
MINUTES

Idaho State Public Defense Commission Meeting

Attendance via Zoom meeting was encouraged

Masks and social distancing were encouraged at meeting site

Public Defense Commission Conference Room

816 W. Bannock Street, Boise, Idaho 83702

December 14, 2023 at 10:00 am

Commission Members Present (via Zoom): Darrell Bolz, Chair, Ben Andersen, Angie Barkell, Erik Lehtinen, Linda Trout, Melissa Wintrow

Commission Members Absent: Dave Cannon, Dan Dinning

PDC Staff Members Present at Meeting Site: Kathleen Elliott, Mark LaSalle

PDC Staff Members Present (via Zoom): Jennifer Cichocki, Jared Ricks, Jennifer Roark, Brady King

SPD Staff Members Present (via Zoom): Eric Fredericksen, Brady King

Members of the Public Present at Meeting Site: None

Members of the Public Present (via Zoom): Special Deputy Attorney General Joe Aldridge, Scanlan Griffiths & Aldridge

Welcome and Call to Order – Chair Bolz

The meeting was called to order 10:08 am

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 so requests, in which case the item will be removed from the Consent Agenda and placed on the regular agenda.)

FY2024 Actual and Budget Report November

Approval of October 19, 2023 Meeting Minutes

Justice Trout moved to approve the Consent Agenda. Commissioner Barkell seconded.

And the roll call vote to do so was as follows:

Ben Andersen, Member	Yes
Angie Barkell, Member	Yes
David Cannon, Member	Absent
Dan Dinning, Member	Absent
Erik Lehtinen, Member	Yes
Linda Trout, Member	Yes
Melissa Wintrow, Member	Yes
Darrell Bolz, Chair	Yes

The motion carried.

Executive Director Report:

Kathleen Elliott introduced the new PDC Policy and Compliance Counsel Brady King. Ms. Elliott explained that Ms. King is working 75% time for the PDC and 25% time as general counsel for the SPD.

Ms. Elliott reported that Defending Attorney Annual Reports (DAARs) were due on November 1, 2023. Although there are still some reports outstanding, the rate of return has been remarkably fast this year. She also reported that Expenditure Reports were sent out to the counties and are due on January 2, 2024. Counties have already started returning them.

Justice Trout inquired about the changing role of the PDC in the upcoming months during the transition to the SPD. Ms. Elliott explained that the counties will continue to manage the public defenders through October 2024. There will be a three-month period from July 2024 to October 2024 after the PDC ceases to exist during which time the counties will not have oversight or PDC support. Ms. Elliott explained that the PDC will help counties prepare for this transition. Ms. Elliott stated that the PDC will continue to work to improve public defense throughout the state for the remaining nine months. Ms. Elliott also noted that PDC is continuing to develop a process for archiving the state agency, a process for which there is little precedent in Idaho.

Joint Regional Coordinator Report:

Ms. Roark said she did not have additional information to add to the Regional Coordinators' written report.

State Public Defender Report:

Mr. Frederickson thanked Ms. Elliott and PDC staff for their assistance with the transition. He stated that the RFP process for a case management system (CMS) is almost completed. He hopes to address the final issues in the next few days and expects the contract to be executed soon. The RFP process for obtaining a permanent building for the SPD has already begun.

Mr. Frederickson reported that he has been meeting with individual staff members at the PDC to discuss their transition to the SPD. Next week, Mr. Frederickson is traveling to eastern Idaho to meet with local defenders to discuss the path forward.

Commissioner Lehtinen asked about the timeline for the CMS and whether the January 1, 2024 deadline can still be met. Mr. Frederickson said that he believes it can be met as long as the contract is completed in the next few days. Commissioner Lehtinen also asked about how accrued leave would be handled as the county public defense offices transition to the SPD and whether legislative action may be needed. Mr. Frederickson explained that each county has its own accrual rate and leave policies and that some of these are more generous than the state and some are not as generous. He said he believes that there likely does need to be a legislative solution to address how this accrued leave will be counted by the SPD.

Commissioner Anderson asked about child protection cases which are currently handled by the county public defenders. Mr. Frederickson said that he is meeting with the governor’s office and court administrator next week to address the issue. Commissioner Anderson also asked whether each district office under the SPD would be separate for the purposes of determining conflicts. Mr. Frederickson said that the CMS would track conflicts and wall off offices from each other. Commissioner Anderson also asked about whether contracts with vendors like Westlaw and necessary software companies had been completed. Mr. Frederickson said that the process is part of the contract with ITS and that it is ongoing. Commissioner Anderson also asked about the office structure of the SPD and what titles and positions there would be in each region. Mr. Frederickson said that the exact titles had not been determined but he said the focus will remain on local control. Commissioner Anderson also asked when the regional directors will be selected. Mr. Frederickson explained that the magistrate commission is charged with selecting the defender for each district and that they should be selected by July 1, 2024.

Chair Bolz asked about the CMS and what the response has been from the defending attorneys. Mr. Frederickson said that there is some concern about tracking time among the public defenders. However, Mr. Frederickson explained that you cannot obtain the data you need to address the needs of the agency without time tracking. He stated that the State Appellate Public Defenders have always tracked their time and it is necessary for obtaining data and funding.

Senator Wintrow expressed her support for Mr. Frederickson meeting with the governor’s office to address child protection cases, the need for counsel in those cases and how that should be handled moving forward.

Executive Session:

Justice Trout moved to convene in executive session under Idaho Code 74-206(1)(d) to discuss records exempt from disclosure under Idaho Code 74-105(18)(a), and under Idaho Code 74-206(1)(f) to communicate with legal counsel about pending litigation. Commissioner Lehtinen seconded.

And the roll call vote to do so was as follows:

Ben Andersen, Member	Yes
Angie Barkell, Member	Yes
David Cannon, Member	Absent
Dan Dinning, Member	Absent
Linda Trout, Member	Yes
Melissa Wintrow, Member	Yes
Erik Lehtinen, Vice Chair	Yes

Chair Bolz, Chair Yes

The motion carried.

The Commission went into executive session at 10:29am.

Special Deputy Attorney General Joe Aldridge, Scanlan Griffiths & Aldridge was present.

Chair Bolz called the meeting back to order at 10:53 am.

Final Action or Decision on Items Considered During Executive Session:

Justice Trout moved to approve applicant #53 as lead counsel for appeals and post-conviction conditioned on the applicant becoming a member of the Idaho State Bar or obtaining pro hac vice admission to the Idaho State Bar. Commissioner Lehtinen seconded the motion.

And the roll call vote to do so was as follows:

Ben Andersen, Member	Yes
Angie Barkell, Member	Yes
David Cannon, Member	Absent
Dan Dinning, Member	Absent
Linda Trout, Member	Yes
Melissa Wintrow, Member	Yes
Erik Lehtinen, Vice Chair	Yes
Darrell Bolz, Chair	Yes

The motion carried.

Justice Trout moved to approve applicant # 57 as co-counsel for capital trials but to deny applicant #57 as lead counsel for capital trials due to lack of prior capital experience including capital mitigation experience. Commissioner Lehtinen seconded the motion.

And the roll call vote to do so was as follows:

Ben Andersen, Member	Abstained
Angie Barkell, Member	Yes
David Cannon, Member	Absent
Dan Dinning, Member	Absent
Linda Trout, Member	Yes
Melissa Wintrow, Member	Yes
Erik Lehtinen, Vice Chair	Yes
Darrell Bolz, Chair	Yes

The motion carried.

Justice moved to approve applicant # 58's application as lead counsel for capital trials under the alternate requirements. Commissioner Lehtinen seconded the motion.

And the roll call vote to do so was as follows:

Ben Andersen, Member	Yes
Angie Barkell, Member	Yes
David Cannon, Member	Absent
Dan Dinning, Member	Absent
Linda Trout, Member	Yes
Melissa Wintrow, Member	Yes
Erik Lehtinen, Vice Chair	Yes
Darrell Bolz, Chair	Yes

The motion carried.

Justice Trout moved to approve applicant #59 as co-counsel for capital trials. Commissioner Lehtinen seconded the motion.

And the roll call vote to do so was as follows:

Ben Andersen, Member	Yes
Angie Barkell, Member	Yes
David Cannon, Member	Absent
Dan Dinning, Member	Absent
Linda Trout, Member	Yes
Melissa Wintrow, Member	Yes
Erik Lehtinen, Vice Chair	Yes
Darrell Bolz, Chair	Yes

The motion carried.

Justice Trout moved to approve applicant # 60's continuing eligibility as co-counsel for capital trials. Committee member Lehtinen seconded the motion.

And the roll call vote to do so was as follows:

Ben Andersen, Member	Yes
Angie Barkell, Member	Yes
David Cannon, Member	Absent
Dan Dinning, Member	Absent
Linda Trout, Member	Yes
Melissa Wintrow, Member	Yes
Erik Lehtinen, Vice Chair	Yes
Darrell Bolz, Chair	Yes

The motion carried.

Future Meeting Dates:

January 18, 2024 at 1:00 pm MT

February 22, 2024 at 10:00 am MT

March 21, 2024 at 10:00 am MT

Chair Bolz adjourned the meeting at 11:05 am

Minutes approved by the Commission on January 18, 2024.

A handwritten signature in cursive script that reads "Kathleen J. Elliott". The signature is written in black ink and is positioned above a horizontal line.

Kathleen J. Elliott, Executive Director