

Minutes of Meeting
Public Defense Commission
October 23, 2020
9:00 a.m.

The Kootenai County Board of Commissioners: Chairman Chris Fillios, Commissioner Leslie Duncan and Commissioner Bill Brooks met to discuss the following agenda items. Also present were Public Defender Anne C. Taylor and BOCC Administrative Secretary Chandra Newberry. Also present were Public Defense Commission (PDC) Executive Director Kathleen Elliot, PDC Chair Darrell Bolz, PDC Vice Chair Eric Fredericksen, PDC Compliance and Research Officer Tammy Zokan and Regional Coordinator Jennifer Roark. Commissioner Bill Brooks Ms. Elliot, Mr. Bolz, Mr. Fredericksen, Ms. Zokan and Ms. Roark were present via Zoom.

- A. Call to Order:** Chairman Chris Fillios called the meeting to order at 9:02 a.m.
- B. Changes to the Agenda (Action):** There were no changes to the agenda.
- C. Business (Discussion Items):**

Proposed Public Defense Commission Rules

Public Defense Commission (PDC) Executive Director Kathleen Elliot reviewed the background related rule changes. She said that input from all stakeholders was welcome and explained the timeline under which they would bring the new material to the legislature for approval. She stated that their goal was to simplify rules and clarify definitions.

Ms. Elliott confirmed that the deadline to receive public comments was October 28, 2020 and the PDC's meeting to finalize their recommendations would be October 30, 2020.

Commissioner Leslie Duncan expressed her concerns regarding a number of items included in the proposed rule changes, including the financial burden on counties placed by unfunded mandates, the altered definition of vertical representation and the division of authority between the Boards of County Commissioners, their local Public Defender's Offices and the PDC. She said she was concerned about the addition or removal of attorneys from the approved roster for public defenders under the new guidelines and whether this might open a county to liability. She noted she also had questions about the handling of nonmaterial deficiencies.

Ms. Elliott assured those present that they had collected and would review issues presented by all stakeholders and would strive to respond to all of them. She pointed out that the PDC itself was subject to mandates and deadlines that came from higher levels of government.

Chairman Fillios remarked that the new definition of vertical representation could be in conflict with current Idaho Code. He agreed that it was ideal for a client to receive full

vertical representation, that is, to be represented by the same attorney at every court date throughout the entire judicial process, but noted this was not always achievable.

Ms. Elliott stressed the importance of vertical representation in the reinforcement of client trust in the judicial system, the provision of the best representation and reduction of wasted resources. She said it was a drain on the County's funds if new attorneys had to take over a client because each would need to take additional time to become familiar with the case.

Commissioner Duncan stated that their goals were not dissimilar but she was worried about the specific language used and how it might be interpreted by future PDC Executive Directors.

Ms. Elliott encouraged Commissioner Duncan to submit all her suggestions on improving the language of the rules and assured her that they would be examined.

Public Defender Anne C. Taylor expressed her agreement regarding the critical nature of vertical representation for indigent clients to receive the best legal services. She pointed out that, especially during the current COVID pandemic, judges often held court at the same time so a given attorney might have clients in separate, simultaneous meetings. She suggested that provisions be built into the rules to accommodate this.

Ms. Taylor also suggested that the process be slowed down and these changes be submitted through the regular negotiated rule-making procedure. She said she would provide a written copy of all her concerns to Ms. Elliott.

Commissioner Bill Brooks agreed that complications resulting from the rule on vertical representation could place a large financial burden on the County. He also agreed with both Ms. Taylor and Commissioner Duncan that a slower pace would be beneficial. He said they needed more dialogue.

Ms. Elliott expressed her willingness to work with County representatives on the rules but cautioned that they had to balance the needs of all forty-four counties.

PDC Chair Darrell Bolz noted that the PDC also had to satisfy the requirements that stemmed from the ACLU (American Civil Liberties Union) lawsuit regarding indigent defense.

- D. Public Comment:** This section is reserved for citizens wishing to address the Board regarding a County related issue. Idaho Law prohibits Board action on items brought under this section except in an emergency circumstance. Comments related to future public hearings should be held for that public hearing. There were no public comments.

E. Adjournment (Action): Chairman Fillios adjourned the meeting at 10:06 a.m.

Respectfully submitted,

JIM BRANNON, CLERK

CHRIS FILLIOS, CHAIRMAN

BY: _____
Tina Ginorio, Deputy Clerk
