Meeting Minutes

STATE PUBLIC DEFENSE COMMISSION

Date | time 6/22/2017 1:00 PM | *Location* PDC Office, 816 W. Bannock Street, Suite 201, Boise, ID 83702

 Meeting: June 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

Kimberly Simmons, Executive Director | Kelly Jennings, Deputy Director

Andrew Masser, Research Analyst | Nichole Devaney, Admin. Asst. | Brianne McCoy, Regional Coordinator

# Commission Members Absent

Christy Perry, Vice Chair, Representative

# Others Present

David Delyea, ACLU | Eulahia Kapari, ACLU | Hannah Drabinski, ACLU

|  | Item | Responsible |
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| 1:00pm | Welcome and Call to Order: Chair Bolz called the meeting to order at 1:01pmRoll CallReview of Attachments, if needed, by the Commission | Bolz |
| 1:30pm | **Consent Agenda***Items on the Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion on these items unless a Commissioner or citizen so requests, in which case the item will be removed from the Consent Agenda and placed on the Regular Agenda.* Winder moved to approve the consent agenda, Fredericksen seconded and all members voted unanimously to approve the agenda.  |  |
|  | Approval of Prior Meeting Minutes (5/31/17) | Bolz |
|  | Budget / Financial Update | Simmons |
|  | FY2019 Budget Request |  |
|  | FY2018 Strategic Plan |  |
|  | ELF Policy Update |  |
|  | **REGULAR AGENDA** |  |
| 1:45pm | Executive Director Report1. Budget Request: ED Simmons expressed that she would like to request additional monies in FY2019 for training to be used towards scholarships and trainings in general. Additionally she would like to request additional travel funding. Bolz asked if ELF Funding should be increased, ED Simmons responded due to the ability to use remaining Trustee & Benefits it may not be necessary at this time. Fredericksen asked what amount was anticipated for travel? ED Simmons responded it would be determined and provided at a later date.
2. County Visits Update / Negotiated Rule Making Meetings: ED Simmons shared that the meetings went well. Comments and ideas will be summarized and provided on the website when finalized as well as at the next meeting for the Commissions review. The meetings had great attendance; DD Jennings added that Commission is gaining a good amount of good well by providing these meetings. The counties are grateful for the opportunity. ED Simmons continued stating, they seem more engaged then the previous meetings. The regional coordinators have been very well received. The counties are enjoying the greater accessibility. Bolz offered that he had met with one of the candidates from the Canyon County PD’s office; whom was interested in the progression of the rules. Lastly, ED Simmons shared that Kootenai County has offered their Chief Public Defender position to Anne Taylor.
 | Simmons |
| 1:50pm | Deputy Director Report a. IAC Conference with the Regional Coordinators: DD Jennings shared that the hit of the event were the Hershey’s bars they provided at the PDC table they helped to gain exposure. She then gave a brief summary of the meeting. Some of the questions included questions as to how grant funds can be used; one question was if monies could be used for the prosecutor’s office. She was grateful for Mr. Chadwick’s and Comm. Daniels participation. Part of the presentation included what the PDC has been hearing from the Commissioners and that was appreciated. Sen. Lakey was present and took some time to speak to the RC’s. When he asked what their role was they explained exactly what the Interim Committee has envisioned. Daniels added that this is very new and new is difficult but if everyone is patient things will work out. Daniels then referred to the Resolution IACC had passed to have a statewide public defense system; ED Simmons asked how close the voting was. Daniels responded that it was difficult to tell. Wellman asked if there is any idea of how expenses have increased based on the new standards implemented. When he looks at the local shares, it does not appear so. ED Simmons responded that it does appear that cost are going up but it is difficult to tell due to the median calculation. It will be easier to tell once expenses for FY2017 are in. ED Simmons explained the Resolution will now go to IAC from the IACC subcommittee; and is expected to die in the next process. ED Simmons will present at the clerks meeting in August. Bolz asked what the Commissioner from Canyon County had offered during the meeting rules meeting. ED Simmons responded that she had not commented much during the meeting but was able to catch her after and have a brief discussion.  | Jennings |
| 2:00pm | Statutory Amendment: Proposed Addition of 2 Commission Members: ED Simmons is proposing the statue change to add two commission members, one being a representative from an institutional PD office and another member of IAC. The addition would help to provide a quorum when multiple members are unable to attend meetings. Bolz suggested she talk to the chair of the Judiciary Rules Committee. Fredericksen asked if she had spoken to the Governor’s office, ED Simmons responded that she had emailed Ms. Younger but had not received a response. Bolz responded that the Governor’s office approval would be needed. Trout commented that she liked the idea and Fredericksen concurred. Wellman moved that subject to the Governor’s approval, the statute be amended to gain two members. Winder seconded the motion and all members unanimously approved.  | Simmons |
| 2:15pm | ACLU Lawsuit: Updates and Timekeeping: There was little to update. Discovery information is progressing there are some questions but those have been passed along to the attorneys. | Simmons  |
| 2:30pm | Indigent Defense Grants – FY2018 Review1. Ada: ED Simmons provided a brief description of the office and how grant funds were used. Future funds will be used to hire more attorneys and a social worker for their office. Wellman asked how many attorneys would be hired. McCoy responded that 3 would be hired using grant funding and 3 from county funds. Fredericksen moved to approve Ada County for the full grant amount, Wellman seconded and all members unanimously agreed.
2. Bannock: Bannock’s application had been denied but they have reapplied. The PD’s office was not happy however, the denial allowed them to take the application back and gain two attorneys. The remaining funds will be used for the attorney’s salaries, training, computer equipment and a case management system. Wellman moved to approve the Bannock County’s revised application for the full grant allocation. Trout seconded and the members unanimously agreed.
3. Bear Lake: ED Simmons reviewed the application. Fredericksen asked what 2017 Funds had been used for; ED Simmons responded that she was unsure but could look it up. She stated that her recommendation is to gather more information and revisit the application when there is a better idea as to how funds are being used. Fredericksen moved to hold the application over pending additional information on use of funds. Trout seconded and all members unanimously approved the motion.
4. Benewah: Application was reviewed, intended use will be on software updates and evaluation costs. They will also need funds for the initial appearance piece. Fredericksen moved to approve Benewah County for the full grant amount, Wellman seconded and all members unanimously agreed. Masser asked for clarification on the evaluation issue, the members said yes as long it is used simply for evaluation.
5. Bingham: Bingham was tabled at the previous meeting. RC Ricks offered that the county is working toward being compliant and recommended approving the grant application. Wellman commented that caseloads are high for the four attorneys who also have private cases, ED Simmons agreed. Wellman moved to approve Bingham County for the full grant amount, Winder seconded and all members unanimously agreed to the motion. Bolz commented he was concerned about hiring a separate attorney for initial appearance and how that would affect vertical representation. ED Simons responded it would not.
6. Blaine: The application was reviewed. Bolz offered that future applications may need to ask if the funds are committed but not spent yet. DD Jennings commented that the funds could likely be used toward the initial appearance piece. Fredericksen moved that the application be tabled pending additional information on use of funds. Wellman seconded and all members unanimously approved the motion.
7. Boise: Application was reviewed, county is thinking of moving services in house. Wellman moved that the application be tabled until they provided more information on the in house office. Fredericksen seconded and the members unanimously agreed.
8. Butte: Application was reviewed. All 2017 funds have been used. Fredericksen moved to approve Butte County for the full grant amount, Wellman seconded and all members unanimously agreed to the motion.
9. Camas: Application was reviewed, much of the 2017 funding remains however they would like to provide an office for the contract attorney to use while he is in town. Wellman moved to approve Camas County for the full grant amount, Trout seconded. Fredericksen asked if it is appropriate to provide grant funds if previous funds have not been utilized. Wellman withdrew his motion, Winder moved to table the application until more information is received, Wellman seconded and all members unanimously agreed.
10. Canyon: Application was reviewed, funds will be used towards software integration with both Odyssey and the prosecutor’s office. ED Simmons recommendation is to use for additional attorneys. Fredericksen moved to approve Canyon County for the full grant amount, Trout seconded and all members unanimously agreed to the motion. Provided recommendation of additional attorneys is followed.
11. Caribou: Application was reviewed, talks are still progressing towards joining offices with Franklin. Fredericksen moved to approve Caribou County for the full grant amount, Wellman seconded and all members unanimously agreed to the motion.
12. Clark: Application was reviewed, 2017 funds will be used toward initial appearance. Fredericksen moved to approve Caribou County for the full grant amount, Wellman seconded and all members unanimously agreed to the motion.
13. Custer: Application was reviewed. DD Jennings shared that the county asked her to convey how grateful they were for the grant funds provided in 2017. It was used to create a separate attorney meeting space. Wellman moved to approve Custer County for the full grant amount, Trout seconded and all members unanimously agreed to the motion.
14. Franklin: Application was reviewed. All 2017 funds were used. Fredericksen moved to approve Franklin County for the full grant amount, Trout seconded and all members unanimously agreed to the motion.
15. Gooding : Application was reviewed, contract attorneys were brought in house however they are able to take outside cases. Not all 2017 funds have been utilized, the application does indicate that private space is being created. Wellman moved that the application be tabled until additional information can be provided on funding uses. Fredericksen seconded the motion and all members agreed.
16. Idaho: Application was reviewed; funds were used to build additional office space for defending attorneys, increased salaries and other PD related services. Fredericksen moved to approve Idaho County for the full grant amount, Trout seconded and all members unanimously agreed to the motion.
17. Jerome: Application reviewed; all funds were used but no plan was provided as to use of 2018 funds. Wellman moved to table the application pending additional information, Fredericksen seconded and all members unanimously agreed.
18. Latah: Application was reviewed; all funds were used to update computer equipment and space. A cost analysis has not been provided for use of 2018 funds. Trout moved to approve Latah County for the full grant amount, Fredericksen seconded and all members unanimously agreed to the motion.
19. Lemhi: Application was reviewed; not all 2017 funds used however, former contract attorney retired and new attorney is from Boise so travel will increase costs. Fredericksen abstained from the vote. Wellman moved to table the application pending additional information. All members unanimously approved the motion with the exception of Fredericksen whom abstained.
20. Lincoln: Application was reviewed; most of the 2017 funds were used but they just lost the PD contract attorney. Considering joining with another county as current contract is only temporary. Wellman commented that the use of funds does not provided for a betterment of indigent defense. Wellman moved to table the application pending further information. Trout seconded and all members approved the motion.
21. Madison: Application was reviewed; they have a plan to track cases with software. Caseload has increased. 2018 funds will be used to build office space for defender. One possible use is to install a camera in the meeting space however, it is not the position of the Commission that this is a good use of funds. Purchasing a computer and personal to track cases would be good uses. Fredericksen moved to approve Madison County for the full grant amount, with the recommendation that an additional attorney be added. Trout seconded and all members unanimously agreed to the motion.
22. Oneida: Reviewed application; 2017 grant funds will be fully utilized. Daniels offered that their caseloads are likely to be well over. They are considering hiring a law student and utilizing the debt forgiveness program to help ease some of that burden. Additionally they had intended on hiring a part-time administrative person but that did not occur. Wellman moved to approve Oneida County for the full grant amount to include the $25,000 merger incentive, Fredericksen seconded and all members unanimously agreed with the exception of Daniels who abstained.
23. Owyhee: Application was reviewed; 2017 funds will be utilized to increase salaries for contract attorney. Difficult for the county to meet the initial appearance requirements. Fredericksen moved to approve Owyhee County for the full grant amount, Winder seconded and all members unanimously agreed with the exception of Wellman who abstained.
24. Payette: Application was reviewed; they have not utilized 2017 funds they are hoping to use them toward video equipment and a case management system that will be compatible with Odyssey. Intended use for 2018 funding would be to get computer equipment and contract with a translator for clients. Winder requested that ED Simmons confirm video equipment will be used for initial appearance and no other reasons. Wellman confirmed that initial appearance is occurring. Winder moved to table the application pending more information on the use of funds both past and future. Wellman seconded and the members unanimously approved the motion.
25. Power: Application was reviewed. Fredericksen moved to approve Power County for the full grant amount in addition to the $25,000 merger incentive, Trout seconded and all members unanimously agreed to the motion.
26. Shoshone: Reviewed application; all funds were used toward services for a case however expenses related to the case were reimbursed through the ELF program thus all monies are remaining. 2018 funds will be used to meet the initial appearance standard, parody and investigation cost. Bolz asked if the plan would include the monies from 2017. RC Freudenthal responded that video equipment is running about $25,000 thus utilizing one year’s grant. Fredericksen moved to approve Shoshone County for the full grant amount, Trout seconded and all members unanimously agreed to the motion.
27. Teton: Application was reviewed; most of the 2017 funds were utilized. Initial appearance should not be an issue. Wellman moved to approve Teton County for the full grant amount, Fredericksen seconded and all members unanimously agreed to the motion. Winder commented better responses are needed for future application. Trout requested that a spreadsheet be created to indicate what was provided in previous grants and other items.
28. Valley: Application was reviewed; all 2017 funds utilized. Intend to use 2018 funds toward support staff and software. Fredericksen moved to approve Valley County for the full grant amount, Wellman seconded and all members unanimously agreed to the motion.
29. Washington: Application was reviewed; all 2017 grant funds utilized. Future funds will be used toward initial appearance and case management software. Contracts are now in place. Winder moved to approve Washington County for the full grant amount, Trout seconded and all members unanimously agreed to the motion.

ED Simmons gave a brief description of what information is included in the grant award letters as well as the denial letters requesting additional information.  | Simmons |
|  | Executive Session: Pursuant to Idaho Code 74-206, convene in executive session to Communicate with legal counsel regarding ACLU Lawsuit (Idaho Code 74-206(1)(f). An Executive Session was not needed.  | Commission |
|  | Future Meetings - 1. Next Meeting: July 19th at 1:00pm.
2. Next Meeting Location: PDC Office - 816 W. Bannock Street, Suite 201, Boise, ID 83702
 | Commission |
| 4:55pm | A Few Words from Andrew Masser : Wellman provided a few comments on his time while on the commission. ED Simmons shared that Paige Nolta has been selected to replace Mr. Wellman. With the commission’s, approval the Governor’s office will send out notification. Bolz offered thanks to Mr. Wellman for his service. Masser thanked the commission for the opportunity to have participated as well as everything he has learned. | Masser |
| 5:00pm | Adjournment: Meeting was adjourned at 3:20pm. | Bolz |

Attachments: Budget/Financial Update

 FY2019 Budget Request Draft

 FY2018 Strategic Plan Draft

 ELF Policy Update

 19-849 Proposed amendment to statute

 Custer County Attorney Room – photo

 Indigent Defense Grants – County Reports (*electronic only*)