

**INDIANA PUBLIC DEFENDER COUNCIL
BOARD OF DIRECTORS MEETING**

**Marriott East Hotel
Indianapolis, IN**

**December 7, 2017
7 p.m.**

Minutes

I. Call to Order

A meeting of the Board of Directors of the Indiana Public Defender Council was called to order at 7:00 p.m. EST on December 7, 2017, in Salon B, Marriott East Hotel, Indianapolis, IN by Board Chairperson Neil Weisman.

Board members present were: Neil Weisman (Chairperson), David Shircliff (Vice Chairperson), Mark Nicholson (Secretary), Chris Shema, David Hennessy, Gojko Kasich, Jennifer Sturges, Ashley Spolarich and Steve Owens. Micki Kraus participated via phone. Bob Hill was not in attendance. Also in attendance were Council staff: Bernice Corley (via phone), Diane Black, Larry Landis, Toni Schaney, Amy Karozos and Joel Wieneke.

II. Approval of Minutes from Last Meeting

The minutes of the Board meeting on September 30, 2017, were reviewed. David Shircliff moved to accept the minutes as presented. Jennifer Sturges seconded the motion, which passed unanimously.

The minutes of the Board meeting on July 20, 2017, were reviewed. Jennifer Sturges moved to accept the minutes as presented. David Shircliff seconded the motion, which passed unanimously.

III. Review and Approve Agenda

David Shircliff moved to approve the agenda. The motion was seconded by Mark Nicholson and approved unanimously.

IV. Executive Director Report

A. Administrative - Transition Progress

Larry Landis stated that the transition of duties to Bernice Corley is going well.

David Shircliff moved that training be moved up in the agenda so Diane Black could leave early.

B. Fiscal - Training

David Shircliff explained the Council's current position regarding funding for training. Larry Landis also explained that the training and publication funds are non-reverting revenue funds, which means the monies in the funds are not returned to the State at the

end of the fiscal year. These funds do not receive an appropriation from the State. Thus, these funds need to be self-sustaining.

David Shircliff discussed a handout prepared by Diane Black showing the budget for the 2018 calendar year with various scenarios for keeping the training fund solvent. He stated that the current rate of revenue and expenditures are not sustainable, which means we need to reduce training expenses, increase revenue, or some of each.

At David Shircliff's request, Larry explained that the Council's budget has remained the same for the past 10 years. As personnel costs have increased due to annual raises and insurance costs, the operating budget has shrunk. He also reported that the training fund has been running a negative balance for the past several years and it has been obvious for a while that if the Council continued to provide training at the same level something would have to be done to balance the revenues and expenses. In order to give the new training director and the board time to plan for the future, in FY 2016 and 2017 some of the training expenses were paid out of the state budget in order to build up the balance in the training fund. At the end of November 2017, the balance in the fund was \$124,650. Thus, he said, the Board needs to develop a plan for what type of training it wants to provide and how it will be funded. One option is to request additional funding from the legislature in the FY 2020-21 budget. However, if training has to continue to be funded from registration fees, then it is obvious that the current deficit spending on training is not sustainable.

A discussion was held on the cost of the Trial Practice Institute (TPI). Neil Weisman asked if there was some other way to pay for it.

David Hennessy asked about what other agencies or groups charged. David Shircliff explained that information was contained in Diane's handout. The Board discussed several "what if" scenarios to determine a break-even point for various training events. Neil asked if the Council has reverted money over the past few years. Larry said not since Suzan Ristich has done the bookkeeping.

Neil Weisman asked if other funds could be made available through grants or sponsors. Diane said an attempt was made to get seminar sponsors, but they weren't interested because the potential sales were so small. Neil then asked if it is less expensive to hold seminars outside of Indianapolis. Diane said it is less expensive.

Gojko Kasich asked for an accounting of TPI expenses, types/number of attorneys attending, and the evaluation information so the Board could determine if this training is cost-effective and well received. David Hennessy asked to see demographics on the attendees.

During further discussion Diane stated that for a full-day seminars, the break-even rate is \$200 per person. David Shircliff proposed that there be a temporary change to raise the registration fee to \$200 for a full-day seminars, and to begin charging by the hour for regional training. David Hennessy proposed that the fees be determined by individual seminar and not be flat rate across the board. He further proposed that the TPI fee be raised and that these changes be effective through the Annual Update in June. Jennifer

Sturges stated that there are two different issues – stop the bleeding and plan for long range.

Diane advised that the 2018 TPR/CHINS program will be videotaped and the CD can be shared as needed for certification.

David Hennessy moved to increase the registration fee for regional training programs through June 2018 to \$35 per hour, and to increase the registration fee for full-day statewide programs by \$25 for each of the 3 registration categories (e.g., public defenders would pay \$135/\$160/\$185) through the Annual Update. He further moved that Board members begin paying \$75 for each event they attend. David Shircliff seconded the motion.

A discussion on the motion included:

- Chris Shema – Would the Council still provide free regional training, if so, why? Per David Hennessy he has already asked for an executive session to revisit all of training, but you can't change through June, and that might even be tight.
- Jennifer Sturges – can/should the Council advertise TPI now? Don't necessarily have to advertise the rate now.
- David Shircliff asked if Diane thought these changes would help. Diane responded that this will help some, but we won't know fully until it's done for a while.
- David Hennessy stated that this will give the committee and the Board time to come up with solutions. TPI is the problem so it will need to be resolved.
- Diane volunteered that about 35% of attendees wait to register until very close to the event.
- Diane was asked to research why the Appellate seminar showed such a high loss.
- In response to additional questions about expenses, Diane stated that she would re-send the expense charts that were provided at the retreat in September.
- Neil Weisman asked the Board to look at TPI with fresh eyes and to come up with outside the box options, for example, use empty university dorm rooms instead of hotels or have smaller regional TPis.

Neil called for a vote. The motion was passed unanimously.

David Shircliff thanked Diane for her great work on the research.

V. Committee Reports

A. Board Task Force on Public Defense

Neil Weisman reported that he received a response to his letter to Chairman Mark Rutherford re: the Public Defender Commission's Task Force on Public Defense. Neil and Mark also had a phone conversation. Mark said the Commission is concerned about the ethics issues if public defenders have voting rights since they have a financial stake in the issues likely be voted on by the Task Force members. Neil said public defenders are welcome to attend the meetings, and that the Commission often seeks input from chief public defenders who attend the quarterly Commission meetings.

Neil reported that the Task Force will be holding a meeting with chief public defenders on 1/26 and the Council Board is invited. It was decided to hold a Board meeting on 1/25 @7 p.m. at the Council office to talk about training and the Task Force.

Neil asked about old notes about a statewide system and quality standards. David Hennessy stated that he would like to see regional offices. Larry stated that he included in the meeting materials a proposal from 2008 for State funding to create regional public defender offices overseen by regional directors. This proposal died because of the recession and has not been revived since. Larry said he thought the time was right to revive this concept with the Task Force.

Larry said he thought there was widespread concern that the 3 member county public defender boards were not providing quality oversight. One option to discuss is to replace the county boards with regional districts and directors. If this model is followed, some of the larger counties would likely be a region unto themselves. Other counties could be part of a region, but retain their autonomy.

Chris Shema suggested there is a need for some type of “merit board” protection. Larry suggested that this could be part of this regional plan.

Larry recommended the Board committee develop recommendations for addressing the primary structural problems with the public defender services in Indiana, which include voluntary compliance with State standards and lack of State oversight of county public defender services. He also suggested that if compliance with State standards were made mandatory, we need an enforcement mechanism. How would the State hold the county accountable for compliance with State standards since withholding state reimbursement would be counter-productive?

David Shircliff asked if Larry could walk the Board through what is a good “system” in order to help write the plan. Larry said there was no perfect system, but he could provide the board with suggestions re: what should be included in a revised and improved system for Indiana.

Gojko Kasich asked if there is a reference work or study of all 50 states from which comparisons can be made. Larry responded that this has not been done in the last 10 years, but that the materials provided by David Carroll may have general information, but not details. Larry said he would look for materials that would give the Board an overview of other system and send them out prior to the next board meeting.

Gojko asked if the Council can provide the number of felonies handled by county public defenders in 2015 and 2016.

B. Publications

Mark Nicholson stated that there were no new developments in this area. Toni Schaney provided copies of the new Juvenile Code Books to those that were interested.

C. Outreach

Chris Shema stated that they are looking into how to get information out to counties. The driving around approach didn't work very well.

VI. Legislation and Policy

Larry Landis provided a list of positions that the Council is taking on new legislation. Chris Shema asked if Larry can provide his bullet list of what should be included for discussion with legislators.

Larry stated that the PD Commission was considering requesting reimbursement in misdemeanor cases but would not be requesting an increase in the amount of reimbursement. The current budget surplus could absorb one of these changes, but not both.

Larry also reported the Council will initiate bills on the following issues:

- Reverse waiver (Amy Karozos is working on this)
- Suspendibility of adult sentence with certain juvenile delinquency adjudications
- Requiring that data be kept on the number of kids in adult court
- Common nuisance – strike “vehicle” and/or “paraphernalia” to remove some of the cases from the maintaining a common nuisance statute

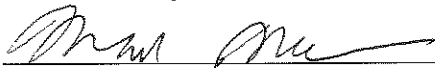
Larry was asked to seek an amendment to the escape statute by deleting the language “or intentionally removes an electronic monitoring device or GPS tracking system.”

ADJOURNMENT

The meeting was adjourned at 9:00 pm, EST.

Minutes prepared by Toni Schaney and Larry Landis.

Submitted by:



Mark Nicholson, Secretary

1-25-18

Date

Approved by:



Neil Weisman, Chairperson

1/25/18

Date

