

MEETING MINUTES

STATE PUBLIC DEFENSE COMMISSION

Date | time 4/11/2018 2:00 PM | *Location* Water Center Building, 322 E Front Street, Conference Room 602C, Boise

Meeting: April Commission Meeting

Commission Members

Darrell Bolz, Chair, Juvenile Justice Comm. | Eric Fredericksen, Vice Chair, SAPD | Linda Copple Trout, Representative of the Courts | Paige Nolta, Defense Attorney | Chuck Winder, Senator

Kimberly Simmons, Executive Director | Kelly Jennings, Deputy Director
Brianne McCoy, Regional Coordinator | Nichole Devaney, Admin. Asst.

Commission Members Absent

Christy Perry, Representative | Shellee Daniels, IAC Representative

Others Present

Mana Kennedy, ACLU of Idaho | Jared Hoskins, Legislative Services | Tony Geddes, Ada County Public Defender

Item	Responsible
2:00pm Welcome and Call to Order: Chair Bolz called the meeting to order at 2:04pm Review of Attachments, if needed, by the Commission	Bolz
2:10pm <u>CONSENT AGENDA</u> <i>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.</i> Approval of Prior Meeting Minutes (3/14/2018) Budget / Financial Update Trout moved to approve the consent agenda, Fredericksen seconded and all members present unanimously approved the agenda.	Bolz
<u>REGULAR AGENDA</u>	
2:20pm Executive Director Report a. Regional Coordinator Updates: The members reviewed the updates provided. Bolz asked about Mr. Archibald's letter, ED Simmons responded that judges had concerns rather than Mr. Archibald. Mr. Archibald's letter was in favor of the PDC. She was not familiar with the other folks listed in the letter but, she will follow up if the Commission would like. Chair Bolz asked if she would do so. ED Simmons shared that Bingham County has a concern with conflicts at initial appearances that could require the need to have two attorneys present at first appearances. ED Simmons told them that if that issue arose it was something they could apply for grant funding for. Bolz commented that the situation with Mr. Marler is valid with concern to his mileage. ED Simmons responded that the staff are aware of the issue and sympathetic to it however, Mr. Marler has not worked with Jared to provide a solution, which is something that should happen.	Simmons

- b. **Town Hall Meetings:** Presentation are lasting about an hour. ED Simmons encouraged the members to stay for the Boise meeting that followed the current meeting. She shared that attendance was small at the Caldwell meeting but it went well. All materials from the meetings is available on the PDC website should someone be interested.
- c. **Summer Intern/Volunteers:** ED Simmons has selected four law students to provide intern services over the summer. One of the individual will be the Commission's official extern the others will provide voluntary services. They will conduct research for the workload standard as well as other relevant topics. One of the students is available in the fall to continue helping with research.

Old Business:

Letter/Meeting with PD (excessive workload): Fredericksen, asked ED Simmons what she felt would be an appropriate follow up. ED Simmons suggested gathering more information about how cases are being handled such as investigation services. Bolz suggested looking at the counties grant applications to see if they deal with workload. Fredericksen stated that he would like to refrain from any voting that may take place so as not to cause conflict with his office. Winder asked if this issue was a topic of discussion from a previous meeting. Wondering how the commission became aware of the problem. ED Simmons responded that it was discovered through the annual reporting. It was suspected based on the number of counties Mr. Archibald provides services to. Winder asked if there has been any research done to see what the Commission's authority is on the mater. ED Simmons responded that the current standards address it generally requiring attorneys to be mindful of the caseload. Winder asked if there is knowledge that he is not providing effective counsel. Fredericksen stated that at the district level there was a finding of ineffective assistance of counsel on one of his cases. ED Simmons suggested working with him to develop a plan to help reduce the caseload. Travel is significant aspect due to the different county locations. Winder asked if there were any ethical issues as a result. ED Simmons responded that yes that could be a possibility. Winder commented that he had assisted with the bar on a prior occasion and these things sounded more ethical in nature. ED Simmons agreed that there is a question as to if the Commission should be handling these issues or the bar. She suggested that at this point the Commission should collect more information to try to determine what is occurring. ED Simmons stated that more investigation will be done and presented to the Commission for further discussion.

Letter to Teton re: best practices: The project has not been completed. She will address it at a later date, time has not permitted her to work on it.

Letter to counties re: *Tucker v. State of Idaho*: Counties are receiving subpoenas to produce information not necessarily related to public defense. Mr. Zanzig is working on the issue.

FY2019 Indigent Defense Grant Applications: Five applications have been received. ED Simmons has brought two application to have the members tell her what information they are interested in seeing in order to make a decision on the applications. One of the applications is very thorough and contains the information she anticipates is needed. The other is not necessarily complete in her opinion. Gem-Part A provides a good accounting of 2018 grant fund use. To include a list of what the remaining funds will be used for. Part B is accurately stated. Part C's language comes straight from the statute. #3, Plan to meet the standards- the idea would be for the RC's to compare the items against the standards. #5 provides for a good cost analysis with good detail. #6 address if the county is compliant with local share funds. Trout asked for assistance in reading Section 1. ED Simmons responded that the section indicates where their current PD funding comes from and provides an explanation for

each. Fredericksen offered that what he found useful is the caseload information, it provides information on what is going on in the county. He would like to see how many trials are occurring in a county. Bolz stated that hadn't Trout made some suggestions on a spreadsheet to be used that would contain the information they are interested in. Trout responded that she had but did not remember what those items were. She recalls something about bang for the buck to provide information on what counties are getting the most from their funds. ED Simmons will put together something and send it out to the members prior to the next meeting. Trout suggested that she would like to see: How much the county received, what they have used it toward and problems that they have identified.

The members reviewed the second application: ED Simmons stated that this county has a difficult dynamic in terms of public defense. The county thought that if they submitted their application prior to March 31st then they would not need to be in compliance. The application does not provide a detailed account of 2018 funding which makes less helpful. The first application submitted for the county was incomplete and thus is not being considered. The amended application provides a little more detail and will be considered as their application. However, it still does not provide the information necessary for the Commission to make a determination on grant funding in ED Simmons opinion. A cost analysis has not been provided to indicate how 2019 funds will be used beyond attorney compensation. Trout asked if any written sample have been provided of what is needed. ED Simmons responded that yes, although it may not be a detailed description of what the cost analysis should consist of. However, for this particular county RC Freudenthal will do a cost analysis for them. There was discussion as to different approaches on how to get counties on board to provide the necessary information. ED Simmons expressed that it has been a tough road to get counties to understand what is necessary for compliance. IAC seems to be in support of what is occurring within the PDC. She suggested that the members be mindful of the amounts that will be distributed to counties for those that may have excessive funds remaining. Trout commented that if the Commission does reduce distributions then doesn't that provide the counties with a way to return to prior practices because they did not receive funding. The members agreed that could be a possibility. Fredericksen stated that he appreciated the first application but the second was of concern. Bolz wondered what affect the ACLU's subpoenas to counties would have and if it would be helpful to the Commission in this regard. ED Simmons responded that yes it could but, she anticipates counties will question the commission as to where funding will come from to comply with the subpoenas.

ED Simmons Performance Evaluation: To be discussed in Executive Session

Bolz

Executive Session: Pursuant to Idaho Code 74-206, convene in executive session to consider the evaluation of a staff member, consider records that are exempt from disclosure or communicate with legal counsel (Idaho Code 74-206(1) (b, d or f)).

Commission

Trout moved that they go into executive session, Winder seconded

Purpose/Topic summary: Consider the evaluation of a staff member and records that are exempt from public disclosure.

AND THE VOTE TO DO SO BY ROLL CALL.

Christy Perry, Member	Absent
Eric Fredericksen, Vice Chair	Yes
Linda Trout, Member	Yes
Chuck Winder, Member	Yes
Paige Nolta, Member	Yes
Shellee Daniels, Member	Absent

Item	Responsible
Darrell Bolz, Chair Yes	
CONVENE AT: 3:16pm ADJOURN AT: 3:40pm Trout moved to deny the request for ELF Funding discussed. Fredericksen seconded and all members unanimously approved the motion.	
Future Meetings – May 8, 2018 at 1:00pm, PDC Office A possible location – Capital, West 17. Discussion on how often the Commission meets.	Commission
4:00pm Adjournment – Boise Town Hall Meeting to Follow: Bolz adjourned the meeting at 3:43.	Bolz

Attachments: Town Hall Meeting Schedule