

Indiana Public Defender Council
Meeting of the Board of Directors - September 6, 1984

MINUTES

1. CALL TO ORDER

The meeting of the Board of Directors of the Indiana Public Defender Council was called to order by Terry Richmond, Chairman, at 6 p.m. on September 6, 1984, at the Airport Holiday Inn in Indianapolis, Indiana. Directors present: Terry Richmond, Susan Carpenter, Gene Hollander, Dave Hennessy, John Surbeck, Larry Combs, and George Barnett. IPDC staff present: Larry Landis, Mary Sinnock, Monica Foster and Kit Keller. IPDA Directors present: Jim Johnson, Bill Smock, Linda Wagoner and John Sorensen.

2. MINUTES OF PRECEDING MEETING

Minutes from the IPDC Board meeting held August 10-11, 1984, were approved without change.

3. EXECUTIVE DIRECTOR'S REPORT

Larry Landis reported that the Legislative Interim Study Commission on Grand Juries has recommended that:

- a. All proceedings of the grand jury must be recorded except deliberations or voting.
- b. An information may not be filed after the grand jury refuses to indict unless there is newly discovered material evidence.
- c. Transcripts of grand jury proceedings should be released only upon a showing of a "particularized need".

4. UNFINISHED BUSINESS

A. Criminal Law Study Commission Report.

Susan Carpenter provided the following update on legislation being considered by the Criminal Law Study Commission.

- 1) Theft/Conversion - The Penal Committee of the CLSC adopted the IPDA's position that IC 35-5-43-4 be amended by deleting "intent to deprive" and adding "unauthorized control".
- 2) Domestic Violence - After a lengthy discussion of the pros and cons of authorizing police officers to arrest for domestic violence batteries not committed in their presence, no action was taken to change the IPDA's position opposing the legislative proposal.
- 3) Intoxication - No action was taken by the Penal Committee of the CLSC.
- 4) Telephonic Warrants - Steve Goldsmith withdrew his request for a statute authorizing telephonic warrants.
- 5) Wiretap Warrants - The proposal for a wiretap statute will be the same as that proposed in 1980.

B. Legislative Committee Report.

- 1) Bail After NGI Verdict - Dave Hennessy submitted his draft of the proposed amendment to IC 35-36-2-4, which would allow a court to release a defendant from custody after a verdict of NGI and prior to the civil commitment hearing. Upon motion by Bill Smock and a second by John Sorensen, the Board voted to approve the proposed legislation.

- 2) **Death Penalty/Life Without Parole** - Kit Keller discussed her draft of a Life Imprisonment Without Parole alternative to the death penalty, which was submitted in writing to the Board. After a lengthy discussion of the issues involved, the Board took the following action:
 - a) Approved the draft of Life Imprisonment Without Parole.
 - b) Approved the draft of appellate review of death sentence.
 - c) Adopted the position that the death penalty should not be available for persons under 18 years of age at the time of offense.Terry Richmond suggested that legislation be proposed which required that the aggravating circumstances must outweigh the mitigating circumstances before a jury can recommend death. By acclamation the Board approved this policy and requested that it be added to the other proposals regarding the death penalty.
- 3) **Habitual Offender** - Monica Foster discussed her draft of amendments to the Habitual Offender Statute, which were submitted to the Board in writing. The Board voted to recommend that Class D felonies not be included as either prior convictions or as the triggering offense. In addition, any felony where the sentence was suspended should not be included as a prior conviction. The Board directed that drafts of the proposals should be prepared by staff and submitted to the legislative committee for future review.

C. Model Contract.

Larry Landis reported on the recent case of Tower v. Glover and the issue of immunity of public defenders from malpractice or civil rights liability. Larry suggested that the following should be considered in drafting the model contract:

- 1) Whether status as a county employee makes conspiracy allegations under 42 USC 1983 more likely?
- 2) Whether status as a county employee limits the attorney's ability to choose his/her defense representation.

D. State Public Defender Legislation.

Due to lack of time, discussion of the state public defender legislation was postponed until the next Board meeting.

E. Board Retreat 1985.

The consensus of the Board was that the Board retreat for 1985 should be held all day Saturday and Sunday morning. The site preferred was a hotel in Indianapolis. Lunch may or may not be provided, and Board members will be on their own for dinner.

F. Standards Committee Report.

Larry Landis reported that the ISBA-CJS Directors Council would be meeting on September 12th to review the standards adopted by both the Council and Association Boards.

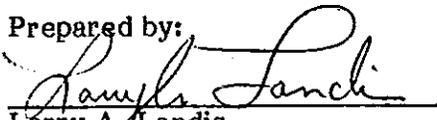
5. NEXT MEETING

The next board meeting was set for November 1, 1984 (Indianapolis) if the Council conducts a seminar on November 2nd. If a seminar is not held November 2nd, board members will be notified about an alternate date for the next meeting.

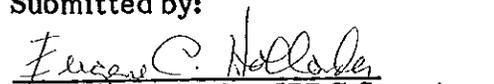
6. ADJOURNMENT

The meeting adjourned at approximately 8:30 p.m.

Prepared by:


Larry A. Landis

Submitted by:


Eugene Hollander, IPDC Secretary

Date _____