Cross-Examination Workshop (limited enrollment)
21. March 25-28, 1982 May 13-16, 1982	28	Trial Advocacy Workshop (limited enrollment)
22. July 25, 1982	145	Criminal Procedure Code
23. October 29, 1982	100	Evidence
24. May 13, 1983	79	Criminal Defense
25. September 9-11, 1983	51	Death Penalty Defense (NCCD)
26. November 4, 1983	89	Trial Persuasion
27. March 16, 1984	75	Sentencing
28. June 22, 1984	75	Jury Selection
29. July 27, 1984	42	Juvenile Defense
30. September 7, 1984	103	Search & Seizure
31. November 2, 1984	72	Forensic Evidence
32. March 8-9, 1985	41	Success & Survival in Criminal Defense
33. June 14, 1985	100	Criminal Defense Review



IPDC TRAINING PROGRAMS & SEMINARS

	<u>Participants</u>	
34. July 25-28, 1985 August 15-18, 1985	41	Trial Skills Workshop
35. November 8-9, 1985	90	Death Penalty Defense
36. March 21, 1986	83	Juvenile Delinquency Defense
37. June 6, 1986	170	Criminal Defense - 1986
38. June 13, 1986	40	Federal Habeas in Capital Cases
39. July 25, 1986	140	Defense of Child Sexual Abuse

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IPDC PUBLICATIONS

	<u>Number Printed</u>	<u>Number Distributed</u>
1. Case Bank	150	115
2. Criminal Code	300	199
3. Death Penalty Vol. 1	150	87
4. Death Penalty Vol. 2	150	87
5. Death Penalty Vol. 3	150	87
6. Evidence 1 (1980)	300	300
Evidence 2 (1984)	300	150
7. Jury Instructions	300	180
8. Juvenile (1984 with 1986 supp.)	467	320
9. Motions	600	400
10. Sentencing 1 (1980)	250	250
Sentencing 2 (1984)	325	131

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IPDC
Board Retreat
July 24, 1986

- 9 - 9:15 Call to Order
Approval of Minutes
Approval of Agenda
- 9:15 Executive Directors Report
a. Office Administration
b. Publications
c. Seminars
d. Research
e. Juvenile Grant
f. Sentencing Grant
g. Public Defender Study (Juv. & Adult)
h. Biennium budget
- 10:15 - 10:30 Break
- 10:30 - 11:00 Publications for 1986-87
- 11:00 - 12:00 Seminars for 1986-87
- 12:00 - 1:00 Lunch
- 1:00 - 1:30 Committee Reports
- 1:30 - 3:30 Public Defender Bill
a. Appeals
b. Composition of State Commission & County Board
c. Role of IPDC
- 3:30 New Business

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