

Indiana Public Defender Council
Meeting of Board of Directors - July 17-18, 1987

* Amendments
made at Board
Meeting 9/25/87

MINUTES

I. CALL TO ORDER

The meeting of the Board of Directors of the Indiana Public Defender Council was called to order by Chairman John Surbeck at 5:15 p.m. on July 17, 1987 at the Radisson Hotel in Indianapolis, Indiana. Present were Susan Carpenter, John Surbeck, Dan Weber, Gene Hollander, David Hennessy, Dan Toomey, Mark McNeely, Sheila Zwickey, Dave Keckley, Terry Richmond and Sandy Bryant and, from the staff of the Indiana Public Defender Council, Larry Landis, Mary Sinnock, Michelle Mays and Monica Foster. *not present*

II. APPROVAL OF MINUTES

Minutes from the Board meeting of May 29, 1987 were sent to all Board members in June. Susan Carpenter moved that the minutes be approved as submitted. The motion was seconded by Terry Richmond and approved by the Board.

III. AGENDA

Board members were asked if they had additional topics to add to the agenda. At the request of Dan Toomey time was allowed for discussion of the Lake County public defender system.

IV. EXECUTIVE DIRECTOR'S REPORT

(Attached hereto is the Executive Director's Report dated July 15, 1987 which is included as part of these minutes as Attachment A).

A. Staff.

Larry Landis reported on personnel changes in the staff, including a reclassification request for the position held by Michelle Mays. He gave the Board information about the state job classification and salary system which the IPDC has followed in the past. The Board discussed the advantages of having more agency control over job classifications and salaries. The following motion was made by Gene Hollander:

The Board of Directors of the Indiana Public Defender Council hereby supports the request to reclassify the position held by Michelle Mays to Administrative Assistant, PAT III, and recommends that the salaries of all employees of the Indiana Public Defender Council be commensurate with other state judicial agencies.

The motion was seconded by Terry Richmond and passed unanimously.

A draft of the office Policy and Procedure Manual was discussed, but no action was taken.

B. Manuals and Publications.

The Indiana Defender will be changed to an updated format in the near future. Manuals in progress and estimated publication dates are given in Attachment A.

C. Research and Technical Assistance

Larry Landis reported on the increase in requests for research and technical assistance and pressures of staff time which result from this increase.

D. Sentencing Alternatives Project.

Larry Landis reported on the first year of the Sentencing Alternatives Project, the counties served and the plans for expansion in the 1987-88 grant year which begins August 1st. He reminded the Board that future grant funding of this project is unlikely and a concerted effort must be made to secure state funding of this project (action of the legislature) by the expiration of the new grant period, July 31, 1988.

Gene Hollander inquired why the money could not simply be used to upgrade probation departments and the consensus of the Board was that the Sentencing Alternatives Project is intended to be an additional tool for the defense attorney to use at the adversarial hearing on sentencing and not to improve the resources available to the state.

V. NEW BUSINESS

A. Lake County Public Defender System

Dan Toomey reported on problems and pressures in the public defender delivery system in Lake County and the impact of the recent death of Judge Kimbrough.

B. Role of IPDC in Litigation

Discussion was held on the role which the IPDC should take, if any, in challenging public defender delivery systems where serious problems appear to be systemic. Some of the conflicts and dilemmas which could arise from the Council supporting challenges to local systems were discussed, including confidentiality of assistance provided by the IPDC to attorneys who are later alleged ineffective.

C. Payment Guidelines for Appointed Counsel.

A draft of payment guidelines for appointed counsel was provided to Board members by Larry Landis. David Hennessy suggested that a committee be appointed to review the draft, make any revisions deemed appropriate, and report back to the entire Board at the next meeting. John Surbeck appointed the following people to the committee: Terry Richmond (chairman), Susan Carpenter, Sheila Zwickey and Dave Hennessy.

The meeting recessed at 8:00 p.m., July 17, 1987. The meeting was reconvened at 9:15 a.m. on July 18, 1987 at the Radisson Hotel in Indianapolis with all present as listed earlier except Michelle Mays. *and Susan Carpenter*

IV. EXECUTIVE DIRECTOR'S REPORT - Continued

E. Budget

The 1987-88 working budget was presented and questions about salaries and office expenses answered by Larry Landis and Mary Sinnock.

F. Public Defender Surveys

Board members were given copies of the juvenile public defender services surveys which will be mailed out to all courts with juvenile criminal jurisdiction, and attorneys providing indigent juvenile defense services. Dan Weber moved that Board members assume responsibility for getting the surveys completed and returned from their counties. The motion was seconded by Terry Richmond and passed.

V. NEW BUSINESS - continued

C. Programs: Policy for Admission and Registration Fees

Mary Sinnock reported that increased advanced registration for IPDC programs has made it necessary to establish a policy about who will have first priority for attending programs, and what fee differentials, if any, should be made. Lengthy discussion was held and the following policy was adopted.

1. Priority for Registration

Priority for IPDC programs shall be given to applicants in the following order whenever attendance must be limited due to meeting room size, materials, or other reasons:

1st - Members of the IPDC (salaried and contractual public defenders, and all attorneys regularly appointed to represent indigent defendants) and guests of the Council, which may include past speakers, persons who have assisted the work of the IPDC, and others approved by the Training Director or the Executive Director.

2nd - Members of the Indiana Association of Criminal Defense Lawyers (who are not also Council members).

3rd - Judges.

4th - Non-members (Council or IACDL) if space available.

2. Registration Fees

Individuals in the 1st group will be charged the "member rate" (determined by cost of program and materials). All others will be charged twice the member rate. Attendance at IPDC programs will not be open to prosecutors unless authorized by the IPDC Executive Director.

The motion encompassing the above policies was made by Dave Hennessy, seconded by Dan Weber, and adopted.

The Board requested that space and materials for each Board member to attend IPDC seminars be held in reserve until a week prior to each program. If the Director has not confirmed his or her registration by that date, the space will be released for participant registration.

D. Standards

1. Appointment of Counsel

The Board discussed the desirability of establishing guidelines for the appointment of counsel. The format for this action would be similar to that followed in establishing the guidelines for appointment of counsel in death penalty cases, which has had beneficial impact. Guidelines would be drafted and submitted to the ISBA Criminal Justice Section. The Board agreed to pursue this action and John Surbeck appointed the following committee: Susan Carpenter (Chairwoman), John Surbeck and Gene Hollander.

2. Model Contract

The most recent draft of the model contract for indigent representation was included in the meeting handouts. Discussion was held but no action taken.

VI. PROGRAMS FOR 1987-88

The following recommendations were made for topics to be covered by Judge Charles Moylan at the Constitutional Law seminar set for September 25, 1987:

1) search and seizure update with emphasis on auto stops and investigatory searches; 2) confrontation; 3) confessions; and 4) general reasonableness vs. the warrant clause.

Topics recommended for 1988:

One day: (late February, early March)

Prosecutorial misconduct, pretrial discovery, plea bargaining
(include improper closing arguments in the pros.mis. topic)

One day: (2nd choice for late February, early March)

Walk through of a jury trial for new public defenders
(suggest use of local faculty)

One day or one and a half days if budget permits: (May or June)

Annual meeting - recent developments in criminal law
(include neurological defenses, ethics, legislation)

Two days: (August)

Death penalty defense

At approximately 1:00 p.m., July 19, 1987, the Board met in executive session for a brief period. No formal action taken. The meeting resumed at approximately 1:30 p.m.

VII. LEGISLATION

1. Public Defender Bill

Larry Landis informed the Board that a decision should be made soon whether or not to submit proposed legislation for partial funding of county public defender services (Public Defender Bill) in the 1988 session of the General Assembly.

If the Board decides to proceed, an all out effort should be made. Larry informed the Board that he cannot effectively work for passage of the legislation unless he takes a firmer position in confronting opposition, some of which may come from county public defender systems and attorneys providing indigent defense services.

Dave Hennessy requested that Board members be provided a short summary of the provisions of the Public Defender Bill for use in support efforts.

2. Bonds

Linda Wagoner expressed concern over abuses of bonds and asked to Board to consider what the Council could do about this problem. The Council could present these concerns to the Criminal Law Study Commission, but information on specific cases and abuses should be compiled first. Appointment of a committee was discussed, however no action was taken.

VIII. LEGAL MALPRACTICE INSURANCE

Dave Hennessy requested appointment of a committee to survey other counties concerning malpractice insurance coverage for public defenders and to gather information about available plans and options. John Surbeck appointed Dave Hennessy chairman, and Dan Weber, Larry Landis and John Surbeck to serve on the committee.

IX. NEXT MEETING

The next meeting of the Board of Directors was set for Friday, September 25, 1987 at the Marriott East Hotel in Indianapolis at approximately 4:30 p.m. The meeting will follow the Constitutional Law seminar to be held that day. If committees wish to meet prior to this meeting, chairmen should notify the Council office. A possible meeting time for committees is Thursday evening, September 24th.

X. ADJOURNMENT

Dan Weber moved for adjournment at approximately 3:00 p.m. on July 18, 1987. Dave Keckley seconded and the motion passed unanimously.

Respectfully submitted:



Daniel L. Weber, Secretary

Date _____

Approved:



John F. Subeck, Jr., Chairman

Date _____

EXECUTIVE DIRECTOR'S REPORT
July 15, 1987

A. MANUALS

1. Expert Witness Manual. A manual including a list of expert witnesses was prepared by Maureen Keefe, Monica Foster and Kit Keller. Distribution was made at the IPDC seminar on May 29, 1987. 300 copies were printed, 40 have been distributed.
2. Juvenile Update. Richard Kiefer is under contract to prepare an update of his Juvenile Delinquency Manual. Printing of 50 new manuals and 400 updates will be done in July.
3. Evidence Update. Henry Karlson is under contract to prepare an update of the 1984 Evidence Manual. Publication is expected in August.
4. Sentencing Update. An update of the Sentencing Manual (1984) is being prepared by Monica Foster. The publication date is September 1987.
5. Trial Manual. Jill Grueling and Linda Wagoner prepared this manual under contract with the IPDC. Present plans are to publish 2 manuals rather than one: Pretrial (Grueling), and Trial (Wagoner). Drafts of all chapters were submitted in December. Editing will be done by Larry Landis. The publication date is November of 1987.
6. Motions Manual Update. The publication date is March 1988.
7. Appellate Manual. The publication date is July 1988.

B. CASE BANK

We originally produced 150 sets of the Case Bank which have all been sold. Larry Landis, Kit Keller and Monica Foster have revised and updated the Criminal Law Index. The index and entire case bank will be sent to the printer by September 1, 1987.

C. INDIANA DEFENDER

The Indiana Defender has been a bi-monthly publication for the past two years. We began monthly publication in January of 1987. Our mailing list now includes over 900 members.

D. TRAINING PROGRAMS

The following are the programs planned for the remainder of this year.

August 28-30 - Trial Skills, Session I
September 25 - Search and Seizure/Constitutional Law - Charles Moylan, Jr.
Oct. 30-Nov. 1 - Trial Skills, Session II

E. RESEARCH AND TECHNICAL ASSISTANCE

The following is a summary of the research and technical assistance conducted by the IPDC staff since 1978. Figures are given for the first 11.5 months of 1986-87.

<u>Year</u>	<u>Research</u>	<u>Technical Assistance</u>	<u>Death Penalty</u>	<u>Total Requests</u>
1978-79	95	*	*	95
1979-80	149	*	*	149
1980-81	120	*	*	120
1981-82	320	*	*	320
1982-83	329	57	21	407
1983-84	329	124	50	503
1984-85	286	231	54	571
1985-86	253	290	78	621
1986-87 - 11.5 mos.	220	291	95	606

*Records kept did not differentiate type of request.

F. GRANTS

Grant applications were filed in May with the Indiana Criminal Justice Institute for the Sentencing Alternatives Project and the Juvenile Resources Project. Grant awards were made at the Criminal Justice Institute meeting on June 26, 1987. Copies of the grants have been mailed to the Board.

G. STAFF

Kit Keller has tendered her resignation to be effective at the end of August. She has worked for the Council for seven years. We have received 12 resumes and plan to hire a new staff attorney by the first of August.

Mary Sinnock will be leaving the Council as a full-time employee in September to return to school. She will continue working 8-12 hours per week on contract designing and conducting training programs. We will be interviewing for an Administrative Assistant in August.

During the first four months of 1987 we have devoted a considerable amount of time to organizational planning and development. In March we completed our annual performance evaluations. In May we completed the tasks of revising job descriptions, establishing performance standards for the next six months, and completing a draft of an office policy and procedure manual. An organization chart and current job descriptions have been mailed to the Board.

H. BUDGET

The 1987-89 appropriation from the legislature includes funding for only our base budget. A summary of our 1987-88 budget will be distributed at the July meeting. Any expansion or addition of services for the next two years will require reallocation or additional money, i.e., revenues from publications, seminars, or grants.