



Supreme Court of Tennessee **INDIGENT REPRESENTATION TASK FORCE**

Meeting Summary

The Indigent Representation Task Force held its first meeting on Friday, November 6, 2015 in Room 12 of the Legislative Plaza in Nashville, Tennessee. The meeting convened at 1:00 p.m.

The task force members who were present included: Lela M. Hollabaugh, Esq., Representative William Lamberth, Judge Deanna Bell Johnson, Susan Mattson, Professor Susan L. Kay, Dean William C. Koch, Jr., Mark A. Mesler II, Esq., Judge Loyce L. Ryan, Judge Vicki S. Snyder, Dwight E. Tarwater, Esq., and DarKenya Waller, Esq. The task force members unable to attend were: Judge Barry A. Steelman and Senator John Stevens.

Other persons attending the meeting included: Suanne Bone, Executive Director, Tennessee Association of Criminal Defense Lawyers; Roark Brown, Office of Legislative Budget Analysis; Dawn Deaner, Esq., Public Defender for Metropolitan Nashville and Davidson County; Paige Edwards, Esq., Deputy Director, District Public Defenders Conference; Brenda Gadd, Public Policy Director, Tennessee Bar Association; Jeffrey S. Henry, Esq., Executive Director, District Public Defenders Conference; Chief Justice Sharon G. Lee, Tennessee Supreme Court; Allan F. Ramsaur, Executive Director, Tennessee Bar Association; Justyna G. Scalpone, Esq., Office of the Post-Conviction Defender, Deborah Taylor Tate, Esq., Executive Director of the Administrative Office of the Courts, and Jessica M. Van Dyke, Esq.

Ms. Tate welcomed the Task Force members and introduced Chief Justice Lee. Chief Justice Lee likewise welcomed the members and thanked them for their willingness to address the issues and challenges with regard to indigent representation in Tennessee. She discussed the Tennessee Supreme Court's reasons for creating the Task Force and outlined the scope of the issues that the Court anticipated the Task Force would address.

In the State of Tennessee's 2010-2011 budget, the General Assembly requested the Administrative Office of the Courts to conduct "a study of the rising costs of indigent defense in the state and to develop a plan to reduce such costs." Thirty-two individuals participated in this project and issued a "Tennessee Indigent Defense Fund: A Report to the 107th Tennessee General Assembly" on January 15, 2011. Judge Steve R. Dozier, Division I of the Criminal Court for the Twentieth Judicial District, one of the persons participating in the project, summarized the report for the Task Force. A copy of this report is appended to this summary.

Pam Hancock, the Fiscal Services Director of the Administrative Office of the Courts, presented a history of the expenditures from the Indigent Representation Fund and explained the different proceedings and expenditures covered by the Fund. A copy of Ms. Hancock's presentation is appended to this summary.

David P. Byrne, Assistant General Counsel of the Administrative Office of the Courts, discussed with the Task Force the current statutory definition of "indigent persons." He explained the statutory requirements for appointing counsel to represent indigent criminal defendants and for appointing counsel and guardians ad litem in juvenile proceedings. Mr. Byrne also summarized the history of the use of public defenders in Tennessee. He discussed the procedures for paying counsel, guardians ad litem, investigators, and experts with particular emphasis on the procedures and requirements in Tenn. Sup. Ct. R. 13. A copy of Mr. Byrne's report is appended to this summary.

In the questioning during the presentations and the discussion that followed, the Task Force identified several broad topics that will require further investigation and discussion. These topics included: (1) the challenge of obtaining all the data and other information that should inform and guide the Task Force's work; (2) the apparent absence of a uniform understanding of the nature of the conflicts that would prevent a public defender from representing a particular individual; (3) the lack of formal records regarding the grounds for a public defender's recusal; (4) the appointment of private counsel in the general sessions and trial courts even though the public defender does not have a conflict; (5) the consistency and efficacy of the procedures used in the general sessions and trial courts to determine whether an individual is indigent; (6) the adequacy of the training available to attorneys in the use of the Indigent Claims Entry ("ICE") system; (7) the lack for training for attorneys regarding the best practices for preparing a bill for services; and (8) the safeguards in the system to assure that the persons receiving state-paid legal assistance are being competently represented.

The members of the Task Force also agreed that the scope of the its work must necessarily include a consideration of (1) the procedures and standards for determining that individuals are entitled to state-paid representation; (2) the manner(s) in which these services are delivered; and (3) the oversight and administration of the state funds appropriated for indigent representation.

Before adjourning, the members of the Task Force agreed to address the following organizational matters: (1) refining and reaching an agreement on the scope of the Task Force's work; (2) creating a work plan and time line to enable the Task Force to keep on task; (3) agreeing on the data and other information necessary to enable the Task Force to complete its work; (4) finalizing plans for information gathering sessions to be held throughout the state; (5) refining and finalizing plans for the creation of an independent advisory board to assist and advise the Task Force; (6) assembling library of prior studies, papers, and other pertinent information that would become part of an

digital library of resources available to the Task Force and the public; and (7) creating a Task Force web page on the tncourt.gov website that will house the Task Force's digital library, provide a vehicle to inform the public about the Task Force's schedule and activities, and facilitate the public's communication with the Task Force. In order to begin addressing these matters before the end of 2015, the task force members agreed that they would (1) consider and submit their recommendations regarding the data and information they would like to consider and (2) consider and make recommendations for the size and composition of the advisory board.

There being no further business, the Task Force adjourned at 3:15 p.m.