

MEETING MINUTES

STATE PUBLIC DEFENSE COMMISSION

Date | time 2/19/2016 1:00 PM | *Location* Len B. Jordan Building, Conference Room B-09,
650 W. State Street, Boise, ID 83702

Meeting Discussion on House Bill No. 504

Commission members present

Darrell Bolz, Chair, Juvenile Justice Comm. | Kimber Ricks, Madison Co. Comm. | Sara Thomas, SAPD, Vice Chair
| Chuck Winder, Senator | Christy Perry, Representative | Linda Copple Trout, Administrative Director of the
Courts | William Wellman, Defense Attorney

Nichole Devaney, Admin. Asst.

Commission members absent

Others present

Item	Responsible
1. Welcome and Call to Order: The meeting was called to order at 1:06pm.	Bolz
2. Approval of prior Meeting Minutes (01/19/16): Wellman motioned to approve the 01/19/16 minutes, Thomas seconded, and the motion passed unanimously.	
3. Review House Bill No. 504: Wellman asked how the legislation was being received in the legislature. Perry commented that the Senate is in support of whatever the Committee recommends, the leaders on the House side were also in support of the bill. Bolz shared he had heard discussion on the cost of the bill being too high. Perry replied she did not believe the governor's office would have an objection to the cost. Thomas commented that the fiscal impact is where she has some concerns. Explaining that hiring an Executive Director at a salary of \$71,200 with the added reasonability would be difficult. Adding that the other positions also have low salary ranges, public defenders are typically paid more. Limiting the liaison persons to three does not provide enough personnel to perform the work needed she shared. Perry agreed however, when the numbers were run with the seven additional positions the cost was to significant. The Committee decided to scale down that number for the first year to three with the idea that adjustments could be presented to JFAC in the following fiscal year. She shared that the legislation allows the commission to make some temporary rules in order to provide flexibility on implementing standards in this first year. Thomas commented that the rules process deadlines are very tight asking the members if they thought the Commission could get a director at the salary set that would be able to complete the negotiated rules process in time. Wellman	Bolz

commented that the contract terms are a starting point for the standards but that there are additional standards that will need to be developed. Bolz shared that he could ask someone from Department of Administration, Administrative Rules Coordination to come in and provide training on the rules process to help initially.

Winder shared that the legislation may not be ideal, he felt the Commission is lucky to have it, considering JFAC is analyzing ways to cut back on the funding total. He suggested the Commission find a way to make it work as is because JFAC would be unlikely to provide additional funds at this point. Wellman asked if there are lawyers out in the field that could take on the role of the liaison on a part time basis. Thomas shared that she did not feel these are part time position. Initially the work load will be light but in the Spring of 2017 it will grow too great when having to consider grant applications and perform investigation. She suggested that the Commission make a statement in committee that it cannot complete all of the work required with the current funding proposed.

Winder asked how many grants would be submitted initially. Trout calculated that there are 44 counties within the seven districts therefore that equates to 15 applications per the seven liaisons if all counties participated. Winder commented that none of the JFAC members would approve seven additional positions simply to complete the grant process. Thomas replied that the grant process would only be a portion of the responsibility, investigation and compliance analysis as well as training would also be included.

Wellman commented that review of the smaller counties would likely only take a few days a year but the larger counties would require much more. Thomas added that part of the Commission's charge is to be a resource and that is something these additional people would also do. Perry agreed with Winder stating that JAFAC is not going to give extra funds to the Commission at this point because this is a new program and the Commission would need to prove themselves. Adding that whatever the Commission wants to say should be on record and shared with the committee. Bolz commented that it should also express that the Commission will do their best to do the work that is asked of them however the limited staff will affect their ability to complete all the tasks. Winder stated that they could discuss this issue all day but the first thing that needs to happen is to hire an Executive Director. Thomas asked if there is any reason not to advertise for a director now. Trout inquired as to what the Asst. Director's responsibility would be. Thomas shared that this person could be responsible for the training component and help with funding distribution for additional services as laid out in the legislation.

Wellman asked if it is necessary for the members to go through the legislation line by line. The members agreed that would not be a good use of time. Thomas shared that she is disappointed with the legislation based on the remedy process for non-compliance. Adding that she understood the legislation that came out was the best that they were going to get at this time but it's disappointing. Perry expressed that the remedy process was a big sticking point for the committee members. Adding that this is a starting point and as the Commission builds a reputation they will be able to go back and make changes. Bolz shared his concern with the legislation on page 2 lines 3-7: the Commission makes rules for both implantation and enforcement. He wondered how that will be viewed by the legislature, when the Commission basically tells them how they want to enforce the standards. Perry stated that this section provides for the enforcement need and that the Commission can make recommendation to the legislature they can always disagree.

Wellman expressed his desire to see the system come in and fix the rules on infractions which would free up public defenders to do real lawyering. If changes to the public

defense system is the goal then they should consider working outside of their control and clear up some of these other issues so that the resources achieve the most bang for their buck. Perry shared that he was correct, what the Commission is doing here is only one little piece. The counties can make changes to the system and influence the process in which cases are handled. Ricks commented that those are all issues that are out of the Commission's control right now what the Commission can do is hire an Executive Director. He shared his concerns are with section 19-850a6: Asking who would be responsible for writing the standards, the new director. The members agreed that the commission as a whole would write them. Ricks asked if the initial draft would be written by the director. Wellman stated yes, the contract terms provide the outline and it would be a matter of cut and paste. Ricks asked how the Commission can set a standard with regard to physical space for client meetings, those often take place in the back of a court room. Perry shared it would be whatever this Commission decided. Ricks replied that this is a huge charge for the Commission. Bolz shared that those involved were not comfortable just adopted federal standards that they need to apply to Idaho. Thomas commented that the Commission is willing to work with the County Commissioners and other stake holders to development the standards. Ricks responded stating that County Commissioners are scared of what is coming down the pike and they have planted their feet against it.

Wellman asked if the original job announcement is going to be used to advertise the Executive Director position or would they need to revise it. Thomas replied that it should be revised to include rule making and the grant process.

Trout had one more question about the legislation. Page 7 line 10: October 1, 2016 – asking if the counties would be able to apply by that date. Perry shared it should not be a problem, initially the Commissions requirements will need to be minimal. Trout asked if after the first year, does this allow enough time to meet the July 1st deadline? Thomas responded to keep in mind that the amount the county is required to put in is already know. Trout wondered if in the event a county would like to comply with a standard is there enough time to budget for funds to correct issues that may not have been included in their grant application.

Perry shared that the legislative hearing would be held sometime the following week and she would like to find out what the Commission's position on the bill is. Thomas motioned to have a written statement prepared in support of the bill but that also expresses the Commission's concern as to it's ability to perform the work under the current staff funding issues. Wellman seconded the motion. Winder added that the statement should also specify that this is an on-going process and will need dealt with as such. Perry, shared that a written statement would be put on the record which is good but asked if any of the members would like to testify or be available for questions. Stating that she will be there as sponsor of the bill and will likely be under fire from prosecutors and others not in support. She sees the bill passing but there will be criticism. Wellman stated he will do his best to attend. Bolz offered to attend the hearing and prepare the written statement. Winder suggested he and Thomas work on the statement as well. Thomas suggested the statement be written to the governor considering the Commission is under the executive branch. Perry expressed that if members share their concerns it will indicate that the Commission is in support but with reservations. Trout shared that as the representative of the court she would need to recluse herself and would not be able to vote

Item	Responsible
<p>on the motion. The members cast their votes with six voting unanimously in favor and one abstained.</p>	
<p>Winder offered a thank you to the Interim Committee Co-Chair for all of her work on the committee. All members agreed she was an asset to both the Commission and Committee.</p>	
<p>4. Discussion on Commission Purposed Rules: The commission has some rules regarding training that should be finalized and can be discussed at the next meeting. Bolz will check with Dennis Stevenson from the Department of Administration, Administrative Rules Coordinator on training for the rule making process.</p>	Bolz
<p>5. Executive Director Position: Thomas suggested that the members take some time to review the announcement and provide a revised copy with the legislation statement. Ricks asked when the Commission would like to close the announcement, the Admin. Assistant asked when the members would like to open the announcement. They indicated as soon as possible with it closing a few weeks later. Bolz offered that the revised announcement would be forward to members for review. Winder shared that the members as a board need to provide a good foundation of expectation for the new executive director in order to avoid prior issues. Wellman commented that the quality of applicant will be limited based on the funding appropriations. Bolz will speak with Jared Hoskins as to how the salary distribution can be redistributed to strengthen the director's salary. Winder suggested that they look at roles of other directors to provide flexibility in the role.</p>	Bolz
<p>6. Future Meeting Schedule: March 15, Tuesday afternoon 2:30-4:30</p>	
<p>7. Agenda Items for Next Meeting: Executive director, rule making training and approval of temporary rules previously proposed.</p>	
<p>8. Next Meeting Location: Boise would be the best location for those in session.</p>	
<p>9. Adjournment: The meeting adjourned at 2:42pm.</p>	Bolz

Attachments:

House Bill No. 504
 Bill H0504 - RS24508 Statement of Purpose
 Bill H0504 - RS24508 Legislative Co-sponsors