

# MEETING MINUTES

## STATE PUBLIC DEFENSE COMMISSION

*Date | time* 5/5/2015 1:00 PM | *Location* LBJ Conference Rm B-35, Len B. Jordan Bldg., 650 W. State St.,  
Boise, ID 83702

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*Meeting* Commission Meeting

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### Commission members present

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Molly Huskey, Chair, District Judge | Darrell Bolz, Vice Chair, Juvenile Justice Comm. | Christy Perry, Representative | Sara Thomas, SAPD | William Wellman, Defense Attorney | Chuck Winder, Senator  
Ian Thomson, Exec. Dir. | Nichole Devaney, Admin. Asst.

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### Commission members absent

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Kimber Ricks, Madison Co. Comm.

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### Others present

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Marilyn Paul, Twin Falls

Jared Hoskins, LSO (arrived at 1:40pm)

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Item	Responsible
1. Welcome and Call to Order (1:11pm)	Huskey
2. Approval of Meeting Minutes (4/7/15) Mr. Bolz moved to adopt the previous meeting's minutes, with one correction ("legislature" instead of "legislation"); Mr. Wellman seconded the motion, and the vote to approve was unanimous.	
3. Executive Session: Change in Employee Compensation – FY 2016 There was a motion by Mr. Wellman to go into Executive Session, with a second by Mr. Bolz, in order to discuss a Change in Employee Compensation plan. Vote was unanimous, went into executive session at 1:15pm. The Commission returned to normal session at 1:32 pm. Chair Huskey made a motion that the Commission set a CEC Matrix for FY 2016 at a 2.25% increase for "Achieves Performance," a 2.5% increase for "Solid Performance," and a 3.5% for "Exemplary Performance." The motion was seconded by Mr. Wellman and unanimously adopted by the Commission. Ms. Thomas then moved that the CEC go into effect for staff only after a state probationary period be completed. In addition, for the Executive Director, she moved that any increase be in accordance with the original contract; in the absence of anything to the contrary, any increase would be effective June 7, 2015. Rep. Perry seconded the motion and it was adopted unanimously. Rep. Perry then moved to use the state evaluation system for the determination of all CECs. Sen. Winder seconded the motion and it was also adopted unanimously. Chair Huskey will revise the CEC Memorandum and send it to DFM tomorrow.	Huskey
4. Executive Director Report	Thomson
a. End of Fiscal Year Budget Update ED Thomson reported that for FY 2015 the Commission estimates year-end expenditures of \$47,724 (or 70.0%) of operating budget. With current projections he	

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estimates year-end expenditures out of Trustee/Benefit Payments to run approximately \$88,952 (or 80.9%) of budget. This is in-line with the Commission only operating on an 8- or 9-month year.

b. Training Session Report. Invitation to Commissioners to attend Caldwell Summit.

ED Thomson reported that the three PDC conferences are now planned and finalized. A Juvenile Conference is planned for Boise on May 29<sup>th</sup>. There are currently 22 attendees registered (all but the 7<sup>th</sup> Judicial District will be represented). The estimated cost is approximately \$8,500, or about \$404/attorney for 7 hours of CLE credit. The general public defender Summit is planned for June 4-5 in Caldwell. Commissioners are welcome to attend, and are invited to the banquet on Thursday evening. There are currently 139 registrants: 71 registrants are from the five-county Treasure Valley, and 68 are from out of town. Of the 139 public defenders, 80 are either contract or conflict defenders. The estimated cost is about \$55,200, or about \$397/attorney for 14 hours of CLE credit. The Capital Seminar is currently scheduled for June 12<sup>th</sup> in Coeur d'Alene and has approximately 25 registrants, although registration is still open through the rest of this week. The PDC is paying for the entire cost of the conference and attendees travel costs (including transportation, lodging and meals). The anticipated cost is approximately \$21,600 or about \$720/attorney for 7 hours of CLE credit.

There was some discussion about the content of the Summit banquet on Thursday evening. After discussion, Ms. Thomas made a motion, which Mr. Wellman seconded, to invite Justice Trout and/or Judge Wood to address the public defenders in attendance. In the alternative it was suggested to invite Carolyn Peterson and/or Sara Thomas as the chairs of the Juvenile and Idaho Criminal Justice Commissions to address the audience. That motion was unanimously approved.

c. NLADA Bound Reports

ED Thomson reports that NLADA standards are not currently available in print. Ms. Thomas suggested that he either attempt to reach the chief of the Defense Policy Group, or try to obtain permission to copy and print our own versions of the complete guidelines.

d. Meeting with Mini-Cassia Public Defense Executive Board

ED Thomson reported that he had recently met with members of the Minidoka-Cassia Public Defense Executive Board. The counties have been working together with a joint board overseeing the jails and misdemeanor probation since 1993, and the joint public defender board sprung out of that same effort in 2006. The board is not independent, as it is chaired by a county administrator, and its other members are a commissioner and clerk from each represented county. The joint office opened in 2006 with 4 full-time and 1 part-time attorney. They handled 1607 non-weighted cases (321 cases/attorney) in their first year. In 2014 they handled 2173 non-weighted cases (434 cases/attorney). That represents a caseload increase of 35.2% over eight years with no increase in attorneys or funding. There is no planned increase for the current year. There was discussion surrounding the unique relationship that Minidoka and Cassia Counties enjoy and whether that was replicable elsewhere in the state.

Ms. Thomas wanted to make clear that the PDC is not endorsing any specific type of indigent defense system, and does not believe that it behooves the Commission at this time to specifically encourage counties to engage in forming joint offices.

5. Discuss possible PDC presentation to contract attorneys at PDC Summit

Wellman

ED Thomson had approached Mr. Wellman about possibly presenting the model contract terms to the contract attorneys attending the PD Summit. This presentation would mirror what would be given to the County Commissioners the following week, but would

Item	Responsible
<p>address concerns that the contract attorneys might have. It was proposed that Chair Huskey and Mr. Wellman take an hour on Thursday at 11 am to present those ideas and obtain some feedback from them. The PDC would make those terms available to the contract attorneys, but only at the end of the presentation. It was agreed that this would be a good opportunity.</p>	
6. Model Contract Terms	Huskey, Wellman
<p>Ed Thomson will send out a digital version with the most recent revisions. All comments are due back to Chair Huskey by Friday, May 8<sup>th</sup>. She will then incorporate those terms and get them ready for distribution to Dan Chadwick, who will forward them to the County Commissioners. The aim is to get those off by the week of May 18<sup>th</sup>.</p>	
7. Finalize Commission Attendance, and plan PDC Presentation to I.A.C. in June.	Huskey, Wellman
<p>Mr. Wellman is currently scheduled to go, and Cmmsr. Ricks will also be there. Ms. Devaney will make travel arrangements. Chair Huskey won't know her availability until May 18<sup>th</sup> because of a scheduled trial. The presentation should include a general introduction of the PDC, and then a brief presentation of the model contract terms being offered.</p>	
<p>Those participating (Huskey, Wellman, Ricks, Thomson) will meet to discuss the actual presentation on the morning of Wednesday, June 3, at 8:30 am to 10:30 am, at the County Administration Building. Once an outline is put together, it could be forwarded to Dan Chadwick to see if that is what he thinks would be helpful.</p>	
8. I.A.C. Survey	Thomas
<p>Ms. Thomas explained her understanding that the Interim Committee was generally willing to accept that the state should have "skin in the game" when it comes to indigent defense. Her question was, what information does the Commission have that it can give to the Interim Committee along these lines? Ms. Thomas would like to approach the IAC about doing a study and survey, which would gather information to give to the Interim Committee. The survey could try to obtain:</p>	
<p>(1) Public Defender costs at the trial level. What has been the difference if they have moved from a flat fee to an hourly rate? Find out how they decided to address the situation.</p>	
<p>(2) In an attempt to take financial stress off the counties, in 1998, the charge of handling felony appeals was given to the state. However, the counties were left with misdemeanor appeals, juvenile appeals, termination of parental rights and CPA appeals. It should be relatively easy to find out how many appeals are being filed and what the cost to the county is for those appeals? Are these cases the SAPD could be handling?</p>	
<p>(3) Counties are inconsistent on how the defense funds experts and investigation. These expenses are sometimes included as part of the contract, are sometimes handled by a money judge, sometimes determined by the actual trial judge, and are sometimes part of a line-item in an institutional defender's budget. How do counties go about providing funds for investigation? Does it come from Justice Fund, General Fund or Court fund? There might be an opportunity for the PDC to make recommendations toward uniformity and consistency.</p>	
<p>Ms. Thomas' question is whether we should join with IAC to get that data. Chair Huskey notes that she believes in most counties regarding expert money and paying for investigators, Boards won't necessarily know. Ms. Thomas suggests the Commission create a survey and forward it to Mr. Chadwick. Ms. Thomas made a</p>	

Item	Responsible
<p>motion to work with the IAC on such a survey. Mr. Bolz seconded the motion, and it was adopted unanimously.</p>	
<p>9. Discuss David Carroll Training in June.</p>	Thomson
<p>ED Thomson has made tentative plans for Mr. Carroll to come to Boise and make a presentation to the Commission. After speaking with Mr. Carroll, they propose a 90-minute session focused on what is a Commission, and then a 120-minutes on public defense reform generally.</p>	
<p>Sen. Winder would like to know about what are other states doing. Rep. Perry suggests that maybe a lot of County Commissioners don't understand why change needs to happen. She suggests an invite to all members of Boards of Commissioners. She suggests that if travel is a problem, it could be set up as a webinar. A venue could be sought that would support a live broadcast. Ms. Thomas suggests WW17 or the House Judiciary &amp; Rules room. Potential invitees were discussed, and it was determined that the new members of the Interim Committee, along with the Speaker and the President Pro Tempore should be invited, along with County Commissioners (through Dan Chadwick), Administrative District Judges, prosecutors, and public defenders. It was also suggested that the general session be scheduled at 1:30pm, which would increase availability and access.</p>	
<p>10. Ms. Thomas brought up a recent presentation by Magistrate Cawthon on the work of the Pre-trial committee of ICJC. She notes that the results of their study of representation by counsel at initial arraignment have come back. She reported that most counties do not have a public defender present. She wanted the Commission to be aware of those results, and she underscored that the Pre-trial committee is now looking at this issue and considering what can be done about it.</p>	
<p>11. Next Meeting: June 2, 2015, 1 pm Next Meeting Location: Idaho Capitol Building</p>	
<p>12. Adjournment. Ms. Thomas made a motion to adjourn. Mr. Wellman seconded the motion, and the Commission adjourned at 4:05pm.</p>	Huskey

Attachments: