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August 15, 2024

Joseph Habig

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Dear Mr. Habig:

This letter constitutes the Indiana Prosecuting Attorneys Council's (IPAC's) agency overview/transmittal letter for our FY 26 and FY 27 biennial budget request.

AGENCY'S PROGRAMS AND FUNCTIONS

1. Background: The IPAC is a non-partisan, independent state judicial branch agency and was created by statute in 1973. It is made up of Indiana's 91 prosecuting attorneys and their chief deputies and governed by a ten-member Board of Directors chosen from among the state's prosecuting attorneys.

Indiana Code § 33-39-8-5 defines the IPAC's primary functions and duties as follows:

The Council shall do the following:

- (1) Assist in the coordination of the duties of the prosecuting attorneys of the state and their staffs.
- (2) Prepare manuals of procedure.
- (3) Give assistance in preparation of the trial briefs, forms, and instructions.
- (4) Conduct training for prosecuting attorneys and the staff of prosecuting attorneys.
- (5) Conduct research and studies that would be of interest and value to all prosecuting attorneys and their staffs.
- (6) Maintain liaison contact with study commissions and agencies of all branches of local, state, and federal government that will be of benefit to law enforcement and the fair administration of justice in Indiana.
- (7) Adopt guidelines for the expenditure of funds derived from a deferral program or a pretrial diversion program.
- (8) The Council shall:
 - (A) compile forfeiture data received under [IC 34-24-1-4.5](#); and
 - (B) annually submit a report to the legislative council containing the compiled data.

The Council shall submit the report to the legislative council before July 15 of every year. The report must be in an electronic format under IC 5-14-6. The Council may adopt rules under IC 4-22-2 to implement this subdivision.

Other Indiana Code sections require the IPAC Executive Director, or his designee, to participate as a member of the Justice Reinvestment Advisory Council, the Commission to Combat Drug Abuse, the Commission on Improving the Status of Children; the Board for the Coordination of Programs Serving Vulnerable Individuals; the Indiana Criminal Justice Institute Board of Trustees; the State Council for Interstate Adult and Juvenile Supervision; the Governor's Drug Task Force; The Supreme Court Rules Committee; the Statewide Sexual Assault Response Team and the Domestic Violence Treatment Council. The IPAC Executive Director also serves on the Supreme Court's Evidence-Based Decision-Making Team as a member of its Records Management Committee and on various other Supreme Court Committees when requested.

To assist the Council and its Board, the IPAC has established the following standing committees: Executive Committee; Complex Litigation Committee; Child Support Committee; Diversion, Deferral and Forfeiture Committee; Juvenile Justice Committee, Domestic Violence and Sex Crimes Committee; Ethics and Best Practices Committee; Public Relations and Outreach Committee; Office Administrators Committee; Adult Protective Services Committee; High Tech Crime Unit Committee; and Technology/Computer Committee. Committee members include elected prosecutors, deputy prosecutors, prosecutor staff, and deputy attorneys general.

2. Training Seminars: The IPAC is the primary continuing legal education provider for Indiana prosecutors and a national leader in providing education to prosecutors. Each year the IPAC conducts numerous training seminars. Two of these multi-day annual conferences are statutorily called per Ind. Code § 33-39-6-1(e). Historically, 150-400 attorneys attend each of these annual conferences. The winter conference is normally held in Indianapolis and the summer conference generally rotates between the northern and southern portions of the state. Except for the COVID years, the IPAC has experienced year-over-year growth for these conferences.

The IPAC partners with the Child Support Bureau to host an annual child support conference that is attended by prosecutors, judges, and case managers. Pre-COVID, this two-and-one-half day conference drew 630 attendees. The 2023 Child Support Conference hosted 523 attendees, and the 2024 Child Support Conference hosted 525 attendees.

The IPAC also conducts several smaller conferences and workshops each year. In this biennium, the IPAC will host 7-9 conferences per year, which represents a decrease in training from the last biennium. Every other year, the IPAC hosts an office administrator's conference and an applied professionalism course specifically for prosecutors. The Applied Professionalism course is required for attorneys with less than three years in practice. (See Ind. R. Admis. B. & Disc. Atty. Rule 29 §3.). The IPAC also hosts two or three trial advocacy courses each year, covering varying topics and varying levels of experience. The IPAC is one of the top providers of continuing legal education in the State.

In addition to IPAC-sponsored training, IPAC staff members are frequently asked to train outside agencies. Some of the other agencies and organizations include the Indiana Criminal Justice Institute, the Indiana Law Enforcement Academy, the Indianapolis Metropolitan Police Department, the IU Police Department, the Judicial College of Indiana, the National Traffic Law Center, the Missouri Office of Prosecution Services, the Arizona Prosecuting Attorneys' Advisory Council, the Fort Wayne Police Department, the National Black Prosecutors Association, the United States Attorney's Office in the Southern District of Indiana, the National District Attorneys Association, and Indiana Legal Services Agency.

3. Indiana Prosecutor Case Management System (INPCMS): For over thirty years, the IPAC has maintained a statewide computer system for prosecutors. One goal for the system is to provide the Indiana State Police with complete and accurate criminal history dispositional information in an electronic format while also developing a case management system for prosecutors. The INPCMS is the primary source of criminal history information for the Indiana State Police Criminal History Repository, the database that is queried during criminal history background checks for employment. Additionally, an interface was established years ago with the Indiana Department of Correction Statewide Automated Victim Information & Notification (SAVIN). Further, the IPAC maintains and continually updates a table of offenses, which is not only a foundational piece of INPCMS but also relied upon by the Indiana Office of Court Services for the state courts' Odyssey case management system and the Electronic Citation and Warning System (eCWS) used by law enforcement around the State.

The INPCMS system has been modified to allow prosecutors to electronically file cases. The INPCMS has criminal, juvenile, child support, and forfeiture modules, in addition to an e-discovery platform. It is used in all the 91 prosecuting attorneys' offices.

4. Research Assistance to Prosecuting Attorneys: Prosecuting attorneys and their staffs consider the IPAC's research assistance function to be the IPAC's most important. Often these requests for assistance come in the middle of a trial when a prosecutor needs an immediate answer. Thousands of support calls and emails are received each year. The agency also receives requests from public officials at all levels of State and Federal Government, and Indiana Legislators at both the State and Federal levels. Many of these research requests involve considerable legal research on issues not yet resolved in statute or court decisions.

Conducting thorough legal research on complex and novel issues requires subscriptions to the premier legal research tool, Lexis+. The IPAC provides Lexis+ to all prosecutors to conduct their own legal research. Currently, there are approximately 850 users benefitting from the IPAC contract. While Lexis+ is currently adequate to serve our needs, AI-assisted research is the future. Within the next biennium, we anticipate that the use of AI tools will become the industry standard.

5. Manuals: Shortly after the IPAC began operations, its staff started assembling materials and producing manuals. Currently, the IPAC maintains the *Indiana Prosecuting Attorneys Handbook*, the *Indiana Prosecuting Attorneys Trial Handbook*, the *Indiana Juvenile Manual*, the *Indiana Prosecuting Attorneys Ethics Manual*, the *Habitual Offender Manual*, and the *OWI Prosecutor's Handbook*. The IPAC's newest manuals, *Indiana Juvenile Manual* and the *OWI Prosecutor's Handbook* were released in December of 2022. The IPAC has a Director of Research to continually review and update the IPAC manuals.

The IPAC also produces a monthly Police/Prosecutor Update (which prosecutors can distribute to local police agencies), a quarterly Indiana Prosecutor Newsletter, a quarterly bulletin called Crossroads (which provides traffic safety updates), and a weekly Legislative Bulletin when the Indiana General Assembly is in session. Lastly, the IPAC publishes a case law update regarding recent appellate court decisions relevant to the State's prosecutors.

6. Liaison Activities: The IPAC works closely with the Executive, Judicial, and Legislative branches, as well as federal and local government partners. The IPAC continues to perform liaison activities with the Indiana General Assembly, testifying in each session on the abundance of criminal legislation introduced annually. The IPAC works closely with House and Senate committees on criminal code.

7. Data Reporting: Public Law 168-2014 requires that the IPAC continue to provide data to the Indiana Criminal Justice Institute and to otherwise assist that agency assess the outcomes of the recent criminal code reform.

The IPAC must make an annual report to the legislature on forfeiture data. *See* I.C. § 34-24-1-4.5. The IPAC is required to report (1) the date the property was seized; (2) whether the property seized was cash, a vehicle, real property, or other personal property; and (3) whether the forfeiture was filed in state court or through federal adoptive seizure. Although prosecuting attorneys are supposed to report this data to the IPAC, the data for the report is automated by electronically processing and filing the forfeiture cases through the INPCMS.

8. Amicus Briefs: When approved by the Council Board of Directors or when requested by the Indiana Supreme Court, or Court of Appeals, the IPAC will file amicus curiae (friend of the court) briefs on behalf of all prosecuting attorneys in the State. The IPAC generally files one to two amicus curiae briefs per year.

ACCOMPLISHMENTS AND CHALLENGES OVER THE LAST TWO YEARS

1. Accomplishments: The IPAC was a key contributor to the revision of the criminal code. The IPAC staff and elected prosecutors from around the state educated legislators and the public on the proposed legislation's viability and its impacts on public safety. That process has continued as the Indiana General Assembly further refines the criminal law.

The IPAC has become a nationally recognized leader in the training and advancement of prosecution services. The IPAC spent over 300 hours training prosecutors and law enforcement officers in 2023. The IPAC sponsored 99.5 hours of in-person Continuing Legal Education training and trained a total of 1,190 attendees. The IPAC strives to offer as many trainings free of charge as possible, especially those directed towards newer, less-experienced deputy prosecutors and law enforcement officers.

2. Challenges: The biggest challenge for the IPAC is a direct result of the expanding role of the prosecutor. When the IPAC was first created in 1973, prosecutors had no specific responsibility for social services, and they had no role in civil child support enforcement. No victims' rights legislation was in existence. Indiana's prosecutors meet ever changing issues. The IPAC has responded to these new issues through training and assistance to prosecutors. As the role of the prosecutor is expanded, all too often without an increase in budget, so too is the role of the IPAC. Keeping up with the latest in technology-driven investigations and in-court presentation methods is a priority. The IPAC is always challenged to stay abreast of every aspect of prosecution to provide excellent government service to Indiana's prosecutors.

Another challenge for the IPAC has been providing quality service without a substantial increase in budget. Our general fund budget does not cover our agency employees general fund employees' salaries. Reliance on the IV-D fund (the separate funding source provided in support of child support enforcement) has grown as expenses have continued to increase against stagnant appropriations. For example, looking at the last twenty years, while appropriations for the Public Defenders Council increased 82%, the appropriations for the IPAC's operating expense fund (# 16670) increased by 54.8% -- and nearly the entirety of that increase came only in the most recent budget (the 2021 budget was an increase of merely 22.4% since 2003). When adjusting for inflation, the IPAC's general fund budget has *decreased* by 6% over the last twenty years despite the continued growth in the need for the support of prosecutors.

The costs of providing training have continued to rise. Everything from the costs of providing food, to the costs of overnight rooms, to mileage have increased exponentially over the last biennium. Since training is the primary function of the IPAC, additional funding will help us to continue to train prosecutors and law enforcement officers at the current training schedule. For example, for just our two statutorily called conferences, our summer conference costs increased from \$346.20 per attendee to \$420.97 per attendee, or 21.6% from 2022 to 2024, and our winter conference costs increased from \$279.56 per attendee to \$447.43 per attendee, or 60% from 2022 to 2023. Despite our best efforts at keeping costs down, rising costs have forced us to scale back the frequency of providing training in 2024 and 2025.

The cost of maintaining and updating the INPCMS system, as well as electronic storage has increased greatly over the years. For many years, the IPAC computer project was funded by federal funds. While some federal funds are still available for specific enhancements and implementation of the system, the lion's share of the cost must now be borne by the IPAC. The constant improvement in technology and services has caused our annual expenses to increase for each additional project implemented. Also, with many offices moving towards a paperless system, additional cloud-based storage is required and carries considerable costs. The IPAC has recently moved to cloud-based Amazon Web Service government storage for its INPCMS digital storage needs. The cost of cloud-based storage has continued to rise, and although we have taken steps to defray the costs of storage, we have a continued need to store case files electronically. As time has gone on, our storage needs have continued to grow, which has required more funds to provide the same service. The problem of increasing amounts of electronic storage will continue to grow in the next biennium.

OBJECTIVES FOR THE NEXT BIENNIUM

The IPAC's significant objectives for the next biennium are as follows:

1. Training: The IPAC strives to be a national leader in training prosecutors. The IPAC staff will continue to develop cutting edge training on current legal issues, trial advocacy training, ethics training, and child support training. The IPAC will provide live training, with the two annual conferences and the child support conference remaining the marquee annual events. In addition, the IPAC plans to conduct the following trainings:

FY 2026:		FY 2027:	
Aug.	Trial Advocacy I	Aug.	Trial Advocacy I Office Administrators
Sept.	Advanced Trial Advocacy: Cross Examination	Sept.	Advanced Trial Advocacy
Nov.	Domestic Violence Trial Advocacy I	Oct.	Applied Professionalism
Dec.	IPAC Winter Conference	Dec.	IPAC Winter Conference
Mar.	Evidence Bootcamp	Mar.	Evidence Bootcamp
May	IPAC Spring Seminar	May	IPAC Spring Seminar
June	IPAC Summer Conference	June	IPAC Summer Conference

2. Continued Work on Criminal Code, Juvenile Justice and Other Public Safety Legislation:

The IPAC will continue to be a resource to our legislative partners as needed and will testify on matters involving criminal code reform or public safety legislation.

3. Further Development of the INPCMS:

An informal study of comparable case management systems by the IPAC Technology Committee showed that the INPCMS is one of the better systems available from the standpoint of data input. While the INPCMS may presently be a “top shelf” CMS, there is always room for improvement. Data exchange and providing paperless capability are priorities. The IPAC will continue to work with our vendor to improve the INPCMS system.

4. Publications:

The IPAC manuals and handbooks are revised and published on a regular basis. Given that the law constantly changes, the IPAC continuously reviews the manuals and is currently beginning a detailed work to finish new editions. The agency has also hyperlinked to Lexis Advance citations to cases and statutes in electronic versions of the manuals so that users can go directly to the source material.

OTHER

The IPAC currently operates out of five funds: the general fund (16670); the federal child support enforcement reimbursements fund (47525); the substance abuse prosecution fund (33410); a traffic safety resource prosecutor (TSRP) NHTSA grant (60241) through the Indiana Criminal Justice Institute, and the High-Tech Crime Unit fund (75510). More information is included in our fund narratives.

Funds from the child support enforcement reimbursement fund can be used widely and are used to support the Council due to lack of a sufficient general fund appropriation. The Board has mandated that at least some of it be used to employ experts in child support enforcement as well as an experienced child support paralegal. Except for pay-for-performance and benefits increases, the IPAC has not seen an increase in its general fund appropriation in over 25 years.

The High-Tech Crime Unit (HTCU) fund is used to support the ten prosecutors around the state who host the HTCUs pursuant to Ind. Code § 33-39-8-7. Created through legislation passed in 2021, the program is administered by IPAC for the purposes of assisting prosecuting attorneys in the investigation of, collection of evidence for, and prosecution of high-tech crimes. Ten regional units were selected in late 2021 with the units beginning operations at various points in 2022. The ten units were funded through an appropriation of \$3,000,000 annually, a sum that was iterated in the 2023 budget bill. The key service provided by an HTCU is the forensic extraction of electronic devices in the search for evidence — work that can only be accomplished with specialized tools and persistent training. The IPAC administers the fund and is authorized to withhold up to 5% of the appropriated funds for its administrative costs annually; however, each year the IPAC has released over 99% of the funds to the units so that the units are properly supported and can continue to grow. Nevertheless, several units turn to other grant funding to fully support their mission, despite it being a State-funded project.

CHANGE PACKAGES

- 1. Rightsizing the Budget to Current Spending Plans:** The 16670 general fund appropriation does not cover all of our general fund employees' salaries, and beginning in February of each year, we are forced to shift employees from 16670 to 47525 to make payroll, placing undue strain on our 47525 funds. In addition, currently three IPAC employees who should be paid from 16670 due to their assigned duties but are paid instead from 47525. Those positions are our Legislative Liaison, our DV/Sexual Assault Resource Prosecutor, and our Juvenile Justice Resource Prosecutor. Due in large part to the shortfalls in the general fund discussed above, the IPAC has held off on filling our vacant Administrative Assistant position, but the workload on our other assistants has increased to the point that the IPAC would request to fill that position lest we lose those experienced incumbents.
- 2. Address the HTCU's Increase Forensic Tool Costs:** Already the most sizeable expense for every High-Tech Crime Unit (41% of expenses), forensic software costs continue to rise, the increases in costs have been outpacing inflation. For example, in late 2021 products that cost \$4774 and \$5558, respectively, cost \$5800 (21% more) and \$6495 (16% more), respectively, only two years later when inflation would have been closer to ten percent (10%). Costs in 2024 and beyond are not expected to buck this trend. With over 40% of the total expenses going toward such software, basic inflationary trends would demand an additional \$180,000. However, because the software costs are expanding beyond these inflationary numbers, an increase of nearly double that sum is needed to keep pace with current technological needs.
- 3. Addressing the HTCU's Personnel Compensation Needs:** Retention of highly trained personnel serving in the HTCUs is critical to their continued success. Because their training translates so easily to other areas in IT or cybersecurity, private or federal employment offer lucrative alternatives. Accordingly, increased moneys to cover and improve salaries are needed.
- 4. Allow for 1 New Personnel at each HTCU:** HTCU work continues to grow, each unit would benefit from having enough money available to hire another full-time examiner with competitive compensation packages. To be clear, however, these are not new State employees. This additional money would be included in the funds provided to the units for their operational costs with the intention and direction that they each use it to hire an additional full-time staff member.

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August 15, 2024
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5. **General Salary Increase:** The IPAC has requested an increase in our general fund appropriation to cover the costs of year-over-year 3% salary increases for IPAC employees, plus FY 27 extra payroll.
6. **Updated Benefits Premiums:** The IPAC has requested an increase in our general fund budget to account for increased benefit premiums for IPAC employees.
7. **IOT Increase:** The IPAC has requested an increase in our general fund budget to cover the rising costs imposed upon the agency by the Indiana Office of Technology (IOT). The calculations were based on the IOT chart included in the June 13, 2024, memo from SBA.
8. **Administrative Costs Change:** The IPAC has requested an increase in 16670 fund budgets to upgrade from Lexis+ to Lexis+ AI for 103 users. IPAC currently provides Lexis+ to all prosecutors and deputy prosecutors in the State of Indiana (over 800 users statewide). The upgrade would provide for one account for each judicial circuit and one for each of the IPAC attorneys.

Respectively submitted,



Chris Naylor
Executive Director