

Indiana Public Defender Council  
Meeting of Board of Directors - December 19, 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 6:15 p.m. on December 19, 1984, at the Council's office. Directors present: Terry Richmond, John Surbeck, Gene Hollander, Susan Carpenter, David Hennessy, Dan Weber. IPDA Directors present: Linda Wagoner. IPDC staff present: Larry Landis, Mary Sinnock, Kit Keller.

2. STATEWIDE PUBLIC DEFENDER BILL

Larry Landis distributed copies of the Public Defender Bill as drafted by the Legislative Services Agency. For purposes of amendments, it was decided to utilize the Council's draft dated 12-1-84.

- A. Linda Wagoner moved that the bill be amended to provide for a public defenders' fee of \$3.00 to be taxed as costs in all criminal cases, including traffic and juvenile cases. The motion was seconded by David Hennessy and was approved unanimously.
- B. Susan Carpenter moved that Section 20(b) be amended to include language presently existing in IC 33-9-11-1 which authorizes a trial court to request the State Public Defender to provide representation by an attorney outside of the county if it is in the "interests of justice". The motion was seconded by John Surbeck and passed.
- C. Susan Carpenter raised the issue of whether Section 6(b)(1) and (2) should be amended to conform with law requiring the State Public Defender to represent people on post-conviction and belated appeals only if they are incarcerated in a state penal institution. The draft mandates that the State Public Defender provide representation whether or not the person is confined in the DOC. Although it was acknowledged that this expansion of right to counsel may have a considerable fiscal impact, the consensus was to leave the bill as drafted, explain the need for the expansion of the right to counsel in this area and authorize change if needed to overcome opposition to the expansion of the right to counsel.
- D. It was acknowledged that the provision allowing trial counsel to represent a client on appeal if the client consents was inadvertently deleted from the draft. This provision requiring the State Public Defender to appoint trial counsel upon request of trial counsel and the defendant was approved by the Public Defender Delivery Systems Committee and will be reinserted in the bill. John Surbeck raised the issue of whether the bill deals with a situation where private counsel has represented the defendant at trial and the defendant becomes eligible for court-appointed counsel on appeal. Is private counsel eligible for the appellate appointment? Larry Landis stated that under the present draft the appeal would go to the State Public Defender.

Susan Carpenter moved that Section 7 be amended to incorporate language of IC 33-9-11-2 which authorizes the State Public Defender to appoint or contract with attorneys. This would authorize the Public Defender to contract with the privately retained trial counsel to handle the appeal, if so requested by the client and the attorney. John Surbeck seconded the motion and it was approved.

D. Susan Carpenter inquired as to how the Commission would conduct the evaluations of whether the counties were in compliance with the state standards. After a discussion of the options, John Surbeck moved that the State Commission be authorized to hire staff to implement the statewide public defender act. The motion was seconded by Susan Carpenter and approved.

E. Gene Hollander moved that the bill be adopted as amended. The motion was seconded by Dan Weber and unanimously approved.

Gene Hollander inquired as to what happens next. Larry Landis indicated that the bill as amended would be given to the Legislative Services Agency. A final draft will then be submitted to Les Duvall for filing. A sponsor in the House is still needed. The bill will proceed through the Senate Judiciary Committee and will probably be heard in late January. This will be the first opportunity for public testimony. Council staff will keep the Board informed of the bill's progress.

### 3. ADJOURNMENT

The meeting adjourned at approximately 8:15 p.m.

Prepared by:

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Larry A. Landis

Date: \_\_\_\_\_

Submitted by:

  
\_\_\_\_\_  
Eugene C. Hollander, IPDC Secretary

Date: \_\_\_\_\_