

**INDIANA PUBLIC DEFENDER COUNCIL
Board Of Directors Meeting
September 22, 2010
Mariott East Hotel
Indianapolis, IN**

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 David Cook at 6:15 PM in Salon 6 of the Mariott East Hotel, Indianapolis. Board members present were Zaki Ali, David Cook, David Hennessy, Jeff Lockwood, Michelle Kraus, Mike McDaniel, Sonya Scott, Neil Weisman and Lorinda Youngcourt. Staff present were Larry Landis, Teresa Campbell, and Loretta Jackson.

II. APPROVAL OF MINUTES

The minutes and agenda were unanimously approved as submitted

III. EXECUTIVE DIRECTOR'S REPORT

A. BUDGETS

Larry reported that the governor has requested a 10% reduction from last year's base budget of \$1.3 million. State agencies have been instructed to not ask for any new programs.

Larry reported that the Public Defender Commission is currently funded as \$18.25 million per year and Deborah Neal estimates the Commission will need \$21.5 million to fully reimburse the eligible counties. The Chief Justice has indicated he will ask for the amount needed.

Larry directed the Board's attention to the Public Defender Commission report from Deborah Neal which indicates that all reimbursement requests were approved at the most recent meeting and that several counties were exploring joining the reimbursement program. Micki Kraus said that LaGrange County probably will not join. Zaki Ali stated that Delaware County is broke and is offering employees money to retire early. He thinks they will also seek state reimbursement.

B. GRANTS

The \$50,000 juvenile training grant submitted to CJI was denied, but there may be other opportunities to obtain training funds. The \$500,000 grant for the PD module has been extended to 2011, The Council will likely file another grant for Bryne/JAG funding in 2011.

Currently, Monroe and Floyd counties are using the public defender module. Reports from staff are favorable.

IV. PUBLICATIONS/RESEARCH/WEB SITE

There are no current policy issues. The website is still evolving. It was mentioned that we need to remind people of our website at our seminars.

V. TRAINING

Lorinda Youngcourt will look for a lawyer to work with Kim Hart on the Child Abuse/Domestic Violence seminar to be held in 2011.

Larry reported that Eric Lawrence of the Indiana State Police proposed holding forensic science training for public defenders in the State Police Labs around the state. He proposed training in six disciplines and DNA. Larry suggested a one day program on the 5 areas and a one day program on DNA. Public Defenders would get access to the State Police labs, tour the labs, and meet their analysts. We would use their training rooms and a charge a minimal amount, say \$25. Training could start in April, 2011.

Mike McDaniel asked if we want to offer a trial preparation seminar prior to TPI, as discussed at the annual retreat. It was decided to put it on the agenda for the January board meeting. No work has been done on it yet, but it will either be developed or dropped by then.

Don Murphy is meeting with public defender boards in various counties to determine what, if anything, they are doing to measure quality. He is trying to persuade them to do something regarding quality control, because they must measure quality if they want a state-wide system. Unfortunately, we have no authority over county boards. We can try to convince them but we have no power to force them.

David Hennessy stated that we need to gather data first, but Larry pointed out that there is no data to gather. Larry asked the question, "what do you measure to assess quality?" David wants to know what the counties are saying, and requested that Don Murphy attend the next board meeting to provide a more expansive report on what he's doing.

Larry stated that there will be objective, hard data available once the public defender module for the Odyssey system is state-wide. He said the public defender module will have many options that the county can choose from to measure quality. The plan is to build bridges so the PD module can interface with CSI, Court View and other systems, once the Odyssey system is fully implemented.

VI. CRIMINAL JUSTICE POLICY AND LEGISLATION

A. CRIMINAL CODE EVALUATION

Larry reported on the status of the Criminal Code Evaluation Commission (CCEC). The Commission is operating on a two-track system. There is a steering committee funded by the State and the Pew Center on the States. The second track is a Working Group composed of Steve Johnson of IPAC, Judge John Marnocha and Larry Landis, which is tasked with preparing draft proposals for changes in the criminal code. The following proposals are currently being considered:

1. Theft: misdemeanor if less than \$500; D felony between \$500 and \$50,000 and C felony over \$50,000.
2. Forgery: tracks the amounts in theft.
3. Expungement: no consensus at this time. Judge Marnocha wants no expungement, even if the case results in an acquittal.
4. Allow judicial discretion in sentencing, suspendibility and modifications.
5. Drugs: In order to reduce prison overcrowding, drug penalties must be reduced. We are proposing changing the definition of manufacture, increasing minimum weight requirements, and eliminating geographic enhancements.
6. D felonies: There are currently 6000 people in the DOC on D felony convictions. There will be suggestions for reducing the number of D felons committed to the DOC.

Other suggestions by the board included:

- proving palpable harm in order to enhance charge/sentence;
- make crime suspendible despite prior conviction;
- put a time limit on priors that can be used as an enhancement;
- combine HSO and HO into one statute; a substance offense should not be counted toward a regular HO enhancement
- eliminate possession as counting toward the habitual
- place a time limit on prior conviction that can be counted toward habitual
- redefine terms bodily injury and serious bodily injury
- eliminate the battery enhancement of a child in the room – this is being used quite often to increase the charge.
- eliminate GBMI or have it be a built-in mitigator
- enhance community corrections to included more sentences - put more money into community corrections
- enhance options between probation and prison. Larry thinks the Pew group will suggest eliminating parole.
- modify HTV - currently 400 people are in prison for doing nothing more than driving.

B. LEGISLATION

We will propose the following legislation in 2011:

1. a new court rule or statute prohibiting juvenile waiver of counsel without first talking to counsel; and
2. expungement.

VII. NEW BUSINESS

None


VIII. MEETINGS

The next board meeting will be held on Thursday, December 9, at 6:00 PM, prior to the ethics seminar.

The meeting was adjourned at 7:50 PM.

Prepared by Loretta Jackson, Executive Assistant.

Submitted:



Lorinda Youngcourt, Secretary



David Cook, Chair

DATE: 12/9/10