

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

**Hilton Hotel
120 W. Market St., Indianapolis, IN**

**July 28, 2016
7 p.m.**

Minutes

Call to Order

A meeting of the Board of Directors of the Indiana Public Defender Council was called to order at 7:10 p.m. EST on July 28, 2016, in the Capital 14 Room of the Hilton Hotel, Indianapolis, IN by Board Chairperson Steve Owens.

Board members present were: Steve Owens (Chairperson), Gojko Kasich (Secretary), Jim Abbs, Laura Paul, Bob Hill, David Hennessy, Neil Weisman, Chris Shema, Mark Nicholson, and David Shircliff. Micki Kraus was absent. Also in attendance were Council staff Don Murphy, Toni Schaney, and Larry Landis.

I. Approval of Minutes from Last Meeting

The minutes of the Board meeting on May 5, 2016, were reviewed. Neil Weisman moved to accept the minutes as presented. David Shircliff seconded the motion, which passed unanimously.

II. Review and Approve Agenda

Laura Paul moved to accept the agenda as presented. Jim Abbs seconded the motion which was approved unanimously.

III. Executive Director's Report

A. Budget and Finances

Larry Landis reviewed the expenditures of the Council for the 2016 fiscal year. The discussion included the following:

- Larry explained that due to the vacancies of two staff positions, Dawn Nolan and Teresa Campbell, and the unfilled training director position, the state account had a surplus approaching the end of the year. To avoid a reversion of these funds, training and publications were paid from the state account. The result is that we reverted only \$900 and ended the year with a balance in the training account of approximately \$93,000 and a balance in the publications account of \$146,000.
- Laura Paul asked how many accounts the Council has. Larry said there are three: state, training, and publications.
- Gojko Kasich asked about a transfer of \$83,000 from the state account in June. After a discussion of this budget item, Gojko requested that breakdown of what happened to the \$83,000 be provided in a follow-up memo.
- Gojko moved that in the future budget information be provided at least 72 hours

before a board meeting to allow members to review prior to the meeting. David Hennessy seconded and the motion passed unanimously.

- David Hennessy asked about the statement in the training report that 340 staff in 30 counties were trained. Larry said most of those training numbers were in Don's report but he would check with Paula Sties who prepared that report. Larry said in the future more detailed information would be provided by Don and Paula.
- Questions about the increase in rent were raised. Larry reported that the Council will be leasing additional space on the 5th Floor for the Juvenile Grant Project and will be subleasing some of the space to the Public Defender Commission.

Larry also reported on the FY 2018-19 proposed budget.

B. Training

- Larry reviewed the profit and loss spreadsheet for the recent seminars and reported that the Council made a profit on the Annual Update Seminar in June.
- Larry gave an update on upcoming training programs:
 - Stacy Uliana will not be able to do the Trial Practice Institute due to a death penalty case she recently accepted. Don Murphy has agreed to take responsibility for this program with a committee he will recruit.
 - Amy Karozos will be responsible for the Juvenile Delinquency program in November.
 - Stacy will be responsible for the Sentencing program in December.
- Larry reported that the summer schedules of the Training Director Committee members made it difficult to schedule interviews. However, the Committee (Bob Hill, Laura Paul, Don Murphy, and Larry Landis) did interview Jennifer Slone (Missouri) on 7/28. The Committee concluded she was not a viable candidate. The Committee expects to interview Diane Black, Marion County, and Karin Moore from Florida at the end of August.
- Chris Shema asked if we were going to re-advertise for the position. Larry said it was up the Board, that the committee was prepared to finish the interviews and report back to the Board and the Board could then make a decision about re-advertising. Larry said he would defer to the Board about whether the position should be re-advertised. Chris asked for opinions of other Board members. Gojko Kasich agreed it would be a good idea. Steve Owen said it would take a motion. Bob Hill and Laura Paul stated that they would prefer to finish the interviews which would be conducted by the end of August.
- David Shircliff said he would like to be involved in the interviewing of candidates. Larry and Steve Owens suggested that if the position was re-advertised that the committee could be expanded or changed.

C. Sixth Amendment Center Study

- Larry reported that the Sixth Amendment Center evaluation of indigent defense services in Indiana is being revised. He will send out the revised version when he receives it.
- Gojko Kasich expressed his concern about inaccurate allegations regarding several counties that were attributed to anonymous persons. Larry said he was addressing the misstatements and inaccurate assumptions regarding the Public Defender Commission but not the statements about the counties. He said he sent the report to

all the chief public defenders and asked them to review anything in the report about their county and let him know if it was inaccurate.

- David Hennessy asked why the report recommended that the Indiana Supreme Court set the standards rather than the Public Defender Commission. Larry said he did not know and that both he and Norm Lefstein have responded to David Carroll with a criticism of that recommendation and recommended that the Supreme Court rule authorize the Public Defender Commission to adopt the standards and guidelines.
- Larry suggested that the Board spend time at the Board Retreat discussing the proposed Criminal Rule 26.

D. Succession Planning

- Larry reported that his original proposal to contract for liaison activities after he retired in July of 2017 for a year or two did not take into consideration that he cannot discuss a contract with the board until he has been out of the position for 30 days. He also suggested that he thought it would be unfair to the new Executive Director to still be around on contract representing the agency in a liaison capacity. In the alternative, he proposed that the Board hire an Assistant Executive Director to begin in the summer of 2017 who would become the Executive Director when he retires on 7/1/18. This would give a one year overlap with the Assistant Executive Director. He said he is suggesting \$100,000 salary but more might be appropriate, and that this is the process currently being used by the Indiana Prosecuting Attorneys Council for the Executive Director position.
- The Board discussed the executive director's proposal and decided that any additional conversation needed to happen in executive session.
- Larry was requested to provide a current job description, and thoughts about the qualifications for the executive director position.
- David Hennessy requested an updated copy of the Council Policy and Procedure Manual, along with salaries and an organization chart, and a copy of the Indiana Prosecuting Attorneys Council job descriptions and staffing.

E. Proposals to Improve Indigent Defense Services

1. Public Defender Commission

Larry reviewed the recommendation in Paragraph 2.a.i. of the Proposals to Improve Indigent Defense Services in Indiana, which proposed that the Public Defender Commission adopt a new standard for full and part-time salaried and contractual public defenders based on a percentage of the salary of judges. The Board members discussed compensation, equal pay, the compensation of the chief public defender in Jackson County, and the actions taken at the most recent Commission meeting re: Floyd Co.

David Hennessy moved that the Council adopt a policy statement that the Public Defender Commission should prefer quality programs rather than simple participation as a condition of eligibility for state reimbursement and that the Commission not relax standards to persuade counties to opt into the reimbursement system. Gojko Kasich seconded the motion which passed unanimously.

Bob Hill requested Larry to give a follow-up report on Jackson County, in particular whether the chief public defender is a full-time chief or a managing attorney and the compensation paid.

Larry reviewed the recommendation in Paragraph 2.b.ii. of the Proposals to Improve Indigent Defense Services in Indiana, which is that the Commission adopt a new standard that “If a county has a managing attorney position, there will be no state reimbursement for this position unless the county prosecutor’s office has a comparable position.”

Bob Hill moved to adopt Paragraph 2.b.ii. Chris Shema seconded the motion which passed unanimously.

2. Performance Standards

Larry reviewed the recommendation in Paragraph 2.c of the Proposals to Improve Indigent Defense Services in Indiana, which provides that the Commission adopt the IPDC’s Performance Standards for Criminal and Juvenile Representation as new standards. Bob Hill moved to have Council staff review the performance standards and distribute the current version and any update to the checklist to the Board for review at the Board Retreat. Laura Paul seconded the motion, which was adopted with David Hennessy voting No.

David Hennessy asked Larry to present a primer on the Commission at the Retreat, including their standards and guidelines and to distribute it to the Board prior to the Retreat.

Larry asked the Board’s opinion about setting a statewide salary range that is enforceable. Chris Shema asked if the primary problem with equal pay was with contracts, and suggested that the solution is to require attorneys to be paid hourly like the federal system which pays \$130 per hour.

Larry suggested that this issue be tabled until the Retreat.

IV. Policy and Legislation

A. Juvenile Grant

The budget proposal for 2018-19 includes a request for new State funding to augment the OJJDP federal grant for the Juvenile Project. Larry explained that after the last Board meeting he requested an opinion from the Attorney General re: whether the Council could engage in direct litigation. The short answer was, No. Thus, he and Amy Karozos met with Steve Owens to discuss the possibility of having the trial court appoint his office to do a juvenile delinquency appeal, he would appoint an attorney to do the appeal, and the Council would pay the attorney from the grant. The federal grant funds would also be used for the two regional offices that would provide attorneys to second chair and mentor attorneys doing juvenile delinquency cases.

The purpose of requesting state funding is to develop staff to provide the core services of publications, training, and research for juvenile delinquency cases.

Jim Abbs moved that the Board support the request for new money, Neil Weisman seconded. Discussion included:

- David Hennessy believed that this is too specialized and area and that if more money is requested it should benefit more members.
- Laura Paul stated that she believes this is a great opportunity to expand services to attorneys doing juvenile defense.
- Gojko Kasich stated that he was overwhelmed by the information at the last minute and was not prepared to vote.

The motion passed by a vote of 6-1 with 3 members abstaining. David Hennessy voted against the motion. Gojko Kasich, Bob Hill and Mark Nicholson abstained.

B. Proposed Criminal Rule 26

Larry suggested that a discussion of Criminal Rule 26 be postponed until the Board Retreat.

C. Proposed Rule on Eyewitness Identification

Laura Paul moved to support the request for a proposed new evidence rule re: eyewitness identification. David Shircliff seconded the motion which was passed unanimously.

V. New Business

David Hennessy announced that he was resigning as training committee chairperson. Bob Hill and David Shircliff volunteered to chair the committee. Chris Shema asked to be appointed to the committee.

Larry Landis stated that he would send a list of the various committees and the members.

Mark Nicholson suggested a time limit be set for various agenda items on future agendas.

Laura suggested that if someone wants to raise an issue they inform the chairperson and if no one requests a discussion that the board adopt a consent agenda.

Chris Shema expressed frustration with not getting meeting materials before meetings.

Mark asked about using summer interns. Larry responded that the experience of the Council is that it is usually not cost-effective because it takes so much time to supervise.

Chris suggested that the Council explore creating a rapid response team or strike force to assist members who are being intimidated, bullied, or abused. A Board discussion followed that resulted in the request that the issue be put on the agenda for the Board Retreat.

VI. Executive Session

The main meeting ended at 9:44 pm, EST, at which time an executive session commenced. This executive session ended at approximately 10:30 pm, EST.

VII. Future Meetings

The next board meeting will be the Board Retreat on 10/1/16 at West Baden Springs Resort, French Lick, IN.

ADJOURNMENT

The meeting was adjourned at 10:35 pm, EST.

Minutes prepared by Toni Schaney and Larry Landis.

Submitted by:

Approved by:

Gojko Kasich, Secretary

Steve Owens, Chairperson

Date

Date