



The Indiana Prosecutor

4th Quarter, 2014

Opportunities Ahead

As you know, last spring the Legislature passed the first major criminal code revision since 1977. Everyone has an opinion about the new code, but no one will know the actual impact on public safety until Indiana's prosecutors implement it. The new code sets a baseline and opportunities to make improvements will come and go with each new legislative session. January kicks off a long session with the state's two year budget and spending priorities generating a lot of attention. The Standing Committee on Legislation and IPAC staff will continue to work very hard to stay abreast of legislative issues that impact prosecutors. Your input and support on these very important legislative matters will play a key role as we move ahead.

Each new four year term allows prosecutors to remove the yolk of politics and go about the non-partisan business of fighting crime. It is our mission at IPAC to provide you with outstanding support. Every judicial circuit is unique, but all prosecutors share some core responsibilities. They must manage their office, demonstrate competent trial skills and lead their community law enforcement teams. Our focus at IPAC is to create training and educational opportunities for prosecutors and their staff members that enhance those core responsibilities during your next four year term.

Prosecutors around the state have created many outstanding programs and practices. Many of those will be shared

Some Thoughts..

By
David N. Powell
IPAC Executive Director



and discussed during December's Newly Elected Training Seminar. We anticipate, especially given the number of retirements, that there will be many new faces at the conference. This year's event is a half day longer than in past years and offers up to 39 hours of continuing legal education credit. A goal of the conference is to provide a broad overview of all issues facing prosecutors. Each day is packed with information and IPAC is very grateful to the more than 35 prosecutors and deputy prosecutors who have volunteered to assist with the training. We simply could not put this conference on without your help.

I look forward to seeing you all in December.

Calendar of Events



2014 Newly Elected and Appointed Prosecuting Attorneys Training Seminar and Attorney General's Winter Conference

December 7-12

Sheraton Hotel, Keystone Crossing, Indianapolis

Registration - Deadline November 14

Info & Registration: <http://www.in.gov/ipac/2332.htm>

Legislative Update

By **Sabra Northam**
IPAC Legislative Liaison

2014 Interim Study Committees

Currently, we are in the midst of interim study committee season. We have been tracking multiple interim study committees, including the Interim Study Committee on Corrections and Criminal Code and the Interim Study Committee on Courts and Judiciary, among others.

The Interim Study Committee on Corrections and Criminal Code has met twice. The first meeting on Monday, September 15 focused on the following topics: housing of individuals with mental health issues in jails and prisons; organized retail crime; requests for new criminal offenses; changes in penalty enhancements; and other proposed changes to the criminal code (Arson crimes); availability and effectiveness of mental health services for adult offenders; and criminal justice issues concerning individuals with autism spectrum disorders. At this meeting, Chris Naylor mentioned the idea of looking into, and possibly increasing, penalties for Child Pornography and Child Exploitation since the penalty for these crimes is particularly low.

The second meeting of the Interim Study Committee on Corrections and Criminal Code was held September 22. This meeting focused on the following areas: the heroin epidemic and the potential use of vivatrol; the availability of the juvenile indigent defense; concerns relating to racial and ethnic disparities in the juvenile justice system; the status of the Indiana Juvenile Detention Alternatives Initia-

ive; the use of risk assessment techniques in juvenile delinquency dispositional determinations and case planning; the application of restorative justice principles in juvenile delinquency cases; recent United States Supreme Court decisions relating to juvenile justice; law enforcement training regarding juveniles; and education and training for juvenile court judges. The final meeting of the Interim Study Committee on Corrections and Criminal Code took place on October 6 and specific proposals related to these issues were presented and voted on.

The Interim Study Committee on Courts and the Judiciary met once, on September 18 and covered the following topics: requests for new judicial officers for specific counties; and adoption – discussion concerning whether a father who has abandoned a birth mother during pregnancy should be required to consent to the adoption of the child. The second meeting of this committee occurred October 2. The meeting covered the following areas: digital privacy – testimony and discussion concerning searches of electronic devices, compelling the disclosure of electronic user data, the collection and use of geolocation information, and the collection and use of biometric information by government agencies; nonparty defenses; Marion County Superior Court update; St. Joseph County magistrate requests; and discussion of preliminary drafts of legislation concerning magistrate requests and adoption issues.

IPAC will continue to monitor these and other interim study committees as the season wraps up.

2015 IPAC Legislative Agenda

The legislative agenda of the Indiana Prosecuting Attorneys Council will focus on protecting Hoosier children. Specifically, IPAC will advocate for increased penalties related to child pornography and child exploitation. Following the passage of HEA 1006 and revision of the Indiana Criminal Code, penalties for the Possession of Child Pornography and Child Exploitation stand out as particularly low. This is an area we feel should be evaluated according to the principles of justice, and for the benefit of Hoosier children.

IPAC has been contacted by other organizations and individuals to discuss a variety of other initiatives related to topics such as retail theft, arson statutes, gun crimes, heroin/opiate drug abuse, meth labs, and synthetic drugs. IPAC has offered expertise from a prosecutorial perspective, and assistance in drafting legislation or revising specific areas of code. It is highly likely that this upcoming legislative session will see various pieces of legislation related to public safety issues. IPAC will continue to monitor the development of these ideas for legislation and will offer assistance to the legislature as requested.

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Child Fatality Review: Extending Children's Lives

Jackson, Crawford Counties Target Safety with Sleeping, Water Events

Data collected from each county is essential to understanding how to avoid child fatalities in Indiana; that was the goal of IC 16-49 that in 2013 allowed counties to choose whether they would conduct child fatality reviews in cooperation with other counties or whether each would establish its own team.

According to Indiana's Child Fatality Review Coordinator Gretchen Martin, some counties have submitted reports required by statute (I.C. 16-49-2-7) that inform the coordinator of their choice to conduct reviews as a county or a region. Others, she believes, are conducting reviews but have not submitted the required report. A small minority have yet to organize their child review committees.

The importance of data from county child fatality reviews is that trends resulting in deaths of children can be identified and action taken to educate parents and citizens about ways that injuries and deaths can be prevented.

For instance, a particular county may have only one injury or death that occurs while the child is crossing the street to get mail, but statewide data that's collected and reported in a consistent manner may show trends that aren't apparent at the community level.

Said Gretchen Martin, "Some counties that don't have many child deaths may not understand how important data from that 'one child death' may be. Because Indiana's local teams use a national web-based data system, the information from that one child's death will also help inform prevention efforts at the national level. So many teams across the country miss prevention opportunities either because they don't see the trend in their area, or don't know 'right then' how to prevent that from happening in the future. Most of the time we won't know 'right then,' but that's why the data collection is so critical."

Jackson County's Fatality Review Team, led by Prosecutor AmyMarie Travis, took steps to educate its citizens about safe sleeping practices for infants - a leading cause of infant injuries or deaths throughout the state. Prosecutor Travis

developed a presentation for a county high school wherein health class students received infant safe sleep education. As a result, another high school implemented the topic in its curriculum, creating sustained enlightenment upon a safe sleep environment for infants.

'In Jackson County they were getting the word to the community and to kids who may be babysitters or before they have kids.'



Crawford County's Child Fatality Review Team decided to address the problem of water safety following a 2013 drowning. Its proactive approach was to stage a water safety event.

Additionally, the prosecutor obtained an agreement from the family court judge to integrate safe sleeping into the curriculum for the parenting classes that all divorcing parents are required to take in Jackson County.

"In Jackson County they were getting the word to the community and to kids who may be babysitters or before they have kids," said Martin. "It also engaged future fathers and men who are often left out of that education."

In Crawford County, a team led by Prosecutor Cheryl Hillenburg addressed the problem of water safety for county youth. After the team reviewed a 2013 drowning fatality in the county it decided a proactive approach towards prevention of drowning

was needed.

It was determined that a large number of families and their children would be at the Little League Park last June 6. So, Terry Allen from the Department of Natural Resources (DNR), a member of the Crawford County Child Fatality Review Team, obtained a boat and truck owned by DNR which is utilized to educate children about water safety.

The team decided talking about safety wasn't enough. The team members solicited businesses and individuals for funding to provide free life jacket vouchers to children at the Little League Park. The participants were asked to sign a water safety pledge and enter the drawing. Nearly 100 vouchers were given away that day which allowed parents to take their children to a local business to redeem the voucher and to have them fitted with the proper size life jacket.

Counties that want to create or enhance their Child Fatality Review Committees may contact Gretchen Martin as the Indiana State Department of Health, 317-233-1240 or e-mail GMartin1@isdh.in.gov.

Media Quotes of Note

Purdue University shooter's sentence sparks push to change state law

"It's not recognized in our state law if a person goes into a school of any sorts," said Pat Harrington, Tippecanoe County Prosecutor, at the sentencing of Cody Cousins on Friday.

Still Tuesday, Harrington called the case eye-opening. He said the toughest sentence he could ask for wasn't tough enough.

"The hardest thing I had explaining to this family was how in Indiana, we don't recognize this type of violent crime as an aggravator," he said.

[Indianapolis Fox 59](#)
Sept. 23, 2014

Troopers receive recording devices

Tuesday afternoon at the Indiana State Police Post at Putnamville, Putnam County Prosecutor Tim Bookwalter provided nine micro recording devices for troopers assigned to work in Putnam County.

According to Prosecutor Bookwalter, the devices cost just under \$1,000 for all nine and were purchased with pretrial diversion funds.

"Our office purchased the devices in part, because advanced technology has offered the opportunity for citizens and police to be free from false accusations," Bookwalter said.

- [Greencastle Banner Graphic](#)
Sept. 23, 2014

Brian Gensel, Porter County Prosecuting Attorney, guest commentary: What's going on in Porter County's war on drugs?

In reality, the so-called "war on drugs" isn't a war. It is the ongoing response by law enforcement, treatment and education communities to deal with a social ill that leads to addiction, suffering, crime and death. As long as people want to get high, they will abuse drugs."

- [NW Indiana Times](#)
Sept. 7, 2014

Judges and prosecutors wonder how code revisions will play out

Ripley County Prosecutor Ric Hertel stresses, "Given that there are some reductions in (jail) time served for some of the felons, we probably need to be aware of enhancing circumstances, for instance, if a firearm was used.

"When the addicts and low-level offenders are not going to jail, they need step-down programs, house release, work release or an intensive outpatient program Some of the crimes are better served in those programs, especially those dealing with substance abuse problems.

"The reduction in time served is driven by the need for treatment instead of incarceration If some of those possessing illegal drugs don't get treatment or how to deal with their addictions, they may turn around and do it again. This is why they're focusing on rehabilitative efforts more."

- [Batesville Herald-Tribune](#)
Aug. 12, 2014

Photo of serial killer's inaccurate 'death row' tattoo made public

Floyd County Prosecutor Keith Henderson wants to know how an inmate who is supposed to be segregated 23 hours a day could get such an elaborate tattoo.

"Quite frankly, I think there needs to be some explanation from the Department of Corrections on how that could occur when somebody's on Death Row in Indiana Department of Corrections," Henderson said in March.

[Louisville WAVE TV](#)
July 30, 2014

State's way of paying public defenders debated

Aaron Negangard, prosecutor of Dearborn and Ohio counties in southeastern Indiana, doesn't believe it's fair for public defenders to get the same pay as prosecutors. He said they don't carry the caseloads that prosecutors do and that the burden of proof is on the state, not the defense.

"I'm satisfied with the system the way it is," said Negangard, who heads the prosecuting attorneys' lobbying group. "I think the state reimbursement program works well. It keeps the control in the county."

- [The Washington Times](#)
Sept. 23, 2014