

**Corrected: Indiana Public Defender Council Board of
Minutes Director's Meeting, Annual Retreat**

Date: September 26, 1998

Place: Bloomington, IN

Board members in attendance:

Larry Landis, Executive Director	Michelle Fennessy-Kraus
Dan Toomey, Chairperson	Bob Hill
Jeff Lantz, Vice-Chair	Teresa Harper
Kitty Liell, Secretary	Paula Sites, Staff Attorney
Don Pagos	David Hennessey
Doug Garner	Don Murphy, Staff Attorney
Jodie English, Training CE	Darren Bedwell
Teresa Campbell, Staff Secretary	

Call to Order:

The meeting was called to order at 9:00 A.M.

Approval of Minutes and Agenda:

Minutes from the Board Meeting held June 20, 1998 were approved. The agenda was approved.

Executive Director's Report:

A. FY 1999-2001 Budget Request

Larry Landis distributed the following materials concerning the budget for review and discussion: Biennial Budget Summary; IPDC Funding 1990-2001; Budget Overview; IPDC State Budget 1995-1999; IPDC Contracts FY 1998-99; and, Revenue Accounts.

Landis announced that when the current grant expires in four (4) years, he will request the State continue the funding for the current Indigent Defense Training Project. The State assumed the funding obligations for all current staff. Previously, approximately three (3) staff salaries were funded by grants.

David Hennessey will resign from the board when he accepts the mentoring contract.

B. Strategic Directions and Goals for FY 1999-2001.

Landis distributed suggested Indiana Public Defender Council Goals for FY 1998-1999, with suggested priorities.

Regarding the long standing goal of developing case-weighted system for determining workloads, Larry reported that because of poor record keeping in the Marion County Public Defender's Office, our consultant, Spangenberg, will not be able to complete a case-weighted system for Marion County. However, LaPorte and St. Joseph Counties are keeping time records on cases, and thus those counties will be better candidates as a model for a case-weighted system.

It was agreed to add the Juvenile Delinquency Performance Standards as goal I.A.1.i., in order to facilitate assisting the Public Defender Commission in developing standards linked to state reimbursement. The Juvenile Delinquency Performance Standard was assigned priority B.

Bob Hill moved to change the level of priorities in Assisting Counties from a current C rating to A, which was seconded by Jeff Lantz. The Board passed the Motion, amending the goals as follows: I.B.1.a. to priority C and I.B.1.c. to priority C.

The Board discussed the serious problem in Indiana because no counsel are present at initial hearings. Recently the ABA passed a resolution that each jurisdiction should adopt performance standards. Indiana's standards are considered a model for those jurisdictions attempting to link performance to funding.

With regards to the Public Defender Commission's funding request, the Board passed the following resolution:

RESOLUTION: The Indiana Public Defender Council supports the Public Defender Commission's request for an increase in funding of the Public Defense Fund to at least 4.1 million for FY 1999-2001.

Goals for FY 1999-2001: Publications

Landis distributed an inventory of IPDC Publications as of 9/15/98.

Teresa Harper suggested preparation of a laminated card which would contain the Rules of Evidence and suggested objections/responses. Kitty Liell suggested preparation of a pamphlet which includes evidentiary foundations and predicate questions. These suggestions were referred to the publications committee.

Goals for FY 1999-2001: Training**A. Mentoring Report**

A Mentoring Report was prepared by Jodie English and distributed to all board members, along with a sample mentor project exit survey. The board members discussed with Jodie the progress of the current mentoring project. Jodie suggested that the list of mentors needs to be expanded, and the new mentors would need to be trained. The target public defender is one with 3-5 years experience. Jodie believes that we must link the training programs with the mentoring programs in order to achieve the goal of regional training.

B. Training Schedule

The Board reviewed the tentative schedule for IPDC sponsored seminars in 1999. It was decided that in April, 1999, there would be a "Drugs and Drunks" seminar, with a half day devoted to each topic. This decision was based in part on information gained from the membership survey. A seminar regarding juvenile and CHINS cases should be linked to the publication of the juvenile/CHINS manual. A scientific/expert witness seminar will be scheduled for December, 1999, which should also incorporate release of the evidentiary foundations pamphlet and Rule 702 concerns.

Goals for FY 1999-2001: Research and Technical Assistance

David Hennessey's suggestion that a laminated card with computer commands be available for members was referred to the technology committee.

Dawn Nolan's memo summarizing computer training numbers was distributed.

The Board discussed whether non-attorney support staff should have access to the Council's internet page and listserv. Security concerns were discussed. The Board voted to permit non-attorneys access to computer services if accompanied by a voucher from an attorney attesting to their status, to expire in 6 months, at which time renewal can be requested by submitting another voucher. A notification warning would be sent to these members prior to expiration, to remind them to renew.

Goals for FY 1999-2001: Standards

Chapters 1-5 were approved with commentary. Review of the remaining chapters including commentary was tabled until the next scheduled Board meeting.

Membership Survey

Don Murphy distributed the current results of the 1998 membership survey prepared by Don, John Liell, and Dawn Nolan. The Board expressed its appreciation in having this information available before determining the training schedule for next year.

Don noted that no defenders from Miami County or Clay County responded, and that the data excluded members of the State Public Defender's Office.

Criminal Justice Policy

Larry Landis announced that DOC is undertaking a comprehensive study to greatly expand sex offender treatment.

The Board voted unanimously to propose a rule which mandates recording of custodial interrogations. As Jodie English is now a member of the Indiana Supreme Court Rules Committee, the Board proposal will be forwarded to her.

Hennessey requested Landis lobby for an exception to the sex offender registry, exempting an offender from registering if the offender and the complaining witness are within five (5) years of each other in age, except in cases of rape, incest or criminal deviate conduct. Hennessey offered to prepare proposed legislation changing the sex offender registry requirements, as well as changing the Guilty But Mentally Ill statute eliminating the immediate incarceration requirement.

FY 1998-99 Salary Schedule

The Board met in executive session to review Larry's proposed 1998-99 salary schedule. The proposed salary schedule was approved.

Election of Officers

Jeff Lantz - Chairperson
Kitty Liell - Vice Chairperson
Robert Hill - Secretary

New Business

A. The Rules Committee has been given at least one (1) year to further consider the Supreme Court's proposed change eliminating the fundamental error doctrine.

B. The Board reviewed a letter from Norm Lefstein to the Supreme Court reporting the Commission's investigation into the four (4) death penalty cases with expenditures in excess of \$200,000.00. A number of responses was discussed, and it was

finally determined that more time is needed to consider whether the Board supports a full time State Public Defender Office and any other proposed changes to CR 24.

C. Larry Landis reported that Barry Brown resigned from the Commission, and was replaced by Rebecca McClure, a practicing prosecuting attorney and member of the Indiana Prosecuting Attorney's Council. Considering the statute governing members of the Public Defender Commission specifically excludes prosecuting attorneys, it was agreed that the Board must oppose this appointment. In order to prepare for the Council's protest, the Council will order transcripts of those cases in which we are aware. McClure has entered her appearance on behalf of the State and is taking an active role. McClure's appointment violates the statute and presents a conflict of interest, as she is now privy to capital attorney's billing information, which is supposed to be kept confidential, as it contains work product.

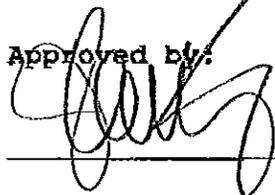
D. The next Board meeting will be 11/19/98 at 6:00 p.m. The proposed agenda includes performance standards, CR 24, and legislation.

Adjournment:

The meeting was adjourned at 5:07 p.m.

Submitted by Katharine C. Liell.

Approved by:



Date: 3-21-99