Meeting Minutes

STATE PUBLIC DEFENSE COMMISSION

Date | time 4/25/2017 1:00 PM | *Location* PDC Office, 816 W. Bannock Street, Suite 201, Boise, ID 83702

Meeting: April Commission Meeting

# Commission Members

Darrell Bolz, Chair, Juvenile Justice Comm. | Shellee Daniels, IAC Representative | Eric Fredericksen, SAPD | Linda Copple Trout, Representative of the Courts | Chuck Winder, Senator (arrived at 1:10pm)

Kimberly Simmons, Executive Director | Kelly Jennings, Deputy Director

Andrew Masser, Research Analyst | Nichole Devaney, Admin. Asst.

# Commission Members Absent

Christy Perry, Vice Chair, Representative | William Wellman, Defense Attorney

# Others Present

|  | Item | Responsible |
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| 1:00pm | Welcome and Call to Order: Chair Bolz called the meeting to order at 1:06pm  Darrell Bolz, Chair Yes  Shellee Daniels, Member Yes  Eric Fredericksen, Member Yes  Linda Trout, Member Yes  Chuck Winder, Member Yes  William Wellman, Member No  Christy Perry, Member No | Bolz |
| 1:05pm | Approval of Prior Meeting Minutes (3/22/17): Trout had a correction. Trout moved to approve with correction as noted. Fredericksen seconded and the member unanimously approved the motion.  Fredericksen motioned to adjust the order of the agenda to accommodate Trout’s need to leave early. Trout seconded and all members approved. | Bolz |
| 1:10pm | Budget / Financial Update: no significant changes the members reviewed the forms.   1. Personnel 2. Operating 3. Training/Scholarships 4. Trustee & Benefits. | Simmons |
| 1:15pm | Executive Director Report   1. Regional Coordinators Hiring Update: Four interviews remaining in CDA. No one stands out at this time but the Southeastern there are two outstanding applicants. The Central position will be the most difficult decision due to the quality of applicants. Should be able to hire all three at 62.5. Bolz asked if other applicants applied for other regions. ED Simmons shared there were some but none of the central applicants want to move out to other areas. 2. County Visits Update: Visiting North Idaho tomorrow. Meetings are scheduled with Kootenai Co., Idaho, Clearwater and Lewis county commissioners. Bolz asked if these are first time meetings with counties, ED Simmons responded that they are not first time meetings. No meetings have been scheduled with counties that had not been met with previously. They will go back out to the counties again in the summer. 3. Conferences/Seminars Attended: ED & DD attended Exec Leadership institute for those supervising attorneys and commissions. Very valuable information, effective. Criminal Justice Reform Conference, ED attended-Expectations were high but probably wouldn’t do it again. More informational about public defense reform. Grants was one area where she made a contact among a few others. DD shared she made good contacts with a great small group. One remaining, a psychiatric training directed towards those that provide training to public defenders. She has applied for a scholarship for housing. DD will attend supervisory training. ED Simmons shared that if there is a member that would like to attend a particular training they should let her know. | Simmons |
| 1:30pm | Letter of Recommendation for David Carroll for Grant Application: ED Simmons shared that a copy of letter was provided. Bolz shared that the second paragraph referenced only two counties with in house offices, he recommended changing. Fredericksen offered a language change. ED asked for any other changes. She then asked about assignment however the members agreed to leave that as is, due to the practice still occurring. Daniels shared that the letter was well and above anything the grant committee would be looking for. Fredericksen and ED Simmons offer a grammatical change. Trout moved to approve the draft letter with the changes discussed, Fredericksen seconded and the members approved the motion. ED Simmons asked whom should sign the letter, Bolz agreed to do so when the revisions were made. | Simmons |
| 1:45pm | Legislature Update   1. Meetings with Legislators: Bolz shared that he and ED Simmons discussed meeting with chairs and co-chairs of the some of the committees, he has sent out emails and received a few responses but not all. Lucker was asked if the PDC should provide information to the legislature on how issues will effect public defense. He agreed it should. 2. Possible Revisions/Additions to Statute: Adding county commissioners to have the eligibility to apply for ELF Grants. This will be a continued discussion as that information will need to be submitted soon and have to go through the governor’s office. | Simmons |
| 2:00pm | Indigent Defense Grants Update Thirty applications have been received   1. Non-Intent Form: Changed name and resembles a grant application. Not applying for a grant but commission needs information. 2019 should be the last time the commission request caseload information. Compliance if the largest question. She asked the members to review it in no rush. 2. IDG Audit Form 3. Grant Agreement Form: Should address and approve at the next meeting. She went over the form. Members can review; it will be added to the next big meeting agenda. Will have 60 days to respond to grant application this form would accompany that. | Simmons |
| 2:15pm | Workload Study Update   1. David Carroll and Bob Boruchowitz Review of Methodology: The members reviewed the proposal and contract for their participation. ED Simmons explained that ACLU made a request that the individuals participate in the Delphi panel. She received an email from David Carroll, he explained that the ACLU contacted him in regards to the Tucker law suit and wanted Mr. Carroll to participate in the study. She explained that Mr. Carroll and Mr. Boruchowitz would provide technical assistance to BSU and would protect the study. ED Simmons explained how the proposal increase may be needed for further participation. There is an option that BSU may pay for the additional participation but they has not been determined at this point. Trout asked if the study would go on as scheduled. She responded it would. Trout then asked well what if they do not like the methodology. ED Simmons responded that at this point there shouldn’t by any dispute. Trout shared that they could say that the study wasn’t broad enough, not enough attorneys or other items. Daniels agreed that it may be to late to add methodology review and the ACLU is dictating what occurs. Trout offered that technical assistance may be of benefit. Winder offered that technical assistance may be needed to help BSU as they have not done one previously. Fredericksen offered that with regard to fiscal responsibility it is best to do it correctly the first time. Trout asked about the memo would be due six weeks after the study is complete but that again will be to late if they are not in agreement with the processes. What happens if after it is done the finding is that things were not done correctly then the money has been wasted. Mr. Masser offered that the move from review to technical was to provide for some of these concerns and was changed to move from a critic to more of a real time sharing of concerns. Winder-paragraph B, tighten up, strengthen termination language to include lack of performance. He then asked what ED Simmons recommendation on the difference in cost. She responded that her thought was the commission could approve the 14K today but any additional monies could be approve at a later date. The scope of work has changed increasing the cost of the contract with the technical participation. Fredericksen suggested further defining technical assistance. ED Simmons offered that this issue maybe be tabled until the members have an opportunity for further discussion in which all participates could attend. Fredericksen agreed that was a good idea. A conference call was proposed for May 2nd at 3:00pm. Only item being technical assistance question. Bolz offered that any information obtain from IPI’s visit today be shared with all of the group. If any additional question then email staff to get those answers prior. Vanessa Fry joined the meeting. Winder asked Ms. Fry if IPI need technical assistance as this is the first study on public defense. Fry responded that it being a collaborative process is much more effective, especially if it make the study more viable for the commission. Winder asked if payment could be in the scope of IPI’s original contract. Fry responded that she is not sure how the fees are being charged, it was not something that was incorporated in the original contract. There are already additional expenses that are being incurred that were not considered originally. She would have to go back to see what could be included in the contract. Winder suggested that she go back and find out if there is room in the budget to do so. Fry explained that they had never considered outside consideration of their methodology but they are willing to work with others if that makes their data more palatable to the constituents. Winder shared that the concern is potential legal challenge and it is the commissions goal to provide the best study. Fredericksen asked what the collaboration effort would consist of. Fry responded that they have not had an in depth conversation as to how it would work. Fredericksen asked when they anticipated they may have a good idea of participation. Fry responded by next week. Fredericksen asked if review would be needed at this point. Fry responded that it would not be needed at this point as they are collecting as much information as possible now. Bolz asked what the minimum participation would be needed. Fry responded that 161 is the ideal number and at this point they were very close. Bolz asked if they don’t get that number what happens. Fry responded that would depend on whom is participating but if they are getting a good sample from across the state then the study can progress but if it is in only one region or office it is not effective. Winder asked about reminders in terms of getting information in. Fry responded that they are. ED Simmons shared the incentives that will be used to increase participation. Daniels asked if there had been any additional rejection in participating. Fry responded there hadn’t been. Daniels offered that she asked IAC to send something out that if you are not willing to participate then you cant complain about the result. Fry offered to provide the commission with areas that maybe under represented. Fredericksen shared that he would only be comfortable having something go out to all counties and not direct it to certain areas. Fry agreed that the anonymity part of it is the attorneys. Fry will provide an update as to participation. Trout asked what happens if at some point the team did not agree how is that resolved. Fry responded that it would be an odd request they are reasonable people and would have reasonable requests. ED Simmons shared she sees this as and insurance policy for the commission. It is her feeling that the caseload standards are going to be much lower than what the counties are anticipating and anything to strengthen the research is best. Fredericksen asked if Fry felt their participation was needed. She shared that the collaboration is valuable to insure the most accurate findings. ED Simmons and Fry discussed the change in compensation and how that played into the services they are providing. | Simmons |
| 2:30pm | PD Roster Attorney Conflicts: ED Simmons explained that there is a attorney who provides limited conflict services to a county however is a prosecutor in another. Should the PD Roster rules be amended to address this question. Fredericksen shared a brief from the Idaho State Bar, it stated that this is an ethical problem. Bolz offered that the commission may need to look at it on a case by case basis. Bolz asked if the capital defense roster had been transferred. ED Simmons responded it had not. ED Simmons shared that the staff will put some options together to address the issue. Bolz asked if IAC would be able to tell us how many prosecutors are doing the same thing. Daniels agreed to ask and find out what information they have available.  ED Simmons shared an email she received from contract public defender from Blaine County, regarding disbursement of grant funds to reimburse him for payment of his services he provided not appointed. Fredericksen shared that the Judge appoints the PD and that is where responsibility lies. He expressed that the attorney should have gone to the court and made the request for re-appointment. Bolz asked if the attorney could go back to the court to request payment based on his indigent status. Fredericksen stated that a motion for substitute counsel should have been filed. ED Simmons stated she will speak to me to express the grant funding could not be used for the civil portion. | Simmons |
| 2:45pm | Commission Member Appointments: ED Simmons shared that Wellman will not be reappointed for the next term. Alternate will be needed by July 1. Daniels, Bolz, Wellman and Fredericksen are all up for reappointment. ED Simmons asked if each member present would like to be reappointed. They all agreed. Bolz shared that the Commission could go with a consensus agenda to save time. | Bolz |
| 3:00pm | Compensation Plan, CEC Plan and Salaries: ED Simmons went over revisions to the plan. It has been reviewed by DHR and DFM. There is monies available to establish the increases. DHR recommended an addendum accompany the plan to reflect market comparisons. The addendum is nearly the same as the original memo. Bolz shared for clarification, JFAC looked at the budget and came up with a proposal to work out the increases. Fredericksen asked if fewer leason positions are being used then what was requested. Bolz shared that he did not believe so as with the work the commission is doing there is not necessarily necessary at this point. Any additional positions needed will need to be requested through the legislature. Establish relationships with the county working on budgets, grant applications, compliance suggestions and observation and contracts. Bolz suggested training on a local level. Bolz offered training of new defenders. Daniels asked if the plan falls with in the classification of the position. ED Simmons responded that yes they do fall within those pay ranges. Bolz stated that the Commission submits the plan to DFM and should include the performance evaluations. The plan is due by May 8th . Winder moved to approve the memorandum CEC Distribution Plan and the Addendum dated April 24th. Fredericksen seconded with the correction of his name on the letterhead. All four members voted and approve the motion. | Simmons |
| 3:15pm | ELF Application Update | Simmons |
| 3:30pm | Executive Session: Pursuant to Idaho Code 74-206, convene in executive session to consider personnel matters (Idaho Code 74-206(1)(b)(d). Trout moved to go into executive session, Winder seconded.  Purpose/Topic summary: Discuss Executive Director Simmons Evaluation  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  Chuck Winder, Member Yes  CONVENE AT: 1:45pm ADJOURN AT: 2:22pm | Commission |
| 3:45pm | Future Meetings -   1. Next Meeting: May 2nd at 3:00pm to discuss Workload Study. May 31st at 1:00pm 2. Next Meeting Location: PDC Office - 816 W. Bannock Street, Suite 201, Boise, ID 83702 | Commission |
| 4:00pm | Adjournment: Bolz adjourned the meeting at 4:01pm. | Bolz |

Attachments: 6AC/SUSL Proposal

Letter of Support - Idaho