

2-7-22

Mr. Chairman and Committee Members:

Thank you for the opportunity to testify in writing as I am unable to attend in person. My comments today are in reference to the rules proposed by the Public Defense Commission (hereto referred as the PDC).

In last year's legislative session you may recall that the PDC presented a set of rules that were a realignment of the rules as requested by the Governor as an effort to reduce the word and streamline rules statewide. The PDC went through a negotiated rule making process to produce those rules. At the committee hearing there was testimony objecting to the rules as presented. As a consequence, the PDC Executive Director, myself, and the PDC Vice Chair met with the two germane committee chairmen and the Executive of the Idaho Association of Counties. Through that process agreement was reached that the PDC would strike a number of sections in the proposed rules and come back this year with the remainder of the rules and go through negotiated rule making on the section to be stricken. That was done in both germane committees. The PDC followed through on the negotiated rule making of those sections that were stricken during the interim through four (4) meetings. Last week a meeting was held (called by the IACDL) that presented the proposed rules with numerous changes to the proposed rules. I was unable to attend that meeting due to a scheduling conflict (I was not invited by the IACDL, but heard of the meeting by the PDC Executive Director). I only saw the copy their proposed changes following the meeting. I have heard that they desire to oppose adoption of these rules as presented.

I am very concerned about the effect that should these rules, should they not be adopted, will have on the Tucker lawsuit which the PDC and the State of Idaho is and has been facing for some time. By not adopting these rules, I feel that the case against us will only be enhanced. It needs to be noted that the PDC is named in the lawsuit, not the counties individually. In other states individual counties have been named in similar lawsuits. The PDC is and has been working to ensure that indigent defense in Idaho meets the U.S. Constitutional requirement per the 6th amendment as well as Article 1, Section 13 of the Idaho Constitution.

I request that the proposed rules be adopted as presented.

Thank you,

Darrell Bolz
Chair, PDC