
MINUTES

Idaho State Public Defense Commission Special 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

June 30, 2022 at 10:00 am

Commission Members Present (via Zoom):

Darrell Bolz, Chair, Angie Barkell, Dan Dinning, Linda Copple Trout, Sean Walsh, Jim Woodward

Commission Members Absent: Eric Fredericksen, Vice Chair, David Cannon

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

PDC Staff Members Present (via Zoom):

Jennifer Cichocki, Jennifer Roark, Jared Ricks, Tammy Zokan

Members of the Public Present (via Zoom): Jen Jenquine, Julie Hart, Kellie Brassfield, Kelley Packer, Anne Taylor

Welcome and Call to Order – Chair Bolz

The meeting was called to order at 10:04 am

Approval of the June 15, 2022 Meeting Minutes:

Commissioner Trout moved to approve the June 15, 2022 meeting minutes. Commissioner Dinning seconded.

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

Angie Barkell, Member	Yes
David Cannon, Member	Absent
Dan Dinning, Member	Yes
Linda Trout, Member	Yes
Sean Walsh, Member	Yes
Jim Woodward, Member	Yes
Eric Fredericksen, Vice Chair	Absent
Darrell Bolz, Chair	Yes

The motion carried.

Strategic Plan:

Ms. Elliott reported the Strategic Plan looks different this year because of the new legislation, H0735a. She said the Plan would normally extend to FY2026 but because of the new public defense system starting on October 1, 2024 pursuant to the legislation, the Strategic Plan ends September 30, 2024. She noted the first objective regarding the PDC assisting in the transition to a new public defense system. Ms. Elliott reported she consulted with the Governor's Office about the Strategic Plan.

Commissioner Trout asked if the Plan should include reference to the PDC's work with counties to secure capital counsel. She also asked about referencing the PDC's work with the judiciary. She said she recognized the references to the data collection work with the courts and asked about fleshing out the other things the PDC is doing. She said she understands the October 2024 sunset but wonders if the Commission should call out additional things it does. She said she would not oppose a motion to approve the Strategic Plan in its present form.

Commissioner Dinning asked if the Strategic Plan can be amended.

Chair Bolz said it can.

Commissioner Trout moved to approve the Strategic Plan as presented. Commissioner Dinning seconded.

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

Angie Barkell, Member	Yes
David Cannon, Member	Absent
Dan Dinning, Member	Yes
Linda Trout, Member	Yes
Sean Walsh, Member	Yes
Jim Woodward, Member	Yes
Eric Fredericksen, Vice Chair	Absent
Darrell Bolz, Chair	Yes

The motion carried.

Capital Counsel Review and Recommendation Committee:

Ms. Elliott reported that attorney Bruce Livingston, a recent retiree of the Federal Defender Services of Idaho's Capital Habeas Unit has agreed to serve on the Capital Counsel Review and Recommendation Committee. She said Mr. Livingston is an expert in capital cases and should have limited conflicts serving on the Committee because he has no active cases in Idaho.

Ms. Zokan referred to the Commission's reappointment of the Capital Counsel Review and Recommendation Committee last year to June 30, 2022 and requested the Commission reappoint the Commission until June 30, 2023. She said the recommendation is that the Commission reappoint each member of the Capital Counsel Review and Recommendation Committee so long as that member agrees

to continue to serve on the Committee, and that the Committee continue to provide recommendations to the Commission through June 30, 2023.

Commissioner Trout said as a member of the Capital Counsel Review and Recommendation Committee, she is going to abstain from voting on the two Committee action items.

Commissioner Dinning moved to reappoint each member of the Capital Counsel Review and Recommendation Committee so long as that member agrees to continue to serve on the Committee, and that the Committee continue to provide recommendations to the Commission through June 30, 2023. Commissioner Walsh seconded.

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

Angie Barkell, Member	Yes
David Cannon, Member	Absent
Dan Dinning, Member	Yes
Linda Trout, Member	Abstain
Sean Walsh, Member	Yes
Jim Woodward, Member	Yes
Eric Fredericksen, Vice Chair	Absent
Darrell Bolz, Chair	Yes

The motion carried.

Commissioner Dinning moved to appoint Bruce Livingston to the Capital Counsel Review and Recommendation Committee. Commissioner Walsh seconded.

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

Angie Barkell, Member	Yes
David Cannon, Member	Absent
Dan Dinning, Member	Yes
Linda Trout, Member	Abstain
Sean Walsh, Member	Yes
Jim Woodward, Member	Yes
Eric Fredericksen, Vice Chair	Absent
Darrell Bolz, Chair	Yes

The motion carried.

Report to Tax Commission:

Chair Bolz referred to the indigent expenditure information provided to the Commission in relation to the Commission's report to the State Tax Commission pursuant to the new legislation, H0735a.

Ms. Elliott referenced the FY 2021 County Indigent Defense Expenditures table provided to the Commission for review and noted some corrections. She reported that the table is the result of

intensive work by PDC staff and Eide Bailly. She described the following corrections: Butte County's total county indigent defense expenditures FY 2021 (Part A) should read \$58,420.29 with review adjustment of (\$3,203.77); total county formula financial assistance expenditures of \$32,500.00 and no review adjustment (Part B); \$23,000.00 for total county workload compliance assistance expenditures FY 2021 and no review adjustments (Part C); total county expenditures less grants and adjustments of \$0 and 0.00% allocation percentage. She said PDC staff will send the Commission the table with these corrections. She said that the amounts in the first column after the county's name are what each county reported to the PDC. She said the amounts in column three are adjustments for items that should not have been included as indigent defense expenditures. She gave the examples of district court fund costs and items that are not indigent defense costs. She said the part B adjustments reflect costs that PDC formula financial assistance was used for and should not have been. She gave the example of costs that should have been paid from county funds and not PDC funds. She said the part C adjustments reflect costs that PDC workload compliance assistance was used for that were not authorized workload expenses. The referenced adjustments are based on Eide Bailly's findings. She said the last two columns contain the total county indigent defense expenditures minus state funding and adjustments and the allocation for the Tax Commission. Ms. Elliott reported Eide Bailly's findings were sent to the Commission this morning. She said if the FY 2021 County Indigent Defense Expenditures table with the noted corrections is approved by the Commission, she anticipates sending a letter from Chair Bolz regarding the review and allocation along with the table and accountant's report to the Idaho State Tax Commission

Chair Bolz asked if the entries for Butte County should remain \$0.

Ms. Elliott said yes. She noted the actual amount was a negative number but using a negative amount was not appropriate.

Commissioner Dinning asked if counties have been made aware of the adjustments.

Ms. Elliott said the table and report have not been shared with the counties but the PDC and Eide Bailly have worked with all counties in preparing this information.

Commissioner Dinning said it is better to be informed in advance rather than later.

Ms. Elliott said the PDC and Eide Bailly actively engaged with the counties to prepare the table information. She also noted the very quick turnaround needed to meet the legislation's deadline. She said PDC staff and Eide Bailly have been working day and night to get the information for the Tax Commission.

Commissioner Dinning asked if the court orders an evaluation in an indigent case, who pays for the evaluation.

Ms. Elliott said the court ordered evaluation is paid from the district court fund.

Commissioner Trout asked about the first column after the county's name and if the amount includes county funds plus PDC financial assistance.

Ms. Elliott said it does.

Commissioner Trout asked if the amount includes PDC financial assistance that has not been spent.

Ms. Elliott said the counties reported what they have spent.

Commissioner Trout asked if the letter to the Tax Commission will make clear that the PDC is not vouching for the information, that it is county information provided by the counties to the PDC and the PDC is simply obligated by statute to get information from counties and give it to the Tax Commission.

Ms. Elliott said the letter will specify that the information provided to the Tax Commission is based on information submitted by the counties.

Chair Bolz noted that in looking at the table it is interesting that three counties constitute 55% of all indigent defense expenditures in the state.

Commissioner Trout moved to approve the submission of the FY 2021 County Indigent Defense Expenditures table with the referenced corrections along with the referenced letter to the State Tax Commission as the PDC's report of each county's indigent defense expenses in county fiscal year FY2021 to the State Tax Commission pursuant to H0735. Commissioner Walsh seconded.

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

Angie Barkell, Member	Yes
David Cannon, Member	Absent
Dan Dinning, Member	Yes
Linda Trout, Member	Yes
Sean Walsh, Member	Yes
Jim Woodward, Member	Yes
Eric Fredericksen, Vice Chair	Absent
Darrell Bolz, Chair	Yes

The motion carried.

Executive Session:

Commissioner Trout moved to pursuant to Idaho Code 74-206, convene in executive session under Idaho Code 74-206(1)(d) to discuss records exempt from disclosure under Idaho Code 74-105(18)(a). Commissioner Dinning seconded.

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

Angie Barkell, Member	Yes
David Cannon, Member	Absent

Dan Dinning, Member	Yes
Linda Trout, Member	Yes
Sean Walsh, Member	Yes
Jim Woodward, Member	Yes
Eric Fredericksen, Vice Chair	Absent
Darrell Bolz, Chair	Yes

The motion carried.

The Commission went into executive session at 10:31 am

Chair Bolz called the meeting back to order at 10:39 am.

Final Action or Decision on Items Considered During Executive Session:

Commissioner Walsh moved to adopt the recommendation of the Capital Counsel Review and Recommendation Committee to approve applicant #29 as co-counsel for capital trials. Commissioner Trout seconded.

Angie Barkell, Member	Yes
David Cannon, Member	Absent
Dan Dinning, Member	Yes
Linda Trout, Member	Yes
Sean Walsh, Member	Yes
Jim Woodward, Member	Yes
Eric Fredericksen, Vice Chair	Absent
Darrell Bolz, Chair	Yes

The motion carried.

Commissioner Walsh moved to adopt the recommendation of the Capital Counsel Review and Recommendation Committee to approve applicant #30's continued eligibility as co-counsel for capital trials when their current term ends. Commissioner Trout seconded.

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

Angie Barkell, Member	Yes
David Cannon, Member	Absent
Dan Dinning, Member	Yes
Linda Trout, Member	Yes
Sean Walsh, Member	Yes
Jim Woodward, Member	Yes
Eric Fredericksen, Vice Chair	Absent
Darrell Bolz, Chair	Yes

The motion carried.

Chair Bolz reported that the Executive Director notified the Commission of the emergency removal of an attorney from the Defending Attorney Roster because their Idaho State Bar license was suspended.

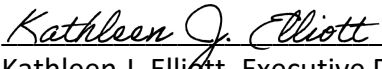
Future Meeting Dates:

Next regular meeting: July 20, 2022 10:00 am

Adjournment – Chair Bolz:

Chair Bolz adjourned the meeting at 10:42.

Minutes approved by the Commission on August 4, 2022


Kathleen J. Elliott, Executive Director