

MEETING MINUTES

STATE PUBLIC DEFENSE COMMISSION

Date | time 2/22/2017 1:00 PM | *Location* PDC Office, 816 W. Bannock Street, Suite 201, Boise, ID 83702

Meeting: February Commission Meeting

Commission Members

Darrell Bolz, Chair, Juvenile Justice Comm. | Shellee Daniels, IAC Representative | Eric Fredericksen, SAPD | Linda Copple Trout, Representative of the Courts | William Wellman, Defense Attorney | Chuck Winder, Senator (arrived at 1:27pm)

Kimberly Simmons, Executive Director | Kelly Jennings, Deputy Director
Andrew Masser, Research Analyst | Nichole Devaney, Admin. Asst.

Commission Members Absent

Christy Perry, Vice Chair, Representative |

Others Present

	Item	Responsible
1:00	Welcome and Call to Order: Chair Bolz called the meeting to order at 1:13pm.	Bolz
	Roll Call	
	Darrell Bolz, Chair Yes	
	Shellee Daniels, Member Yes	
	Eric Fredericksen, Member Yes	
	Linda Trout, Member Yes	
	William Wellman, Member Yes	
	Chuck Winder, Member No (he arrived at 1:27pm)	
1:05	Approval of Prior Meeting Minutes (1/03/17 & 1/17/17): Trout moved to approve the minutes Bolz for both dates. Fredericksen seconded and the motion passed unanimously.	
1:10	Budget / Financial Update: ED Simmons presented the year to date fiscal analysis. The PDC Budget setting will be March 1 st . Bolz asked if Sen. Mortimer's questions from the JAFC presentation regarding the IDG funding had been answered. ED Simmons responded that the information had been provided.	Simmons
1:15	Executive Director Report	Simmons
	a. Legislature Update: All PDC presentations have been completed. They are awaiting rule approval and the budget setting. Rules once approved will be in effect May 1 st . Bolz shared that Mr. Stevenson was very complementary of how the rules process was conducted. Trout asked about questions Sen. Davis had when the rule was presented to the Senate Judiciary and Rules Committee. ED Simmons and DD Jennings explained the language and other items to the members that were questioned during the hearing. Bolz shared that if the commission would like to	

change the language of the statute then they should begin to talk about that. ED Simmons shared that on that topic, HB179 regarding mandatory minimums could have an impact on public defense and the commission may want to provide a position on it. ED Simmons asked for Wellman's opinion on the bill, he shared that it is often a waste of resources. The members agreed that the mandatory minimum language stemmed from crimes that were occurring in the 80's. Trout shared that her thought regarding legislation, is that the commission should provide an opinion based on how it affects public defense and its impact on the counties budget. Fredericksen offered to sit down with ICJC leadership to see what their position on the bill is. ED Simmons asked if the members would like the staff to put together a statement related to the issue. Wellman asked if there was any traction for the bill in the legislature.

- b. ACLU Lawsuit: There has been no decision from the Supreme Court on the argument. ED Simmons shared that she walked away with the feeling that the commission needs to continue to progress as everyone is watching. Bolz asked if it appeared it would be sent back to district court but ED Simmons could not determine that based on proceedings.
- c. Workload Study and Budget Revision: The development of the program is underway. Defender Data Prime is a web based software that will be used to track time by the attorneys. It is a robust case management system that will aid in the time tracking component. Bolz asked how user friendly the system would be. ED Simmons explained that it seemed user friendly however due to the nature of the study it will not be a single entry system. Wellman asked if there will be any incentive to participate. ED Simmons expressed that the commission cannot force participation but there are a few small incentives. The members agreed that part of the explanation as to why they should participate is because this is the means to provide accurate data. Daniels asked how PD's are being notified and would she like her to help in some means. Trout asked what the cost of Defender Data Prime would be. ED Simmons explained during the 12-week time tracking period there is no cost to the PDC but should attorneys choose to use it after that, it will cost \$2 per case. Trout offered that continued use of the system could be an additional incentive, she then asked how many counties are currently utilizing time tracking. Masser responded that Canyon County is the only one. Trout shared that it will be important for participants to understand that this is a tool that will offer additional features. Fredericksen offered that another incentive might be motion templates. Trout asked why case entry would need to occur prior to when the study began. DD Jennings responded that if an attorney will spend any time on a case during the tracking period it will need to be added to the system. Daniels asked about interface with Odyssey and ED Simmons responded that there will not be a need to interface with Odyssey. It is a stand alone system. Daniels offered that there is very little data tracking going on in the smaller counties therefore if there were some systems the commission could suggest or maybe even provide cost help with, it would be helpful. Wellman stated that Attorney Manager the system through Odyssey will not be able to go live until all 44 counties are on Odyssey. Fredericksen asked how many counties will be participating, ED Simmons offered that all counties will be asked to participate. Books will be offered as incentives for weekly and monthly goals. The individuals that give the most consistent data

Item	Responsible
<p>would be raffled to attend a training in Hawaii. After the time tracking portion is complete a Delphi panel will be developed, the panel (experts) will determine what things should look like.</p> <p>d. IAC Training: ED Simmons gave a presentation on A Day in the Life of a Public Defender along with a few attorneys from the valley. An attorney panel that provided the commissioners an opportunity to ask questions followed it. A second session will be provided at the next meeting that details resources a PD should have to conduct their job.</p> <p>e. PDC and IACDL Position Conflict: In previous conversation in regards to ED Simmon's possible conflict with IACDL there had been no objections. However, when the rules were in question it occurred to her that there may be potential conflict at some point. Wellman responded that she seek independent counsel as to any conflicts and make a determination based on that advice.</p>	
1:30 Capital Counsel Roster	Simmons
<p>a. Review of Statute: The court is asking the PDC to maintain the Capital Defense Roster. DD Jennings conducted a comparison of the ABA Capital Defense Standards along with Idaho's requirements and there is a significant difference in the two. She then asked if the commission is agreeable to taking on that role. The statute does provide the commission with the authority. Bolz asked if the court has always had that role. Trout shared that the court took it over as a way to standardize the process and insure compliance. Bolz asked Trout her opinion on the matter. She offered that she did not see why there would be a problem. Trout shared that the court had difficulty getting participation. ED Simmons expressed that many stopped participating because the standards were not robust so they did not see the point. If the standards were more robust, they may participate. Daniels asked if ED Simmons wanted to maintain the roster? ED Simmons responded that she wanted to make sure it was something the members felt they had the authority to do and that they would like to promulgate rules. Bolz offered it would depend on how long the court wants to hang on to it as to what type of rule was promulgated. Fredericksen asked if the commission would be making the selection or would the court continue to do so. DD Jennings offered that the commission could conduct the selection process and include a committee with court input. The members did not object and will see how things progress.</p> <p>b. Review of ICR 44.3</p>	
1:45 ELF Committee Recommendations	Simmons
<p>a. Application and Policy: Both the application and policy have been revised. ED Simmons explained that the fund would be for future expenses. A defending attorney would apply for anticipated expenses. Due to the amount of funding that is anticipated to be reverted, for this year only she suggested the commission would be able to reimburse for any expenses incurred prior to July 1, 2016. ED Simmons went over the revisions to the application adding some additional details and an affirmation. Trout asked if it is just for defending attorneys. ED Simmons responded that yes the statute reads the defending attorney may apply. She suggested that the wording may be something the commission would like to consider changing within the statute. She then went over the policy and edits that were made based on suggestions provided by the sub-committee. Trout asked that something be added regarding the role of the application to the court. Bolz asked</p>	

for comments/discussion. Fredericksen moved to approve the application as revised. Trout seconded, the members unanimously passed the motion. Wellman moved to adopt the policy with the corrections suggested. Winder seconded and the members unanimously agreed.

b. Potential Legislation: Discussed in Executive Session

2:25

IDG Draft Application and Temporary Rule Review

Simmons

- a. Compliance Checklist: Was designed to assist counties with completing their grant application. ED Simmons reviewed changes to the document: A statutory requirement is not technically a standard by which a county must comply. She went through the compliance section. Wellman offered that some of the eligibility section is in italics that should not be. Then asked what the defense grant audit form was. ED Simmons stated that she has not created it yet, it is forthcoming. She will remove the audit form since it has not been created. The things that are italicized are standards that were not in effect by May 1.
- b. Temporary Rule: ED Simmons went over the temporary rule. Explaining that the numbering is off and will need corrected. There was a suggestion to add edition 2016 Standards for Defending Attorneys. The text in red ED Simmons would like the members to take a specific look at. The members provided no comment on that section. Trout suggested removing the ADAPA reference. Bolz asked about the time frame regarding grant funding and county budgets. ED Simmons referred to Comm. Daniels and she stated that county budgets are normally completed in May/June period however given the process it is unlikely for a county to not receive a grant. Typically, there are contingency's built into the budget to allow for the grant funding. ED Simmons asked for thoughts on the eligibility priority rating portion, no comments were made. Grant Agreement form, the members agreed to have it included. Section 024.01, Trout questioned "eligible for", ED Simmons responded that she will use the statute language of cure/compliance. Trout motion to approve with amendments, Wellman seconded. The members agreed unanimously.
- c. IDG FY2018 Grant Application Draft: Due May 1st, to be distributed around the first of March. Wellman asked about data information that should have been collected with the annual report. Wellman asked how many reports had been submitted. Masser responded that about half have been received. Wellman confirmed that one compliance requirement for grant funding was to have submitted a report. ED Simmons continued going over the application. Daniels asked if each county when holding a joint office is supposed to apply for the grant, and how does that work with their budgets. ED Simmons responded that she needs to add a section for joint offices to help differentiate. Trout asked if the funds expensed is specified to exclude IDG's from 2016. ED Simmons concluded that she will add: a joint county Appendix, and a blurb not to include funds they received from the PDC. If the members have no objection, she would like to push it out to the counties. Wellman asked what we are looking for in the section that asked for a detailed cost analysis. ED Simmons stated that it is up to the members. Wellman stated that in his regard it is a team participation process that may not include associated costs to meet the first appearance standard. ED Simmons asked if further defining is needed. Wellman responded, no. Wellman asked if the commission did anything legislatively to increase the local share percentage. ED Simmons did mention that recommendation to the germane committees. Trout moved to approve and accept the IDG

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2:55	Commission												
<p>Application, Fredericksen seconded and the members agreed unanimously to the motion.</p> <p>By-Laws Review and Approval of Amendments: Bolz shared that he looked at the purpose and the language that suggest the commission will provide funding. Fredericksen suggested revising it to read “as appropriated by the legislature.” Winder moved to approve the By-Laws as revised, Fredericksen seconded and the members voted as indicated below:</p> <table data-bbox="191 436 643 651"> <tr> <td>Darrell Bolz, Chair</td><td>Yes</td></tr> <tr> <td>Shellee Daniels, Member</td><td>Yes</td></tr> <tr> <td>Eric Fredericksen, Member</td><td>Yes</td></tr> <tr> <td>Linda Trout, Member</td><td>Yes</td></tr> <tr> <td>William Wellman, Member</td><td>Yes</td></tr> <tr> <td>Chuck Winder, Member</td><td>Yes</td></tr> </table>	Darrell Bolz, Chair	Yes	Shellee Daniels, Member	Yes	Eric Fredericksen, Member	Yes	Linda Trout, Member	Yes	William Wellman, Member	Yes	Chuck Winder, Member	Yes	
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3:10	Simmons												
<p>District Liaisons → Regional Coordinators: The name has been changed, as ED Simmons did not care for Liaisons.</p> <p>a. Job Announcements and Salary: A new class has been created for the position. Approval has been received from HR. An announcement for each region will be posted (Boise, CDA/Lewiston, IF/Pocatello). ED Simmons shared that the position is being offered at a salary range in the event little response is yielded and only two of the three positions are hired. Bolz asked which two she would prefer. ED Simmons responded that the one in Boise will be most helpful and then the other two are equally weighted. Wellman shared that Canyon is hiring for the PD office with a minimum of our max. Bolz asked if office space is included in the budget, ED Simmons responded that yes the budget does include office space and utilities. Trout asked if it is a required full time position. The response was that it could be whatever the members recommended. ED Simmons responded that she would indicate it is a full time position and have it added to the announcement. Bolz offered that he would like to see an individual that is retired or just starting out and if someone does not apply then the commission can go back to the legislature. The position is a classified position and will be paid hourly.</p>													
3:25	Commission												
<p>Rule Promulgation – Setting Priorities for This Year</p> <p>a. ED Recommendations: ED Simmons is suggesting some sort of investigation rule. The second area is enforcements, which is something many are interested in. The notice of intent to begin negotiating rule making could go out next Friday. DD Jennings asked if the administrative review process should be considered at the same time. Bolz offered that there is probably enough with these points, the enforcement portion will be a hurdle. Bolz offered that ED Simmons submit the intent and then it could be changed at a later date if needed.</p>													
3:55	Simmons												
<p>A Day in the Life of a Public Defender Presentation to Legislature: On March 20th ED Simmons would like to do a presentation on the right to counsel and A Day in the Life. Holding a continental breakfast in addition to the presentation. Bolz shared that many of the legislators will be on the floor for extended periods at that junction in the session. Trout asked if there is a need to do it this session as opposed to next session. She feels its an important topic but not if the focus isn't on the issue. Daniels shared that the county commissioners pressed for the presentation to educate everyone. ED Simmons asked if there was someone, she should speak to for help scheduling the event. Bolz offered the Speaker or the Pro Tem would be the best to see if there is a slot that could work. ED Simmons will</p>													

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	contact both secretary's to see what works. She asked if the members had any objection to her presentation even if she needed to adjust the date, there was none.	
4:10	Executive Session: Pursuant to Idaho Code 74-206, convene in executive session to consider legislation (Idaho Code 74-206(1)(d)). Winder moved to convene into executive session, for a discussion on Purpose/Topic summary: Proposed Legislation – Public Records Exemption; Fredericksen seconded AND THE VOTE TO DO SO BY ROLL CALL. Darrell Bolz, Chair Yes Shellee Daniels, Member Yes Eric Fredericksen, Member Yes Linda Trout, Member Yes William Wellman, Member Yes Chuck Winder, Member Yes CONVENE AT: 2:35pm ADJOURN AT: 2:38pm	Commission
	The members discussed the proposed legislation. Wellman moved to reconvene, Winder seconded and the session was adjourned. Darrell Bolz, Chair Yes Shellee Daniels, Member Yes Eric Fredericksen, Member Yes Linda Trout, Member Yes William Wellman, Member Yes Chuck Winder, Member Yes	
4:10	Wellman moved to support the legislation, Trout seconded and the member unanimously agreed. Future Meetings - a. Next Meeting: March 22 nd at 1:00pm b. Next Meeting Location: PDC Office - 816 W. Bannock Street, Suite 201, Boise, ID 83702	Commission
4:15	Adjournment: Bolz adjourned the meeting at 4:21pm.	Bolz
Attachments:	ELF Application ELF Policy IDG Compliance Checklist IDG Temporary Rule IDF FY2018 Grant Application Draft	