



Commission on Improving the Status of Children in Indiana

Recommendation to the Commission

Party Submitting Recommendation: Indiana Public Defender Council

Date of Submission: 2/12/2019

Type of Action Requested:

Legislation Policy Resolution of Support or Endorsement Public Promotion

Other: _____

Which of the Commission's Strategic Priorities does this Recommendation help advance:

Child Safety and services Juvenile Justice and Cross-system Youth
 Mental Health and Substance Abuse Educational Outcomes

Summary of Recommendation:

The Commission on Improving the Status of Children supports the Indiana Public Defender Council's proposal to sustain a state level juvenile defense office. The Commission on Improving the Status of Children recognizes juvenile defense is a specialty area of law that deserves special attention and supports the proposal to benefit Indiana by having well trained and supported trial and appellate lawyers to represent children involved in delinquency and dual status cases.

Background of Recommendation:

In 2015, Indiana was one of four states awarded a one-year planning grant by the Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) to assist in development of state plans for effective systems of juvenile defense to assure every youth in the juvenile justice system has access to quality legal representation. In 2016, Indiana was one of only two states awarded a two-year follow up grant, providing federal funds to assist in the implementation of the state plan. The federal grant ends this year, and IPDC is now requesting state funding to continue this important work.

What is the need or problem?

Juvenile Defense Attorneys need training and support: In 2017, 17,425 delinquency petitions were filed in the state of Indiana. [Indiana Courts Online Reports; <https://public.courts.in.gov/icor/>] The vast majority of juveniles who are represented in court are represented by public defenders. Prior to the Juvenile Defense Project, these attorneys lacked available juvenile specific training and lacked a state level entity that could provide expertise and technical assistance with juvenile delinquency cases and issues. Because of the nature of public defenders contracts in Indiana, in most counties this was simply a void that was not being filled.

Kids are still not getting lawyers in some areas of the state: IPDC's Juvenile Defense Project collaborated with the Indiana Public Defender Commission to review data from the Office of Judicial Administration and the Public Defender Commission regarding the rate of public defender appointments for juvenile cases. Overall rates of public defender appointment on juvenile delinquency cases were relatively consistent around 70%. However, many individual counties, according to the data sources, had representation rates far below this. This data was presented to the Juvenile Justice Improvement Committee, and that group requested the Juvenile Defense Project follow up with individual counties where the rate of appointment of counsel appeared to be lowest. This follow up revealed both that the data was not correct in some counties, but also that some courts are not following Crim Rule 25 and other courts interpret the rule to allow youth to represent themselves at a detention hearing or to admit to criminal type charges without having met with an attorney and allow oral waiver of counsel without an attorney present.

Improved post-disposition representation is needed: For those youth who are not appointed counsel, the project can provide a needed safety net. Since the Juvenile Defense Project's inception, Project attorneys have met with at least 10 youth who were committed to the Department of Correction without having been appointed counsel when required and were able to connect those youth with attorneys. In a few cases, our work has allowed youth to return to the community early from the Indiana Department of Correction because the State conceded that their due process rights had been violated, resulting in a tax-payer cost savings of approximately \$265 per day for each child—potentially for several months. Also through the Juvenile Defense Project's work, appellate representation of youth has increased, and as a result, multiple Court of Appeals and Supreme Court decisions have provided needed guidance to improve our juvenile laws. Recognizing juvenile defense is a specialty area of law, if the legislature enacts a statewide appellate office, it should include a juvenile division which would work collaboratively with the Juvenile Defense Project's efforts.

What is the current response to the problem by the State of Indiana?

Indiana responded by seeking and being awarded federal grant dollars to develop a statewide plan to improve our juvenile defense system. Through this Juvenile Defense Project, free regional juvenile specific trainings are made available to all juvenile public defenders in Indiana. The Project has provided 21 regional trainings in 18 different counties on topics such as Adolescent Development, Disposition Advocacy, and Detention Advocacy. We start a new series on Representing Youth in Waiver to Adult Court Hearings in February and March, 2019. To date, attorneys from 63 counties have participated in one or more of these trainings. The Juvenile Defense Project allows juvenile attorneys across the state to have access to technical assistance in delinquency cases, waiver hearings and juvenile appeals. Through the Project, resources and technical assistance are being made available to Indiana youth and families. Close to 1,000 youth entering the Indiana Department of Correction have received orientation on their legal rights, and over 120 youth have been referred to attorneys for appeals and other legal assistance.

What is the recommender proposing, and how will it help solve the problem?

IPDC is seeking a modest amount of state funding which will sustain critical public defense improvement.

What data, research or other information did the recommender consult to formulate this proposal?

Data regarding appointment of counsel is based upon data from the Public Defender Commission and Indiana Courts Online Reports (ICOR) as well as on site visits and interviews in several counties. Data regarding the training, technical assistance, and youth referrals was gathered by the Project and is reported to the OJJDP in semi-annual grant reports. Training needs information was gathered during the one-year planning phase of the grant through surveys and in two statewide stakeholder meetings and continues to be gathered through surveys and input in the free regional trainings the Project provides. Training needs are also based on national juvenile defense standards and training programs developed by the National Juvenile Defender Center.

If a legislative request, cite the current relevant code and specify what change is being recommended.

n/a

If a policy request, cite the current relevant policy and specify what change is being recommended.

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n/a

If the recommendation involves an endorsement or public promotion of a specific initiative or statement, attach the document of which you are seeking the Commission's support/endorsement/promotion.

IPDC's actual funding request is attached.



STATE OF INDIANA

INDIANA PUBLIC DEFENDER COUNCIL

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INDIANA PUBLIC DEFENDER COUNCIL BUDGET PRIORITIES

IPDC Operations: The Council requests a 3.3% increase over its 2018 personal services budget in order to continue its operations with its current staff.

	<u>2018:</u>	<u>Plus 3.3%</u>	<u>2019 minimum request:</u>
Personal Services:	\$1,165,598	\$38,465	\$1,204,063
Other Operating:	\$218,974		\$218,974
Subtotal w/o Juvenile Project:	\$1,384,572		\$1,423,037

Juvenile Project:

Every year thousands of youth in Indiana are involved in the juvenile justice system. In 2017, 17,425 delinquency cases were filed. There are far reaching consequences to being found a delinquent youth which can impact housing, education, employment, and eligibility for military service. Indiana's indigent defense system must be prepared to adequately meet the needs of these youth. Despite the right to counsel, some youth are still left to navigate the delinquency system without attorney representation. Well trained, qualified juvenile public defenders can provide benefits to both the community through cost savings and better outcomes and opportunities for youth.

Due to Indiana's need to address failings in appointing attorneys for youth and to address quality of appointed counsel¹, Indiana has qualified for and received federal grant dollars since 2015. The grant provided resources to the Indiana Public Defender Council (IPDC) to assess the state's delivery system for juvenile defense and to propose and implement ways to improve upon appointment of counsel, and quality of representation for youth in the delinquency system. IPDC has received in total \$948,180.00 in federal grant dollars. Funds from the grant will be exhausted in 2019. Chief Justice Rush, in support of this project, transferred \$140,000 to serve as bridge funding in anticipation of appropriated state funding.

The critical work of the Juvenile Project needs state funding to continue. With an appropriation of \$286,390 annually to IPDC², the project can be continued in a fiscally responsible, lean and effective manner.

	IPDC 2019 request:
Subtotal w/o Juvenile Project:	\$1,423,037
Juvenile Project:	\$268,390
Total Request w/ Juvenile Project:	\$1,709,527
Current 2019 HB 1001 (annual):	\$1,551,693
Additional amount needed (annual):	\$157,834

¹ In 2006, the National Juvenile Defender Center and the Central Juvenile Defender Center released their assessment of Indiana's juvenile justice system entitled *Indiana: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings*. There were numerous systemic deficiencies beyond appointment of counsel and the quality of that counsel.

² The \$286,390 above the amount appropriated in HB 1001. See page 2 of this handout for details.

IPDC BASIC BUDGET REQUEST DETAILS:

	Governor's Budget Introduced 2019 HB 1001		As Passed 2017 HEA 1001		2018 IPDC actual (annual)	3.3% increase for pers svcs (annual)
	2019-2020	2020-2021	2017-2018	2018-2019		
IPDC Personal Svcs	1,214,900	1,214,900	1,117,329	977,329	1,165,598	38,465
IPDC Other Operating	336,793	336,793	407,243	407,243	218,974	
Total:	1,551,693	1,551,693	1,524,572	1,384,572	1,384,572	
					IPDC Base Budget Total:	1,423,037
			NOTE: 2017-2018 temporarily higher for incoming executive director transition; 1,384,572 is the IPDC's usual prior budget		NOTE: money moved from Operating to Personal Services (ongoing change reflected in HB 1001)	
	Source: HB 1001 (Introduced version)		Source: HEA 1001-2017 (as passed)		Source: Auditor's records	

FUNDING REQUEST BREAKDOWN FOR JUVENILE PROJECT:

<i>Investment Type</i>	<i>FY 2020 Cost</i>	<i>FY 2021 Cost</i>
<i>juvenile unit supervising attorney/director</i>	\$ 90,000	\$ 90,000
<i>Juvenile training and support attorney</i>	\$ 82,000	\$ 82,000
<i>Total Fringe Benefits</i>	\$ 80,358	\$ 80,358
<i>Total Personnel</i>	\$252,358	\$252,358
<i>Operating Expenses</i>		
<i>Overhead, computer, and phone charges</i>	\$ 5,844	\$5,844
<i>In-State Travel Expenses</i>	\$ 6,688	\$6,688
<i>Supplies</i>	\$1,500	\$1,500
<i>Conferences and meetings</i>	\$ 2,000	\$ 2,000
<i>Total Operating</i>	\$ 16,032	\$ 16,032
<i>Total</i>	\$ 268,390	\$ 268,390