

Indiana Public Defender Council
Board of Directors Retreat
September 25, 2004

I. CALL TO ORDER

The meeting of the Board of Directors of the Indiana Public Defender Council (IPDC) was called to order by Vice-Chair Doug Hill at 8:10 a.m. on September 25, 2004 in Conference Center Roman A, Caesars' Hotel, Elizabeth, Indiana. Board members present were Susan Carpenter, David Cook, Doug Garner, Terry Harper, Michelle Kraus, Kitty Liell, Mike McDaniel and Lorinda Youngourt. Absent were Bob Hill, David Hennessy and Neil Weisman. Staff present were Larry Landis, Teresa Campbell, Don Murphy and Loretta Jackson.

II. APPROVAL OF MINUTES

Minutes of the meeting held on April 24, 2004, were unanimously approved.

III. AGENDA

The agenda for the meeting was unanimously approved.

IV. EXECUTIVE DIRECTOR'S REPORT

A. BUDGET

Larry Landis reported that the council's biennium budget request for FY 2005-06 was the same as the current biennium. He also reported that the Council has uncommitted contract funds that are available for new projects.

Larry reported that the seminar account has a balance of approximately \$60,000 due to the increase in seminar registration fees and the payment of some bills from the state budget account. This balance is adequate to provide all of the proposed training projects for the remainder of 2004 and 2005.

B. GOALS

Larry stated that the mission of the Council was to improve indigent services in Indiana, and the Council strives to achieve its mission by focusing its services on three areas: (1) improving county indigent defense systems; (2) improving criminal justice policy; and (3) improving the effectiveness of members. He reported that Don Murphy was in charge of performance improvement and training, Paula Sites is charged with overseeing research and publications, and Larry is in charge of liaison and policy.

1. Chief Public Defenders Association

Don Murphy reported on the Chief Public Defenders Association. There are

currently 25 chief defenders. Attendance at the meetings averages 8-14 persons. At the meeting on 9-16-04, by-laws were adopted and Pat Biggs (Floyd County) was elected chairperson. Dave Cook reported that the Association was helpful in getting the juvenile standards revised and adopted by the Public Defender Commission.

Don Murphy reported that a public defender manager workshop was being planned for October.

2. Indigent Screening and Verification

Kitty Liell asked about the goal for standards re: indigence screening and verification. Larry Landis responded that currently there is little if any verification of indigency and in urban counties and up to 90% of defendants are declared indigent. Larry said he anticipated contracting with someone to prepare guidelines and standards.

Doug Garner asked about having counsel available at initial hearing. Larry said most counties do not staff initial hearing. Susan Carpenter pointed out that there is case law holding that the initial hearing is not a critical stage. After a discussion of the pros and cons of having counsel available at initial hearings, the Board adopted a policy recommending that counsel be available at initial hearings.

3. Bail and Recoupment

The Board discussed bail, including: its discriminatory effects on recent immigrants; the up-front charge for a public defender; and, recoupment orders at sentencing. No action was taken.

4. Negotiating and Awarding Indigent Defense Contracts

Larry Landis reported that there is a need for uniform standards and procedures for indigent defense contracts. Currently some counties have fixed compensation contracts with no caseload limits, and some award contracts on the basis of low bid. Larry said he would contract with someone in the next year to review national standards and draft a model contract.

5. Defender Management Information System MIS

Larry recommended no action on this goal until JTAC completes the new court management information system.

6. PD System database

Larry reported that contractor Mark Powers has almost completed the database for staff and compensation for all county indigent defense systems.

7. Public Defense Fund

Larry reported on public defense fund. It is currently funded at \$8 million per year. There are 52 eligible counties being reimbursed. The next session of the General Assembly will be a budget year and a request for additional funding should be made. Mike McDaniel asked if the PD Commission was still encouraging counties to come on board. Larry said the Commission is not pro-actively soliciting, but counties who express an interest are being helped. Lorinda Youngcourt asked what is our position? Larry responded that all counties should be in compliance with state standards and eligible for state reimbursement and there should be 50% reimbursement for all cases, including TPR/CHINS.

Dave Cook reported on his campaign to increase the Marion County Public Defender Agency budget. The Board congratulated him on his success in obtaining a \$2.1 million increase in his budget.

V. TRAINING

A. TRAINING PROGRAMS

1. In general

Don Murphy reported on training programs: seminar attendance continues to increase; we are planning more regional training; and, Grant County has asked for appellate training in December 2004.

2. Ethics program

Mike McDaniel recommended that the ethics seminars focus on issues particular to public defenders and mentioned some of the questions on Defendnet, e.g., what to do about excessive caseloads, and what to do when a client has resources to pay for an attorney. Lorinda Youngcourt recommended the person who did a recent ethics training in Las Vegas as a future faculty person. Terry Harper suggested Vince Aprile.

3. Board attendance at national programs

Doug Garner suggested that the Council should pay for a board member to attend national conferences, such as NLADA or NACDL. Larry Landis said the Council could afford to send a board member to national training programs.

4. Immigration consequences and diversity training

Susan Carpenter suggested that due to the huge influx of Latinos, there was a need for training on the consequences of convictions on immigration and training on cultural awareness. Lorinda Youngcourt said that the training committee has talked

about this. It was agreed that a packet of materials on immigration consequences should be prepared for our members.

The board discussed the need for diversity training, including whether to add diversity to the ethics program in 2005 and/or add one hour of the effects of convictions on immigration to the fundamentals seminar. Terry Harper also expressed the opinion that we also need a diverse faculty for our seminars. No action was taken.

5. Misdemeanor training

Terry Harper recommended a training seminar for members who primarily handle misdemeanor cases. The subjects discussed for this program include: "triage", possession offenses, OWI, alternative misdemeanor sentencing, case evaluations, and bench trials. The consensus was that this training should be inserted in the fundamentals program in 2005.

6. Council resources index

Lorinda Youngcourt recommended that we have a list of Council resources available on-line, preferably a topical or subject-matter index, which would include library materials, seminar videos and handouts. Larry Landis said it could be done and suggested that we start by using the Casebank Index.

7. Archiving Defendnet messages

Lorinda Youngcourt raised the issue of organizing and archiving Defendnet messages. Larry Landis said he would check with Access Indiana and see what is feasible. The Board voted to create a Defendnet archive for posting on the web site.

8. Committee members

After a discussion of committee membership, the Board voted to authorize committee chairpersons to appoint non-board members to serve on their committee.

9. Meet and greet members and care and feeding of speakers

Lorinda Youngcourt recommended an expansion of the board's responsibility for greeting members at seminars to include taking care of our out-of-town speakers. The board agreed by acclamation. Lorinda agreed to draft a "job description" for the care and feeding of speakers.

The following meeters and greeters were selected for seminars in 2004 and 2005:

<i>Seminar</i>	<i>Greeters</i>	<i>Speaker host</i>
Fundamentals	Mike, Lorinda, David H.	
Investigators	Dave C.	Micki, Mike, Susan
Ethics	Bob H., David H.	
TPI	none needed	
Juvenile	Mike, Lorinda??	Mike, Lorinda??
Drugs/DWI/Search	Micki, Mike	Doug, Terry, Dave C.
Child Molest	Kitty, Terry	Kitty, Terry, Mike
Evidence	Doug, Micki?	Kitty, Micki?
Appellate	Kitty, Lorinda?	Dave Cook, Lorinda?
Annual	Doug, Susan	Susan

10. Other training

Don Murphy announced that the Council will be conducting a training conference for public defender office administrators on December 3.

Don also indicated that the Council is exploring co-sponsoring the ABA's Juvenile Leadership Conference in April of 2005 in Dayton Ohio.

11. Mentoring

Larry Landis reported that no mentoring has been provided since the departure of Terry Richmond. Jodie English has been spending all of her contract time on training. No new mentors have been found. Larry expressed his opinion that it was important to find the right person(s) and asked for the assistance of board members in identifying mentor candidates.

The Board discussed David Hennessy's letter re: whether prior disciplinary action should disqualify someone from being a mentor. No action was taken.

VI. PUBLICATIONS

A. Manuals

1. Motions Manual

Larry Landis asked for feedback on whether the Motions manual needed to be

reformatted and printed in hard copy. The consensus of the Board was that it should be available in hard copy. The issues about format were referred to the publications committee.

2. DOC Pamphlet

Larry Landis reported that the DOC pamphlet is near completion.

3. Indiana Defender

Several board members expressed concerns about the quality and relevancy of the articles in the Defender, and made the following suggestions for improvement:

- a. the Defender should be integrated with training, i.e., articles should be linked and coordinated with training events;
- b. the Trench Report should be reestablished and include success stories from members who used techniques and ideas from IPDC training programs;
- c. the editor should establish a contact person in each large county; and
- d. articles from members should be solicited on Defendnet each month.

B. Fee Structure

1. The Board discussed setting a fee for all manuals. Larry Landis said it was feasible. The issue was referred to the publications committee.

C. Expert witness database

1. Kitty Liell moved that the priority status for creating a database of state experts be changed from C to A, and that a greater effort be made to collect transcripts and post them on IPDC's website. The motion was unanimously passed.

VII. RESEARCH AND TECHNICAL ASSISTANCE

A. Research

1. Terry Harper expressed concern that it was sometimes difficult to find a research attorney in the office before 9:30 am. Larry Landis said he would check into this and report to the Board at the next meeting.

B. Technical Assistance

1. Lorinda Youngcourt suggested that Dawn Nolan be available at seminars to speak to attendees about using Powerpoint, software, etc. Terry Harper recommended that a powerpoint presentation be available that had actually been used in a trial. She also asked whether it would be possible for IPDC to purchase projectors that could be used by the counties. Larry thought there could be a problem with a state agency purchasing equipment for the counties. Terry said she thought that IPAC was doing

this for county prosecutors' offices. Larry Landis said he would check with IPAC and report to the Board.

VIII. CRIMINAL JUSTICE POLICY AND LEGISLATION

A. Sentencing Policy Study Committee

Larry Landis reported on activities of the Sentencing Policy Study Committee. After a discussion of the impact of *Blakely* in Indiana, and the opportunity for changes to the aggravating circumstances in IC 35-38-1-7.1(b), the issue was referred to the Policy and Liaison Committee.

B. Juvenile Law Commission

Larry reported on the activities of the Juvenile Law Commission and his recommendations for creating the right to bail and right to a jury trial for juveniles.

C. Mental Health Consortium

Larry reported that legislation will be filed to fund the forensic diversion program by increasing the alcohol tax in Indiana. This would generate approximately \$20 million. This legislation will be submitted to the Policy and Liaison Committee.

IX. NEW BUSINESS

- A. Doug Garner inquired whether the Council should request that the Indiana State Bar Association Ethics Committee issue an opinion on the issue of whether it is unethical for the prosecutor to condition dismissal of criminal charges on the defendant's agreement to waive any civil claim. The board decided not to request such an opinion.

X. ELECTION OF OFFICERS

The following officers were elected for FY 2004-05:

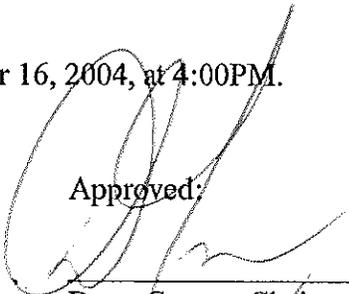
Chair: Doug Garner
Vice-Chair: David Hennessy
Secretary: Mike McDaniel

The next board meeting will be December 16, 2004, at 4:00PM.
Meeting adjourned at 3:00 P.M. (EDT).

Respectfully submitted:

Loretta Jackson, Acting Secretary
Date: _____

Approved:



Doug Garner, Chair
Date: 1/21/05

