

Justice Reinvestment Advisory Council

Meeting Minutes

August 12, 2020

The Justice Reinvestment Advisory Council met by video conference on August 12, 2020. Justice Christopher Goff chaired the meeting. The Advisory Council met 1:30 p.m.-3:30 p.m.

1. Members present. The following members of the Justice Reinvestment Advisory Council were present:

- Bernice Corley, executive director of the Indiana Public Defender Council
- Chris Naylor, executive director of the Indiana Prosecuting Attorneys Council
- Jay Chaudhary, director of the Department of Mental Health and Addiction
- Steve Luce, proxy for the president of the Indiana Sheriffs' Association
- Christine Blessinger, designee for the commissioner of the Indiana Department of Correction
- Mary Kay Hudson, designee for the chief administrative officer of the Office of Judicial Administration
- Devon McDonald, executive director of the Indiana Criminal Justice Institute
- Ralph Watson, designee for the president of the Indiana Association of Community Corrections Act Counties
- Adam McQueen, president of the Probation Officers Professional Association of Indiana
- Kirsten Haney, designee for the State Budget Director
- David Bottorff, executive director of the Association of Indiana Counties
- Judge Mark Spitzer, designee for the president of the Indiana Judges Association
- Mark Rutherford, chair of the Indiana Public Defender Commission
- Rep. Wendy McNamara; chair of the House Courts and Criminal Code Committee
- Sen. Karen Tallian, ranking minority member of the Senate Corrections and Criminal Law Committee
- Nick Stamatkin; proxy for the governor

2. Staff assistance. Jenny Bauer and April Dubree provided staff assistance to the Council.

3. Approval of minutes. Bernice Corley made a motion to approve the June 19, 2020 meeting minutes and Mark Rutherford seconded the motion. The Advisory Council unanimously approved the June 2020 meeting minutes.

4. Report from Quick Response Group.

a) Case studies on local jail populations. Mary Kay Hudson reported that the Quick Response Group is working to prepare case studies on several counties with reductions in jail populations. The group will contact local stakeholders regarding pretrial practices during the pandemic. Ms. Hudson stated that the group will present the case studies at the September meeting.

b) Law school students and initial hearing representation. Mary Kay Hudson reported that the Jail Overcrowding Task Force Report recommends access to counsel at initial hearings. To accomplish this, Rep. Randy Frye proposed allowing third year law students to represent arrestees at initial hearings. The group will explore current rules on legal interns and work with IPAC, IPDC, and law schools to see if this could be a viable solution.

c) Legislative proposals.

- i. Proposed amendments to IC 35-33-8-8.3. Sen. Karen Tallian reported that she will meet with Bernice Corley, Chris Naylor, and Legislative Services on August 17 to discuss amendments to IC 35-33-8-8.3 on bail.
- ii. Driving while suspended workgroup. Chris Naylor reported on the work of the driving while suspended workgroup. He stated that the workgroup has been meeting for several months and has been a good team effort with other state agencies. According to Mr. Naylor, there are currently 900,000 Indiana drivers' license suspensions, representing 300,000 unique individuals. Of these suspensions, 80% are for failure to appear, failure to pay a traffic ticket, or failure to insure. The workgroup would like to reduce fees and suspensions, as well as reduce reinstatement fees. Jay Chaudhary suggested adding civil legal aid to the workgroup.

iii. Funding recommendations.

1. Public defender commission reimbursement for misdemeanors. Mark Rutherford reported that the Indiana Public Defender Commission plans to request addition funding to reimburse commission counties for misdemeanor public defense services. Mr. Rutherford made a motion for JRAC to support the Public Defender Commission's funding request and Bernice Corley seconded the motion. The motion carried 11-0. The following abstained from the vote: Kirsten Haney, Jay Chaudhary, Devon McDonald, Christine Blessinger, and Nick Stamatkin.
2. Pretrial services. Mary Kay Hudson reported that additional resources are needed to support pretrial risk assessment and public defender representation. She stated that the funding will assist counties with Criminal Rule 26 and jail overcrowding. Judge Mark Spitzer made a motion for JRAC to support pretrial services funding and Sen. Tallian seconded the motion. The motion carried 10-0. The following abstained from the vote: Kirsten Haney, Jay Chaudhary, Devon McDonald, Christine Blessinger, and Nick Stamatkin.
3. Evidence Based Decision Making training and technical assistance. Mark Kay Hudson reported that the National Institute of Corrections concluded Indiana's EBDM technical assistance in 2019. She explained that resources are necessary to provide technical assistance to counties and estimated that 2-4 new positions would be necessary. Adam McQueen made a motion for JRAC to support EBDM training and technical assistance funding and Mark Spitzer seconded the motion. The motion carried 10-0. The following abstained from the vote: Kirsten Haney, Jay Chaudhary, Devon McDonald, Christine Blessinger, and Nick Stamatkin.
4. Misdemeanor eligibility for Recovery Works. Jay Chaudhary reported that DMHA plans to request additional funding to include misdemeanor offenders in the Recovery Works program. Mary Kay Hudson made a motion for JRAC to support misdemeanor eligibility for Recovery Works and Sen. Tallian second the motion. The motion carried 10-0. The following abstained from the vote: Kirsten Haney, Jay

Chaudhary, Devon McDonald, Christine Blessinger, and Nick Stamatkin.

- 5. Member discussion of FY 22-23 budget forecast.** The Advisory Council discussed the budget forecast for FY 22-23. Sen. Tallian reported that state revenue was down \$900M at the end of FY 21 due to delayed income tax payments. She noted that the FY 22-23 budget will be down due to the pandemic and cuts are expected. She suggested keeping the funding proposals in front of the General Assembly so legislators are aware of continuing problems. She also suggested that JRAC determine specific funding requests, priority of funding requests, and what can be done without new funding. Kirsten Haney reported that SBA will publish the next revenue forecasts in September and December. State agencies will need to cut 15% from budget requests. Jay Chaudhary suggested that JRAC should investigate unused federal funding for mental health and addiction.
- 6. Member reports.**
- a) Governor**—Nick Stamatkin reported that Governor Holcomb recently announced expanded access to peer support recovery professionals through the Indiana Recovery Network. He also reported that the governor’s office published the August Next Level Recovery progress report. The report is available on the governor’s website.
 - b) Indiana Public Defender Commission**—Mark Rutherford reported that the American Bar Association published an analysis of the Indiana public defense system and attorney workload standards. The Commission also conducted a survey of Indiana public defense overhead costs in June. The ABA report and survey results are available on the commission’s website.
 - c) Indiana Judges Association**—Judge Mark Spitzer reported that the IJA lobbyist is monitoring legislative proposals for the General Assembly’s 2021 session. The IJA Board of Managers is scheduled to have a virtual meeting in September.
 - d) Association of Indiana Counties**—David Bottorff reported that counties are interested in the decrease in the jail populations since the beginning of the pandemic. He encouraged members to locally determine to keep populations at the post pandemic levels. AIC continues to monitor potential federal changes to CARES Act and new federal legislation related to economic recovery and revenue recovery for local finances. AIC is monitoring the potential for a settlement from opioid lawsuits and wants to make sure that funding supplements and does not supplant existing

treatment programs supported by the state. AIC is also discussing the need for a property levy adjustment when new courts are created.

- e) **State Budget Agency**—Kirsten Haney reported that state agencies are required to submit budgets to SBA by September 1.
- f) **Probation Officers Professional Association of Indiana**—Adam McQueen reported that POPAI will conduct its September training institute online.
- g) **Indiana Association of Community Corrections Act Counties**—Ralph Watson reported that IACCAC members are working to provide intensive supervision during the pandemic. Members are also working to keep costs down as fees from offenders are decreasing.
- h) **Indiana Criminal Justice Institute**—Devon McDonald reported that ICJI is working with the Indiana Sheriffs' Association, the Office of Judicial Administration, and Court Technology to determine the process to collect re-arrest data on pretrial release required by SEA 256. CJI plans to meet with the sheriffs of Boone, Hendricks, Lawrence, and Monroe Counties. CJI will also meet with Sen. Koch to discuss the availability of data for the report.
- i) **Office of Judicial Administration**—Mary Kay Hudson reported that OJA is working with 29 courts on pretrial certification. Chief Justice Rush approved the Pretrial Committee as a new Judicial Conference Committee. Judge Mark Spitzer chairs the new committee. OJA received the data report on selected pretrial pilot counties and will post to the OJA website. OJA continues to work with the University of Cincinnati on validation of the adult and youth risk assessments (IRAS and IYAS).
- j) **Indiana Department of Correction**—Chris Blessinger reported that DOC received 208 applications for community supervision grant applications. She anticipates that grant funding amounts will be affected by DOC's 15% budget cut. DOC plans to send a memo to applicants and JRAC to explain 2021 funding.
- k) **Indiana Sheriffs' Association**—Steve Luce reported that ISA is partnering with FSSA on an opioid grant with twelve counties. Sheriffs are doing a good job mitigating COVID risks to inmates and staff in jails. ISA is expanding virtual training because of the pandemic and has new space for in-person training for 60 people. ISA has three main areas on its legislative agenda: mental health in jails, the Level 6 per diem formula, and police reforms. ISA has also been meeting with the Black Legislative Caucus on the specifics of police reform.
- l) **Division of Mental Health and Addiction**—Jay Chaudhary reported that DMHA required community mental health centers to meet with

stakeholders and submit reports by September 1. DMHA is also working on competency restoration for persons in jail. The pilot project is designed to reduce the backlog with evidence-based release of inmates. DMHA also launched crisis counseling in July and received 312 calls in the first two weeks of the program.

m) Indiana Prosecuting Attorneys Council—Chris Naylor reported that IPAC is training prosecutors through virtual webinars. IPAC is also focusing on safe jury selection in larger facilities outside courthouses.

n) Indiana Public Defender Council—Bernice Corley reported that IPDC is conducting a virtual training for public defenders on August 26th.

o) House Courts and Criminal Code Committee—Rep. Wendy McNamara reported that the Interim Study Committee on Court and Criminal Code is scheduled to meet on September 15.

7. Next steps. Justice Goff suggested that the Quick Response Workgroup continue to meet, but less frequently. The Quick Response Workgroup will prioritize JRAC funding requests and address any other significant issues. He reported that the jail population small group will meet later in August and report on its work at the September JRAC meeting. Justice Goff also announced that Bernice Corley and Steve Luce have agreed to take the lead to facilitate discussions and work on consensus ideas on racial equity.

8. Next Meeting Date. The next meeting of the Justice Reinvestment Advisory Council is September 25 at 1:30 p.m.

Respectfully submitted,

Jenny Bauer
Office of Court Services