

Minutes of the  
INDIANA PUBLIC DEFENDER COUNCIL  
BOARD OF DIRECTORS  
Public Defender Council Office  
309 W. Washington St., Ste. 401  
Indianapolis, IN  
September 18, 2020  
3:00 pm

Minutes

**I. Call to Order – Mark Nicholson**

A meeting of the Board of Directors of the Indiana Public Defender Council was called to order at 3: 13 pm EST on September 18, 2020 in the conference room at Indiana Public Defender Counsel in Indianapolis, Indiana. The meeting was chaired by Mark Nicholson (Chair - via electronic).

All Board Members attending via virtual mean: Mark Nicholson (Chair), David Hennessy (Vice Chair), Deana Martin (Secretary), Christopher Shema, Robert Hill, Ashley Spolarich, Amy Karozos, Joel Schumm, Kay Beehler, Jennifer Sturges, and Julia Stevens. IPDC employee present was: Bernice Corley (Executive Director). IPDC employees present electronically were: Michael Moore (Asst. Executive Director), Juli Byrne (Office Coordinator), Jack Kenney (arrived at 3:45 pm), Michael Wilson, Joel Wieneke, Ruth Johnson, Suzan Ristich, Chris Bandy, and Diane Black, and Derrick Mason of the Public Defender Commission attended virtually (left at 3:39 pm).

**II. Approval of Agenda and Minutes – Mark Nicholson**

Motion made by Amy Karozos to approve agenda for September 18 & 19, 2020, seconded by Joel Schumm; motion passed unanimously.

Motion made by Kay Beehler to approve minutes, as amended, of July 1, 2020, seconded by Amy Karozos; motion passed 9-0 with 2 abstaining (David Hennessy & Chris Shema).

Bernice Corley explained how the retreat 2020 is going to be structured. This will be a 3-part retreat; September 18, 2020 starting at 3:00, September 19, 2020 morning session starting at 9:00 am, and afternoon session starting at 1:00 pm.

Announcement made that Derrick Mason would present on the Commission's quality indicators work. Derrick Mason gave background for the new members to be sure that they are updated on it as well. Derrick Mason, senior staff attorney for the Public Defender Commission, updated the board on the BJA Technical Assistance Grant obtained jointly by the Council and Commission. This grant was used to develop quality indicators which are performance measures for adult indigent representation.

Derrick Mason informed the board that the grant was intended to be a 1-year grant; however, due to COVID-19, the grant has been extended until September of 2021.

### **III. Executive Director Report – Bernice Corley**

- The Criminal Justice Institute (CJI) conducts a study of HEA 1006 reforms and publishes the report December 1<sup>st</sup> each year. As part of that work CJI obtains data from many state agencies such as DOC, IPAC, court services, etc. CJI is currently preparing the 2020 report.
- Work on the Exoneration Fund has begun. This fund is a new statutorily created fund to compensate people who have been exonerated. If they are approved for compensation, they will receive \$50,000 for each year they were wrongly incarcerated.
- Evidence Based Decision Making (EBDM). This is a group that is convened and staffed by Court Services. They manage the Criminal Rule 26 Certification process. Several counties are in process of becoming certified, Grant and Hamilton have already achieved certification. They are currently working on getting live dashboard to show at the state level what the jail population looks like.
- Jail population has been dropping since COVID-19. Almost all counties have seen a drop; however, as time has progressed, some counties are starting to see a tick back up. JRAC is examining 11 counties and staff are reaching out to counties to determine what caused the drop in population during COVID-19. Trying to get the counties to maintain those practices.
- COVID-19 Justice Partners. Council staff met with other stakeholders to update and share issues related to the criminal justice system during COVID-19.

### **Legislative Update – Bernice Corley**

Provided a list of legislative items IPDC is advocating for this session:

- The Juvenile Delinquency Agenda has been really well received by legislators and other policy advocates like representatives from juvenile justice advocacy groups, Judges Association, and JDAI. Bernice provided a list of topics and she stated that we have authors committed to filing bills on these items.
- On the adult side, we are likely to get some movement on the transparency items, such as law enforcement discipline records and terminations.
- The proposals to: repeal the 75% credit time and return to 50% and the application of post-2014 sentencing to pre-2014 convictions who are incarcerated in DOC are items that will be presented on Tuesday to the CJI.
- A legislator has committed to carry a bill to remove cost/fees for indigent people who criminal justice involved.
- Legalize/decriminalize marijuana will be filed as well.

- Abolish death penalty – we have a legislator who has committed to file this bill.

### **Financial Report – Suzan Ristich**

Suzan Ristich explained fiscal year budget verses calendar year. Our budget runs from July 1<sup>st</sup> to June 30<sup>th</sup> each year. She informed the board that the State is currently appropriating \$1,551,000, which is used for payroll and to pay building lease, office supplies, employee training, telephones, computers, etc. We have 3 funds; general, training and publication.

Discussed the Council's yearly expenses. Suzan detailed the manner in which the lease is paid and how rent received from the Commission is journaled within the Council's accounting.

Discussed the MOU with the Supreme Court for the Juvenile Project. Suzan discussed certain expenses paid through the general fund, such as recent office purchases and expenses paid to the Indiana Office of Technology for computers, technical assistance, telephones, etc.

Seminars income/loss statements were discussed. Suzan Ristich explained and provided a report on Seminar revenue and losses for the 2019 calendar year. IPDC only showed losses with 4 seminars. Historically, the Council experienced an overall loss within the training fund each year. Suzan provided graphs and explanations detailing the revenue and expense for each training, stressing that food costs continue to be the highest costs associated with training.

Chris Shema moved to amend the agenda to move the amicus priorities and approval process ahead of the Asst. Executive Director's report, seconded by Ashley Spolarich; motion passed unanimously.

### **III. Amicus Priorities and Approval Process – Joel Wieneke**

Discussed the 5 priorities listed in the handout provided to the Board. Joel suggested maybe adding a 6<sup>th</sup> priority:

- Issues concerning the fair administration of justice in Indiana, including issues of constitutional law protecting individual liberties essential for freedom, criminal law, and juvenile law.

Kay Beehler moved to include the suggested 6<sup>th</sup> priority to the Amicus Policy adopted by the board and to remove the numbers and use bullet points, seconded by Ashley Spolarich. Motion passed unanimously, which would make the approved Amicus Priorities to be as follows:

- right to counsel for indigent persons;
- right to adequate funds to participate and present a defense;

- independence of indigent defense counsel;
- interference with the attorney-client relationship;
- issues affecting the reliability of the truth finding function, i.e., right of confrontation, burden of proof, etc.; and
- issues concerning the fair administration of justice in Indiana, including issues of constitutional law protecting individual liberties essential for freedom, criminal law, and juvenile law.

**IV Asst. Executive Director Report – Michael Moore 1:58:45**

Provided highlights in the training division of IPDC from January 2020 – September 2020

- None of our trainings this year, that have been online, have been for a fee.
- Since we have been doing trainings virtually, we have been able to get national presenters/speakers covering a broad range of topics.
- IPDC has joined with IPAC, DCS, and ISBA in a request to the Supreme Court to reclassify live webinars as traditional live CLE training.
- Our online trainings have been very popular as reflected by the positive feedback received. Mike provided some e-mails from members.
- Resiliency training has been a very popular training and well received. So popular that DCS has requested that Diane Black provide a resiliency training for DCS attorneys.

Mike Moore provided a table of all IPDC Trainings showing dates / events / attorney attendance. His graph also showed just how many people attended the webinar trainings including how many we have trained this year compared to 2019.

The topic was brought up about why we are not charging, even a nominal fee, for the webinar trainings. Mike Moore shared that the plan is to begin charging a fee for online trainings at the beginning of next year. He recommends modifying the current fee structure and replace it with a flat fee system based on the following categories:

- New Attorneys
- IPDC Members, PDs
- Non-Members & private attorney members

Deana Martin informed the board on behalf of the training committee that the committee proposes cancelling the live portion of the December training and refund the money back to the one person that signed up. **2:35:31**

Michael shared data on mootings and case reviews. Both have really increased in numbers due to the ease of doing them virtually.

Michael provided an update on the 3 grants IPDC received from ICJII, 2 grants under the JAG program and 1 under Title II.

Chris Shema made a motion to recess until the following day, 9-19-20, seconded by Deana Martin. Motion passed unanimously.

Minutes of the  
INDIANA PUBLIC DEFENDER COUNCIL  
BOARD OF DIRECTORS  
Public Defender Council Office  
309 W. Washington St., Ste. 401  
Indianapolis, IN  
September 19, 2020  
9:00 am

**I. Call to Order – Mark Nicholson**

A meeting of the Board of Directors of the Indiana Public Defender Council was called to order at 9:11 am EST on September 19, 2020 in the conference room at Indiana Public Defender Counsel in Indianapolis, Indiana. The meeting was chaired by Mark Nicholson (Chair - via electronic).

All Board Members were electronic: Mark Nicholson (Chair), David Hennessy (Vice Chair), Deana Martin (Secretary), Robert Hill, Ashley Spolarich (arrived at 9:17 am), Amy Karozos (left at 3:21 pm), Joel Schumm, Kay Beehler, Jennifer Sturges, and Julia Stevens. IPDC employee present was: Juli Byrne (Office Coordinator) IPDC employees electronic were: Bernice Corley (Executive Director), Michael Moore (Asst. Executive Director), Michael Wilson (left before mid-day break), Suzan Ristich, Chris Bandy (arrived after mid-day break), and Diane Black.

**IV. New Business – Michael Moore**

Informed the board about our new listserves, have been migrated to Chatter on the Salesforce platform. The board discussed whether membership should be limited to public defenders only or to also allow support staff, investigators and other criminal justice professionals access to member resources and services, including the Defender. After discussion, the Board recommended the following:

- Support staff, investigators and the like must be sponsored by an attorney member.
- Yearly check to see if members continue to be eligible for IPDC resources and services.
- Create membership categories.
- Allow access to Defender

The board discussed the draft Acceptable Use Agreement for IPDC Group Emails, which will be a yearly requirement for members. The Board recommended the following:

- Freeze people when things get out hand for a period of time
- Be sure to give a warning before they are frozen and explain why

#### Personnel and Policy Manual – Bernice Corley

- Staff recommended creating two separate documents, specifically, personnel manual and board by-laws. The following were shared with the Board:
  - Item A – draft board by-law generated by staff.
  - Item B – draft of a by-law document, drafted previously by a committee headed by Gojko Kasich. David Hennessy provided historical context.
  - Item C – current Personnel and Policy Manual.

David Hennessy made a motion to create by-laws and to remove the personnel policy manual. Motion was seconded by Ashley Spolarich. Motion passed unanimously.

Discussions regarding the proposed by-laws occurred and the following decisions points were made:

#### **Membership**

- For purposes of determining membership in the Council, “other court appointed attorneys regularly appointed to represent indigent individuals” means any attorney who is appointed to represent indigent individuals pursuant to a uniform system of periodic appointments where the right to counsel is established by law or in on the list maintained by the Public Defender Commission of attorneys qualified to be appointed in a capital case under Criminal Rule 24 and is willing to accept such an appointment.

#### **Regular and Special Meetings**

- Section 1 Regular Meetings: The Board of Directors shall meet at least one time annually and at other times as specified in Section 2 of this Article.
- Section 2 Special Meetings: Special Meetings may be called by the Board Chair and shall be called when:
  - the Chair determines that such a meeting should be called;
  - a majority of the board members vote to call such a meeting; or,
  - a written request to hold a special meeting is made by at least three members of the Board of Directors when:
    - the written notice includes the date, time, and place for said meetings;
    - the written notice is made at least forty-eight (48) hours prior to the date and time of the date of the special meeting is requested to take place;

- and there is sufficient time to comply with the requirements of Ind. Code § 5-14-1.5-1 et seq (Indiana’s Public Meetings “Open Door” law). **02:04:01**

(2) if a written request is made under subsection (a) of this Section, the Executive Director shall poll the members of the Board of Directors to determine a mutually agreeable meeting date, time, and location. A meeting under this subsection shall occur within 21 days of the written request.

### **Eligibility, Nomination and Election of Board Members**

- The Board of Directors shall be composed of (11) members, 10 of whom shall be elected by the entire membership of the council. The eleventh member is the state public defender appointed under Ind. Code § 33-40-1-1. No more than two (2) members shall be elected from the same geographical region. There shall be five (5) geographical regions from which a person may be elected.
- Term
  - Each elected member of the Board of Directors shall serve for a term of two (2) years.
  - No member of the Board of Directors may serve more than three (3) consecutive terms as a member of the Board of Directors.
  - A member of the Board of Directors described in subsection is eligible to be elected to the Board of Directors after not serving as a member of the Board of Directors for at least two (2) years.

Staff are to bring to the December 2020 board meeting a final draft of the proposed by-laws for vote.

Break at 12:20 pm returning at 1:30 pm

### **Call to Order after the Break at 1:30 pm – Mark Nicholson**

A meeting of the Board of Directors of the Indiana Public Defender Council was called to order at 1:30 pm EST after lunch on September 19, 2020 in the conference room at Indiana Public Defender Council in Indianapolis, Indiana. The meeting was chaired by Mark Nicholson (Chair - via electronic).

All Board Members present electronically were: Mark Nicholson (Chair), David Hennessy (Vice Chair), Deana Martin (Secretary), Robert Hill, Ashley Spolarich, Amy Karozos (left at 3:21 pm), Joel Schumm, Kay Beehler, Jennifer Sturges, and Julia Stevens. IPDC employee present was: Bernice Corley (Executive Director). IPDC employees



present electronically were: Michael Moore (Asst. Executive Director), Suzan Ristich, Chris Bandy (arrived after mid-day break), Diane Black, and Juli Byrne.

Board members present agreed that they would like to move forward with the retreat and start discussion about streaming board meetings live via you tube, zoom, or webinar.

The Board discussed streaming board meetings and allowing access to recordings of board meetings. The board determined that no change would occur with current practices with respect to streaming and access to board meeting recordings and that board meeting minutes would continue to be available to the public.

### **Legislative Advocacy – Chris Bandy**

Chris gave a power-point presentation explaining how to communicate with members of the Legislature.

- Breakdown of the House of Representatives – 100 Members
  - 33 Democrat
  - 67 Republican
  - 65,000 Constituents per District
  - 3 Representatives per Legislative Assistant
  
- Breakdown of the Senate – 50 members
  - 10 Democrats
  - 40 Republicans
  - 130,000 Constituents per District
  - 2 Senators per Legislative Assistant
  
- What Influences Elected Officials
  - Personal Relationships
  - The Message and Media
  - Partisanship
  - Personal Interests and Passions
  - Staff
  - Constituents
  
- Communication Strategies (effective)
  - Face to Face / Zoom / Teams / Webex (Most effective)
  - Phone Conversation
  - Hand-Written Letter
  - Email (or other electronic letter format)

- Online Chatting (outdated, but still in use)
- Everything else (text, facebook, twitter and other social media)
- Ineffective Communication Strategies
  - Form Letters
  - Social Media Posts
  - Chance Encounters

Bernice Corley discussed future meetings based on what a long Legislative session usually looks like. These meetings will start at 5:00 pm.

- December 17, 2020 (normal meeting and to discuss our bylaws, etc.)
- January 28, 2021 (this meeting should be dedicated to Legislation)
- March 11, 2021 (this is the time the bills switch houses)
- May 6, 2021 (opportunity to give the board a summary breakdown)
- June 17, 2021 (day before annual update) **1:00:03**

#### **Creation of Non-Profit – Bernice Corley**

- Members have reached out wanting to sponsor someone attending TPI by giving us the money to apply to people coming to the training.
- Concerned about push back from State Board of Accounts (SBOA) was addressed.
- Created a Proposed Donation Acceptance Policy drafted with the help of SBOA

David Hennessy made a motion made to accept the Donation Acceptance Policy as written, seconded by Robert Hill. Motion passed unanimously.

#### **Organizing Social Events for IPDC Membership**

The following topics were discussed with respect to increasing member engagement and with respect to offering members opportunities to engage socially with each other.

- A defender's Ball the night before Annual Update
- Possible cocktail or social hour the evening before Annual Update
- Dunk Tank for Board Members
- Trivia Night before the Annual
- Happy hour with appetizers

These topics will be discussed further at the December meeting when Chris Shema can participate.

#### **Recommendation from the Training Committee about the December training**

Deana Martin made a motion to cancel the in-person portion of the December Forensics training and refund any fees paid, which was the recommendation of the Training Committee, seconded by Jennifer Sturges. Motion passed unanimously.

#### **V. Election of Officers / Committees and Assignments**

- Ashley Spolarich gave up the chair / and member of the Policy Committee – chair now: Amy Karozos
- David Hennessy is the chair of the Strategic Planning Committee
- Amy Karozos is not on the Executive Director Evaluation Committee
- Robert Hill called a meeting of the Executive Director Evaluation Committee to meet at 4:00 pm on October 15, 2020.
- Robert Hill joined the Strategic Planning Committee
- Kay Beehler joined the Policy Committee

#### **VI. Old Business**

Robert Hill made a motion and nominated the Mark Nicholson as the Chair, David Hennessy as Vice Chair & Deana Martin as Secretary to another year, which represents each member's second term in those positions. Kay Beehler seconded the motion. The motion passed unanimously.

David Hennessy made a motion to adjourn at 3:25 pm, seconded by Mark Nicholson. Motion passed unanimously.