

Justice Reinvestment Advisory Council

Meeting Minutes

November 16, 2020

The Justice Reinvestment Advisory Council met by video conference on November 16, 2020. Justice Christopher Goff chaired the meeting. The Advisory Council met 9:30 a.m.-11:15 a.m.

1. Members present. The following members of the 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
- 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
- CJ Miller, proxy for the president of the Probation Officers Professional Association of Indiana
- Kirsten Haney, designee for the State Budget Director
- David Bottorf, 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
- Doug Huntsinger; designee for the governor

2. Guests. Rep. Randy Frye from the Indiana House of Representatives; Rick Schwermer and Patti Tobias from the National Center for State Courts; Angie Hensley and Michelle Goodman from the Office of Court Services; and Michelle Shorter from Justice Goff's Chambers attended the meeting as guests.

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

4. Approval of minutes. Ralph Watson made a motion to approve the minutes of the October 28, 2020 meeting and Devon McDonald seconded the motion. The Council approved the motion unanimously.

5. Report from Quick Response Group.

a) Case studies on local jail populations. Mary Kay Hudson reported that the Quick Response Group's written report is still in progress. She stated the group will present the report at the December meeting.

b) Legislative proposals.

i. Local JRAC Policy Teams. Rep. Frye reported that the preliminary draft on local JRAC policy teams was sent to Advisory Council members for comment. He thanked members for comments submitted before the meeting and welcomed more. He stated that the frequency of meetings listed in the preliminary draft was a misunderstanding with Legislative Services and will be fixed. Advisory Council members discussed a desire for community corrections boards to meet jointly with local JRAC teams and the meaning of "other duties as required". Rep. Frye also stated that the bill can be amended during the legislative session. Justice Goff stated that the proposal will be on the agenda the December meeting agenda.

ii. Proposed amendments to IC 35-33-8-8.3. Bernice Corley reported that Sen. Tallian plans to meet with Judge Spitzer to discuss her amendment to the bail statute. Justice Goff stated the proposal will be on the December meeting agenda.

6. Indiana Mental Health System Mapping. Mary Kay Hudson reported that the mental health system mapping project started a year ago when a team from Indiana attended the National Center for State Court's meeting in Deadwood, South Dakota. Jay Chaudhary presented an overview of the competency evaluation and restoration process. He reported that Indiana has six state psychiatric hospitals for criminal defendants found incompetent to stand trial. The hospitals provide restoration services, including treatment and legal education, which requires lower staffing ratios. Mr. Chaudhary also reported that the state psychiatric hospitals have no financial flexibility, little opportunity for

additional revenue due to the Medicaid Institutions for Medical Disease exclusion, statutory mandates to take patients, and required standards of care. For the patients that are “unrestorable”, DMHA is required to try for 180 days and then move to civil commitment proceedings. Mr. Chaudhary stated that DMHA is building two other paths to restoration to help with the backlog at state psychiatric hospitals—jail-based restoration and community-based restoration.

Rick Schwermer and Patti Tobias from the National Center for State Courts discussed proposed amendments to Indiana’s competency statutes. Ms. Tobias thanked the Advisory Council for interest in and commitment to the issue of competency restoration. Mr. Schwermer reported that he and Mary Kay Hudson met with Advisory Council members and plan to meet with other stakeholder on this issue. He stated that the proposed amendments to the Indiana competency statutes are not the final product and are based on research from what works in the competency process. Mr. Schwermer explained that the amendments reduce the number of competency evaluators, require a template for the competency report, and create a process to divert certain non-dangerous offenders to treatment. He highlighted that the amendments are meant to reduce costs and reduce jail stays for incompetent inmates. The Advisory Council discussed details of the proposal and requested information regarding the number of competency evaluations ordered each year and the cost of evaluations. Mary Kay Hudson informed the Advisory Council that Sen. Sandlin is interested in having a study committee look at the issue, at a minimum, and noted that many legislators are interested in addressing serious mental illness. She asked Advisory Council members to contact her with feedback and concerns about the proposal. Justice Goff stated the proposed amendment and report on stakeholder interviews will be on the December meeting agenda.

7. FY 22-23 budget forecast. Kirsten Haney reported that the next revenue forecast is scheduled for December 16th. The State Budget Agency will know more about the FY 22-23 budget after the forecast is released.

8. Member reports.

a) Probation Officers Professional Association of Indiana—No report.

b) State Budget Agency—Kirsten Haney asked Council members to watch the SBA website for updates. She reported that the Budget Committee will conduct hearings December 14-16. She expects the governor’s budget to be released by the end of December.

- c) **Association of Indiana Counties**—David Bottorff reported that county clerks have excess personal protective equipment left over from the election. He also reported that AIC is tracking CARES Act funding as counties turn in claims for public safety salaries.
- d) **Indiana Judges Association**—Judge Spitzer reported that IJA’s primary focus is court operations during the pandemic. IJA sent out guidance to courts based on county positivity rates. He also reported that there was a recent mistrial due to COVID infections and there is an urgency for courts to conduct criminal trials. He also stated that counties are also navigating community supervision and problem-solving courts during the pandemic.
- e) **Indiana Public Defender Commission**—Mark Rutherford reported that the Commission hopes to get enough funding for the 65 Commission counties to avoid pro-rated funds during the next budget cycle. He stated that the Commission saves money for the state and makes criminal sentences more appropriate.
- f) **Governor**—No report.
- g) **Indiana Public Defender Council**—No report.
- h) **Indiana Prosecuting Attorneys Council**—Chris Naylor reported that IPAC welcomes the conversation on mental health and would support a study committee approach to competency issues. He also reported that IPAC is helping prosecutors deal with COVID-related jury trial backlogs.
- i) **Division of Mental Health and Addiction**—Jay Chaudhary reported that Dr. Brad Ray presented the third Recovery Works policy brief to the Governor’s Commission to Combat Drug Abuse last week. Mr. Chaudhary will present the report at a future Advisory Council meeting.
- j) **Indiana Sheriffs’ Association**—Steve Luce reported that COVID cases are increasing in jails. ISA is working with DOC and the Department of Health on resources and protocols for jails. He thanked DMHA for working on competency restoration in jails and stated that mental health in jails is a long-term issue. Sheriff Luce also reported that seventeen jails are expanding the use of medically assisted treatment. ISA is also working with Rep. Steuerwald on a police enhancement bill for the 2021 legislative

session. In addition, Sheriff Luce invited Advisory Council members to attend ISA's online demonstration of the "Warrant Now" technology on November 18.

- k) Indiana Department of Correction**—Chris Blessinger reported that DOC is collaborating with jails on COVID issues with weekly justice partner calls regarding intake and protocols for safety. She also reported that DOC released the community supervision contracts and counties are returning the signed contracts.
 - l) Office of Judicial Administration**—Mary Kay Hudson reported that OJA is working with IJA to support court and probation during the increase in COVID cases. OJA published guidance and updates on its website. Ms. Hudson also reported that OJA staff is conducting certification for problem-solving courts and alcohol and drug programs, testing, and education.
 - m) Indiana Criminal Justice Institute**—Devon McDonald reported that ICJI is finalizing the annual 1006 report. He also reported that ICJI is working on the victim notification and jail data projects.
 - n) Indiana Association of Community Corrections Act Counties**—Ralph Watson reported that IACCAC members are returning grant contracts to DOC.
- 9. Other business.** Justice Goff suggested 2021 Council meeting dates for January 29 at 1 p.m., February 26 at 10 a.m., and April 22 at 10 a.m. He stated that April Dubree will send calendar invites.

10. Next Meeting Date. The next Council meeting is December 11 at 1:30 p.m.

Respectfully submitted,

Jenny Bauer
Office of Court Services