**Summary of Chiefs’ Meeting January 26, 2018 Transcript**

**James Abbs, Chief PD Noble County, President of Chiefs Association for 10 years and a member of the Public Defender Council (Tr. P. 9)**

(Tr. P. 10)

* Chiefs support present reimbursement program. It honors state home rule and gives flexibility because of the uniqueness of county size.
* Chiefs are concerned that there are no PD’s on Task Force. Representation of Chiefs on TF is important because of extensive experience of PD’s who work with issues daily.

(Tr. P. 11)

* Chiefs formed a committee to address TF concerns consisting of Marion County Chief (representing large counties, 18% of state population), Vigo and Tippecanoe Chiefs (representing 16 medium sized counties comprising 41% of state population) and Rush County Chief (representing small sized counties constituting 41% of state population). It’s important to get all of those voices heard within the TF.
* Deference should be paid to Chiefs presentations.

(Tr. P. 12)

* Counties active in the reimbursement program should be allowed to continue it as they are operating.
* As 6th Amendment Center report pointed out, there are some deficiencies, that was not surprising, all of those had been raised at Chiefs’ meetings over the last 10 years. Chiefs proposed changes in the standards to the PD Commission, has proposed rule changes to the judiciary and has proposed legislation, all with some success.
* It’s important to recognize that there are successes in public defense that greatly exceed the deficiencies, all throughout the state.

(Tr. P. 13)

* As an example, there is great concern about the lack of reimbursement in misdemeanor cases and how that forces counties to be out of compliance with standards. But the fact is that Noble County has been in compliance with state workload requirements for felonies, juvenile matters, CHINS cases, for which reimbursement is received, as well as in compliance for misdemeanor cases, for which no reimbursement is received, for over 20 years—and there are other success stories like this.
* So, the reimbursement program in place does work and many counties operate under it with great success. We do not have to reinvent the wheel. Some adjustments can be made but don’t eliminate the current successes.

(Tr. P. 14)

* The PD Commission standards must be made mandatory throughout the state, even for counties not participating in the reimbursement program. Mandating compliance with those standards will insure that every PD will have appropriate caseloads, be paid an adequate salary and have the resources they need. And there should be state-mandated enforcement.

(Tr.P.15)

* The single most important thing we are trying to do is ensure that every individual appointed a PD in this state gets effective representation. This can only be accomplished if attorneys have appropriate caseloads and salaries.
* Reimbursement for misdemeanor cases is essential.

(Tr.P.16)

* A mechanism for enforcing the standards is needed. Increased staffing of PD Commission, giving Commission authority to enforce the standards, and if a county falls out of compliance, the Commission should be able to take over the PD system in such a county, and the county should remain responsible for its portion of the expense. That would be an effective mechanism.
* In conclusion, there is a system in place that can work; we don’t have to reinvent the wheel; we’ve got counties complying and doing positive things; we need to allow them to continue. Compliance must be mandated with an enforcement mechanism in the hands of the Commission, including takeover authority. This would be a major overhaul of the system which could take a period of time to accomplish. The most urgent thing, though, is reimbursement for misdemeanors. We realize that we won’t get everything we want, but if that could be accomplished this coming year, it would be greatly appreciated.
* Abbs also made the point during questioning (Tr.P.79) that he had heard about the Kentucky system, when it first went statewide in the early 2000’s, things were fine. But then the money got tight and shortcomings and cutbacks came, with exploding caseloads. He feels he has some leverage with both the state and the county being involved and invested in the present system. His county was in compliance with the standards for 4 years before it agreed to get into the reimbursement program. He had to convince the county that the reimbursement would last. He noted that if the PD’s were limited to just state funds or just county funds, they would be totally at the mercy of the entity controlling all the funds. (TR.P.81) Noble County has 2 full-time PD’s that make over $70,000 and part-time defenders make $49,000 but because of the number of hours they work, they are considered full-time and get full benefits.
* (Tr.P.86) Mr. Abbs feels that the Noble County PD board is quite invested in the success of the PD office. He indicated that you need to recruit members who truly care about PD service, and it’s a hard thing to do. There is a concern that 2 of the members are appointed by the judges and only one by the Commission. There are judges out there that still want to control things. He is fortunate in his county that is not the case. Maintaining independence of the board is important but it is difficult to do.
* In discussing the potential for multi-county or regional offices, Mr. Abbs felt that the counties themselves would need to be involved in deciding what the ideal units would be, and the necessities of certain counties would have to be considered. (Tr.P.118) Mr. Weisman added that some counties are already drawing PD’s from 2 and 3 counties away.
* In discussion of a statewide appellate office, (TR.P. 124) Mr. Abbs noted the good work of the appellate divisions in Marion and Lake counties, and would not like to limit those, but also that the smaller counties might not object to a statewide office for their benefit. He expressed no preference (Tr.P.129) between a statewide or regional appellate office, although there is a preference for using local attorneys on appeals, often, they just are not available in each county.
* (Tr.P.133) Mr. Abbs feels that JD cases should be done by local attorneys rather than a statewide or regional division because of the intertwined local relationships of Prosecutors, Probation Officers, Social Workers and so on. Courts also are protective of their calendar scheduling, such as “Juvenile Day” (Tr.P.135) and a local presence is important for that. A PD office can’t dictate the court’s scheduling.
* (Tr.P.150) Another difficulty with CHINS cases is how long they take to process, very time consumptive and labor intensive, and the lawyers have to be in court frequently with the cases. Frankly, many DCS attorneys are not very qualified for the work, and they come to court without authority to make decisions. His judge is concerned that if there is a statewide CHINS defense staff, the defense will be no more qualified than the CHINS lawyers so that it will be a greater mess for the judges. The local PD’s are good people across the state. (Tr.P.153) Time spent by defense lawyers in out of court meetings, case planning sessions and so forth is time well spent, you can get good results.

**Robert Hill, Chief Public Defender, Marion County (Tr.P.22)**

* We should look at the glass as three-quarters full, not half-empty. The current system with Commission standards and caseload limitations is a great thing, especially as compared with conditions in other parts of the country.

(Tr.P.24)

* There is a perception that without PD’s on the TF, they are not at the table or are left at the kids’ table. If you want “buy in” from PD’s, you have to include them. A perception of inclusion is needed.

(Tr.P.25)

* When I first worked as a PD, I was hired directly by the Judge (Mercuri) and he had full authority to fire me as well. On the first day of work, I was required to defend a guy who was innocent of a cocaine charge, because of being on crutches, he just wasn’t fast enough to run away from people standing on the corner dealing cocaine. But he was convicted by the judge, even though not jailed.

(Tr.P26)

* There needs to be insulation between the judge and defenders. In my second PD job at Marion County juvenile court, I lost my job because when I told the employing judge (Payne) that his Commissioner convicted his client at the close of the prosecution’s case without even letting him present a defense, the judge told him that there was no money for an appeal. That was the last appointment I received as a Juvenile PD.
* I was then hired as a PD by Judge Gifford in a major felony court. She was an excellent trial judge. However, we had not resources, just us lawyers. It was hard to get funds to do anything. After defending a death penalty case which concluded on a Saturday, his co-counsel, Arnie Baratz, had to begin a robbery trial the following Monday. There were no protections on workloads, no controls.

(Tr.P.27)

* Then the Marion County Public Defender Agency was formed. Things began improving because of Commission standards and funding, which started at 25% which has grown to 40%. The key to improvement is increasing reimbursement. That is the engine that drives PD systems.
* I have worked in the federal CJA system in which counsel are paid hourly. That is an important concept which should be looked at here. It also allows the opportunity to fund a defense. It also insulates the PD from the judge. These are important elements of what a good PD system looks like.
* Marion County is currently getting reimbursed close to $8 million a year, and without that, his budget would not grow. Criminal defendants don’t have good lobbyists in the legislature, and PD’s don’t have a good voice there, but need to be a bigger presence. Funding is at the root of all PD problems.

(Tr.P.29)

* By contrast, Prosecutors’ offices are always well funded, including projects like witness assistance, funding of social workers. The Marion County PD office paid dearly to get one social worker a year added to help improve sentencings. We have gone from zero social workers 10 years ago to 18 now. This has come in dribs and drabs, through grants and so on, but it should not be that difficult. The PD Commission should help PD’s gain reimbursement for.
* If reimbursement goes away, his budget collapses. As a budget like DCS explodes, with CHINS cases growing by leaps and bounds, many DCS caseworkers are hired to bring CHINS proceedings. They are responding to a crisis. But that is hard on a PD budget because there is no budget increase to correspond to the growth of DCS and CHINS proceedings. (Tr.P.30) The CHINS explosion is a very big problem right now. PD budgets are not keeping pace with the growth in this area, at least a two-fold growth in 4 years (Tr.P.110). 40% reimbursement doesn’t allow PD’s to keep pace with explosive growth.

(Tr.P.31)

* We have done an excellent job and are proud of accomplishments. I will give you examples from my office
* Greg Mosier became a PD in Missouri right out of law school, a supposed “reform” system. Immediately, is caseload was 3 to 500 cases, 60% felonies. That would not comply with Indiana PD standards on caseload and experience. His starting salary was $38,000. Marion County was $45,000. At Marion County, he would have started in a misdemeanor court, in Missouri he had 60% felonies. Mosier will soon move to Indiana and he could tell you our system is better than Missouri because although there is a statewide PD system, it is not adequately funded.

(Tr.P.32)

* Carolyn Brown moved from Kentucky (Louisville) where her caseload was 3 to 500 cases, maybe closer to 600. The Louisville system is separate from the rest of the state and the Kentucky Public Advocate has a little better caseload situation and she was there for a while before moving to Marion County. She would say that the Indiana system is much better, like a breath of fresh air with caseload controls. I have met Chiefs from around the country, many of whom don’t have caseload controls, adequate funding and training. If adequately funded, the Indiana system is superior.

(Tr.P.34)

* Prosecutors and Chief Deputy Prosecutors are funded 100% by the state. PD’s should receive the same 100% funding for Chiefs and Deputy Chiefs (2 positions) who perform in compliance with Commission standards. Perhaps some smaller counties don’t need 2 positions. We have favored regionalization of perhaps 4 smaller PD offices, picked by a regional board to insulate from the individual judges. The board could have appointees from each of the counties, with a pro rata share based on the number of clients in the system. This could produce efficiencies and economies of scale.

(Tr.P.35)

* PD Commission should define standards or guidelines for Chief Defenders. There are variances in the duties, some are in court 100% of their time. They need to have time to do personnel matters, train, policy matters and a variety of other administrative tasks such as recruiting, quality control. There needs to be a client focused, client centered zealous advocacy, and policies should focus on that.

(Tr.P.36)

* Chief PD’s should be aware of what is going on elsewhere, such as national training opportunities, and should principally be administrators, relieved of caseload limitations (responsibilities?). The Chiefs need to do important administrative things, quality control, human resources, personnel, recruiting, training, small “p” politics, like getting a decent budget.

(Tr.P.38)

* Misdemeanors should be reimbursed statewide. The reimbursement rate should be 50%, creating an equal state and county partnership which would take the edge off the workload crisis created by CHINS.

(Tr.P.39)

* CHINS proceedings can create difficult conflicts of interest within a PD office, for example, representing the parents in a CHINS matter while representing the child in a juvenile delinquency (JD) proceeding. The parents’ attorney may need to contend that the CHINS issue is the child’s fault, which is in conflict with the position being taken on behalf of the child in the JD matter. The interests in the proceedings can be in conflict. And the CHINS representation is an “add on” to the core mission of criminal defense, something that has been added for the last 10 or 15 years. It is part of our obligation in public defense. This is a major ethical problem, and the lawyers in his office are often in a conflict situation between the various proceedings. It is hard to see how one office can ethically do both. Sometimes there is one mother and three dads, and we have to represent all involved. The conflicts are huge.

(Tr.P.41)

* More money can help with conflicts in some respects. It allows hiring more lawyers and creating separate teams of lawyers who are independent and physically walled off from each other, independent locking and filing systems and so forth. The only thing not independent is that the budget needs for all go through me. I can’t actually supervise them because that would put me in ethical conflicts, so they essentially supervise themselves.
* A PD office needs a separate CHINS division to have the necessary separation.
* The state should play a bigger role in funding the CHINS aspects of PD offices. DCS has grown at an astronomical rate, approaching a billion dollars a year. PD funding has not kept pace.

(Tr.P.43)

* The state should have a bigger role in funding silos in public defense. In the juvenile area, CHINS, TPR (termination of parental rights) and JD, the PD’s traditional role is in the JD defense. We should be representing the kids. That is what a criminal lawyer does. The same is true in CHINS matters: we should be representing the kids, not the parents. Even with separate responsibilities, if retained in a single organization, there will be ethical conflicts. Maybe the only way to resolve that is with independent contractors. It’s not clear. But I do know that every PD has this conflict problem, and it is even enhanced in the smaller offices.

(Tr.P.44)

* You have to wear many hats in a smaller office. Marion County PD is organized horizontally so that lawyers only doing CHINS, TPR and JD are housed in the same building but on different floors with separate supervision, a luxury of size. But conflicts are still prominent, requiring the need for independent contracting attorneys and more funding. I think the PD should represent the accused, the child.
* (Tr.P.45)
* Public defense has made great strides in the last 30 years. The horror stories of the past are not the stories of today. We need to focus on the positive. More guidelines from the PD Commission are needed, especially for the duties of Chief PD’s, reimbursement for misdemeanors and the 100% funding for Chief’s and Deputy Chief’s is needed.

(Tr.P.46)

* Through the recommendations of the Board of Directors of the Public Defenders Council (a handout to be covered by subsequent speaker, Neil Weisman), we have begun the steps of organizing what the duties of a Chief Public Defender should be. (Mr. Hill will also submit an outline of Chief’s duties that is being worked on by a subcommittee of Chiefs’ Association, including Don Murphy Tr.P.113). Home rule is a big thing in Indiana, you will need to pay attention to how local communities want to run their programs. In defining what Chief PD’s should do, I think the carrot and stick method is very effective. Reimbursement is a very big incentive and works effectively. I think the state should have the authority to remove a Chief when things go too wrong. But those guidelines should be established so that there is a standard of performance to use as a measure. Mandatory compliance is necessary as well as a board to insulate the defenders from the judges.

(Tr.P.48)

* Pay for PD’s is a very big issue. Lawyers come to the work after an expensive college and law school education. They have debt that needs to be paid, $125 to $150,000 and we can only pay $47,000 in Marion County (and less than $40,000 in smaller counties). They have families to feed, kids to educate, and although we are better off than Kentucky and Missouri, we aren’t good enough. Our lawyers are dedicated and do a good job. They defend the defenseless. They deserve better pay and a respectable work environment. Improvement comes from better pay.
* (Tr.P.74) In response to TF questioning, Mr. Hill said that the IPDC and Chiefs Association had considered the concept of a statewide, fully state funded PD system, incorporating home rule by having counties control the appointment of their PD’s, or a regional system. He feels that the current system is a statewide system, and it pays heed to home rule, and talking to people around the state, there would not be buy-in to an Indianapolis run and driven system. He does feel by ‘sweetening the pot’ to 50% reimbursement, more counties would be drawn into the program.
* In response to questioning (TR.P.88), Mr. Hill indicated that the PD Commission may hold the key to the independence of the county PD boards through the county plan approval process. His board is made up of an equal number of appointments by Republican and Democratic judges, and equal number of appointments by Republicans and Democratic members of the City-County Council, and one appointment by the Mayor of Indianapolis. It has generally been a very supportive board. The PD Commission could change the rules of appointment, and could say that judges should not make appointments and disburse them in some other way. (Larry Landis did point out that the appointment process is controlled statutorily and cannot be changed by the Commission.) Mr. Hill suggested that this provision should be changed so that the Commission could have more authority over that. He did feel that the boards could serve as a buffer between the judges and the PD’s.
* In response to questioning about what the ideal unit size of a regionalized PD office system, Mr. Hill referred to a hypothetical number of 3 or 4 adjacent counties, so that drive time between court appearances and other duties would not be excessive. (Tr.P.114) He feels that the size of those regional or multi-county offices should be based on the amount of PD assignments in the member counties. (Tr.P.115) CHINS/TPR assignments should also be considered. (Tr.P.121)
* In a discussion about the notion of a statewide or regional JD unit, (Tr.P.127-28) Mr. Hill expressed concern about diluting the JD division in his office, like the appellate division, but observed that there might be a regional benefit to smaller counties.
* (Tr.P.154) In the JD area, an advantage his office has is that when a case is waiver to felony court, adult jurisdiction, the juvenile lawyer can follow the case and bring the felony court lawyer up to speed quickly on the history of the case. And the social worker can also follow the case. A regional office could house social workers and other resources, such as psychologists to provide expertise, as well as legal expertise where there is currently a real deficit in many locations.

**Ruth Johnson, Appellate Division Chief, Marion County PD Office since 2008 (Tr.P.52)**

* We have partnered statewide on projects, such as e-filing, and I want to focus on the part of the 6th Amendment Center report recommending a statewide appellate Public Defender office. We think our office does a number of thinks well and we hope you will consider these as you think about how it could be implemented on a statewide basis.
* Each of the divisions of our office has an appellate attorney assigned as a liaison. When those divisions meet, such as a criminal court team, an appellate attorney is with them to help them brainstorm ideas. The appellate lawyer is there from the beginning when trial planning and strategy is being devised. The appellate counsel can help with the theme and theory of the case, as well as anticipating evidentiary issues and how to overcome them, and motions practice. The appellate attorney doesn’t wait until the trial is over to come into the case. We are embedded with the trial attorneys because it improves what happens in the trial court.
* Appellate attorneys are also embedded with the misdemeanor division, with brand new attorneys so they can learn how their work appears in an appellate record and posture and so they can follow their cases on appeal. It brings a different perspective to a lawyer to read a transcript of what he/she said in court. We think this makes them a better trial attorney to have this experience. We can also point out where and how things could have been done differently regarding examinations and objections.
* These early meetings help establish relationships between the appellate and trial lawyers, and we can serve as mentors to them in helping them develop their cases.
* If you are considering a statewide appellate office, it would concern me if it would work more as a Monday morning quarterback, only weighing in after the fact to second guess the trial lawyers. It should be arranged so that there is interaction and exchange between the trial and appellate lawyers through the life of a case. This rapport can help build trust.

(Tr.P.58)

* If a statewide system is recommended, please talk to me about what the infrastructure should look like. It must be different than the structure of the Attorney General’s office. The prosecutions does not have to get the trial transcripts together and filed, and to make sure everything is included and done correctly. Marion County has 62 different court reporters and it is a challenge to make sure all appellate deadlines are met.
* (TR.P.123) Extensions of time are not allowed in TPR appeals so everything else must be dropped to do one. And the volume of CHINS/TPR appeals is skyrocketing for Marion County, 24 in 2011, 47 in 2017, and 12 January of 2018 alone. The records in those appeals are also very large and dense so the record preparation is very time consuming and urgent.

**Neil Weisman, Chair of the Indiana Public Defenders’ Council and Deputy Chief Public Defender, St. Joe County (Tr.P.59)**

* I am here to present the Council’s position, in coordination with the Chiefs, as to what this TF should be looking at. We did, through a letter, request that the Public Defender Commission appoint 3 PD’s to the TF, which was rejected, but if nothing else, select PD’s from different sized counties around the state, representing the different methods of delivering defense services, should have an active advisory council to the TF. (TR.P.61)
* The PD Council is made up of 11 members. The State Public Defender is a member by statutory mandate. The others are elected at large from the entire membership of Public Defenders. So even though we come from different counties, our purpose is to represent PD’s as a whole. We represent a pretty good cross section from around the state, some who are contractual, travelling to 3 or 4 counties who do not have their own PD, as well as PD’s from counties that do,
* As others have said, we don’t think you need to reinvent the Indiana Public Defender system. We have a good start with over 30 counties in the reimbursement program and we need to build up those areas where there are deficiencies. Some folks and some counties are doing really well, great jobs, with the resources they have. We have a handout of points and recommendations we want to make. (Handout included) but first a little background.
* I was a contract attorney in a Marion County Criminal Court for 4 or 5 years before moving to South Bend, so I have done both contractual and PD employee work, both underpaid and overworked. St. Joseph County didn’t enter the reimbursement system until 2007, perhaps because as you get away from Marion County, there is a big aversion to having Indianapolis take control of other counties. And until the reimbursement rate stabilized at 40% that you could count on, budget year-in-and-year-out, that the St. Joe folks would agree to get into the program. We also had to make sure that we could build a program that would not cost the county more because of the need to comply with the standards.
* We built a good system, but it is bare bones, no staff, no investigators, no paralegals, no secretaries and a part-time employee system. So it is different than the Marion County system with its resources, and the Council has the range of PD’s who deliver their services with different resources and systems, included rural counties which have nothing.
* There is inconsistency in the methods of delivery of services throughout the state and maybe that is not a bad thing in some ways. But our main goal is to emphasize that the number one issue is the need for workload standards, education standards, experience standards, how you do your job should be mandated throughout the state. It has to start there.
* (Tr.P.65) We think some form of the county PD boards should be retained because it gives the counties ownership and buy-in. The board should appoint the PD’s and work with the PD Commission.
* An enforcement mechanism for the standards has been touched on. Our handout is an outline of what we hope the TF will work from. The PD Commission is at the heart of the standards so it should have the resources to enforce the standards. Perhaps the Commission should have authority to take over a PD office that is failing. (Tr.P.66) We aren’t sure how that will work but there has to be an authority like that. The carrot of reimbursement is needed to get counties into the program. Most counties face major budget deficits.
* St. Joe County has its “circuit breaker.” Every time we go to the county council for a budget, they say ‘where can you cut’ not ‘where can you add.’ So the carrot reimbursement has to be there, along with the stick of enforcement of the guidelines. It should be clear that a PD can be removed if not doing the right job.
* There also need to be very specific standards as to what the Chief’s duties and responsibilities are. (Tr. P.67)
* As to CHINS and TPR matters, we agree that PD’s are criminal lawyers. In addition to the conflicts of interest problems discussed, there is an extreme conflict between JD defenders and CHINS defenders. Many Chins cases are driven because one or both parent has been arrested, and we are defending them on the criminal charges. But we are then drawn into the CHINS proceeding because things introduced there can have an adverse effect on the criminal case. The CHINS representation should probably be handled by a separate agency.
* (Tr.P.68) Perhaps there should be a state agency to handle CHINS/TPR matters, it could contract with counties to provide those services. I don’t know if anyone has devised the mechanisms or logistics of how that could work but the whole system is fraught with conflicts and problems, and is way out of the realm of what criminal lawyers do because it involves family law, and it gets into all kinds of other things. (See also Tr.P.121-22)
* We think that there should be a statewide appellate division with the ability to contract for lawyers in certain areas. Only the two largest counties, Marion and Lake, can have the luxury of a true appellate division at present. All others contract appeals out or assign to trial PD’s. And, therefore, there is no oversight of the appellate work and no resource that a lawyer with a PD appeal can go to for assistance and advice. (TR.P.69) There are also areas of the state in which there are no lawyers who do appeals so they have to go to PD Council for recommendations.
* Depending on where you are in the state, issues can be different, or they can be similar. It would be helpful to be able to share a back and forth dialogue about the issues. With respect to the potential for a statewide appellate office, (Tr.P.125) it would be helpful if the appellate lawyers in such an office would develop a relationship with individual county PD offices so that trial lawyers could have the kind of interaction with appellate counsel that was described by the Marion County office. (See also Tr.P.131) The Marion County appellate division could be used as a model for a statewide office. (Tr.P.126) St. Joe County currently contracts out appeals so there is no home rule concern there with a statewide appellate system (Tr.P.130) but there would be with lawyers who are in court every day, such as JD lawyers, who need to understand the particular county system and personnel.
* A regionalization or multi-county consolidation could be beneficial where individual, smaller counties do not have the resources or needs to warrant full staff in a single county. Some counties already need to contract with lawyers outside their county because they don’t have enough lawyers to do necessary PD work. But, it is difficult to have a “one size fits all” solution to all PD issues (Tr.P.137) because of differences in size and needs.
* (Tr.P.70) State reimbursement is a large driver. If we could be relieved of CHINS or appeals, for example, that would free up resources which could allow us to hire people and get in compliance with misdemeanors, or hire some paralegals, investigators or staff.
* We have done some great work with the program we have. We are light years ahead of some other states. We have a PD Council that provides excellent training. There are resources for research, and we can go to them for help. We need to build on that. The reimbursement percentage needs to be moved to 50%. (Tr.P.71) The extra 10% could allow us to do good things.
* The Chief Public Defender salary should be 100% state funded.
* The PD Commission makeup should be enhanced as indicated on the handout.
* The duties of a Chief PD should have standards and guidelines
* The Chief PD should be paid the same as the Prosecutor and subject to oversight and then look at caseloads.
* (Tr.P.72) In some counties, the Chief PD is required to carry a full caseload because they are being paid so much, but then they don’t have time to the necessary administrative work and necessary oversight of others.
* The caseload standards should be mandated statewide.
* The PD Commission needs to be able to enforce standards, not just audit them. There should be real teeth in the standards.
* (Tr.P.78) On questioning by TF members, Mr. Weisman indicated that the IPDC had, from time to time, discussed the ideas of a statewide system, and even the concept of regional PD Administrators, but the consensus of Board members is that it would create a costly bureaucratic layer that would take money away from actually delivering the services at the county level. But he does recommend a statewide appellate system because these are specialized services for which there would be benefits and economies of scale by doing on a consolidated basis.
* In response to questioning (Tr.P.85-86), Mr. Weisman indicated that the knowledge and involvement of the county PD boards varies a great deal from county to county.
* Mr. Weisman also noted (Tr.P.90) that his county board is very invested in the PD program. One appointment is made by the county council. He does feel that the board need some sort of training about how their work should be done. Just being put on a board with no training doesn’t give the members much background for what they may need to do. He also suggested written standards for board members.
* In questions about the source of additional funding for PD needs, (Tr.P.98) Mr. Weisman suggested increases in court costs could be a source for that but had no other suggestions. No one had suggestions of additional sources of funds, other than attempting to persuade the legislature of needs. (Tr.P.101-105)

**(Tr.P.77) David Schircliff, Chief PD Lawrence County**

* There is a lot of push back on the notion of other counties being controlled by Indianapolis, even on reimbursements. The reason some counties don’t participate, or are reluctant to do so, is because they don’t want Indianapolis telling them, by reimbursement or even persuasiveness, to tell them how to run their county.
* I worked in the Marion County PD office, leaving there to become Chief PD in Lawrence County and have observed the pushback that happens, regardless of the money available from reimbursement.
* In response to a question, (Tr.P.82) he indicated that his 3 staff defenders make approximately $39,000, each with a full caseload.

**(Tr.P.91) Christopher Shema, deputy PD, Vigo County**

* He has performed PD work for over 28 years. He also feels that the failure to have PD’s on the TF causes a perception problem and is a travesty, that they are deprived of a voice at the table. PD’s feel embattled and practice in a state of fear. Being employed via a flat fee contract and being told you will take whatever comes in, and then you are assigned to do CHINS and juvenile, and all are answerable to the judge. This is not conducive to effective assistance of counsel and they feel embattled. The TF is invited to take a proactive approach to correct the misperception.
* Mr. Shema pointed up inconsistency (TR.P.95) of police officers and other public employees having merit board protection but none for PD’s. He has a judge who is a good boss, but others feel the pressure of not wanting to ask for more resources, experts, etc. than the judge may desire. Some may feel that it is not worth fighting for resources anymore. Independence of PD’s is essential. They should not feel that they can be punished for doing their jobs. Of course, a PD should expect punishment when they mess up, but not when they properly perform their jobs.
* (Tr.P.121) TPR/CHINS appeals are very complex, much different than criminal appeals.
* (Tr.P.146) An example of a JD and CHINS conflict would be when drugs are found in a house and the child says ‘those are not my drugs, they are my mother’s drugs.’ A single lawyer cannot represent both the child and the mother in that situation. It is very difficult for a PD to go up against the resources of DCS.
* (Tr.P.157) CHINS cases are like custody cases from Hell. There is no end to them, unlike criminal cases which have a beginning, a middle and an end. These just won’t go away and you have to have the resources to hang with DCS. We are just outmatched. We can’t compete.
* (Tr.P.159) Consideration should be given to how cases are weighted; many think there is a mis-weighting, that misdemeanors are over weighted and serious felonies are underweighted. When you view attorneys’ caseload maximums, those in the courts that have a predominance of DUI’s, domestic batteries, misdemeanors, they are maxed out. And those in the felony divisions are handling rapes, robberies and murders and are like deer in the headlights, yet they are not at the maximum numbers. Mr. Weisman added that some of the downgraded felonies which are now misdemeanors actually have greater seriousness than a misdemeanor might. So the measurement in both felonies and misdemeanors may be a mixed bag of intense and not so intense case responsibilities.

**Ashley Spolarich (Tr.P.139) PD in Tippecanoe County, formerly in Marion County**

* Specialization with regional availability is very helpful in certain types of PD work, but it is better if there is a geographic closeness. Smaller counties don’t like to be told what to do by Indianapolis. Participation in the reimbursement system should be mandatory, but it has to be chosen on the local level because they will fight it being imposed from on high. But by imposing mandatory standards, the PD Commission can force county councils to do what they should do in having decent caseload limits, etc. It is difficult, but smaller counties need to be compelled to participate. Mr. Weisman (Tr.P.142) pointed to the example of Criminal Rule 24 on death penalty representation as a state mandated improvement that was accepted.

**Gretchen Etling, Chief PD, Vigo County (Tr.P.143)**

* One of the important things in a Chief PD’s description of duties should be training. And training should be mandated for anyone handling JD cases, and Chiefs should have as a responsibility to insure that JD training is received. CHINS has been an exploding area for Vigo County. Her PD’s are being exhausted by CHINS work. At team meetings about the cases, the PD’s feel like it is the State against us. DCS holds all the power in that setting. We would benefit from a statewide CHINS defense system so we could have some parity with DCS counsel. Certainly, the PD system needs funds to hire experts to match DCS. TPR’s are doubling and tripling. CHINS?TPR defense would benefit from a regionalization concept for an increase in lawyer training and a specialization on the issues of these cases. JD cases, on the other hand, are probably better handled locally. The numbers of those have not grown as CHINS/TPR have. But overall, a job description for Chief PD’s is necessary.
* (Tr.P.147) DCS case managers change frequently so it is hard to know who you are dealing with at times, unlike with a JD case where you know who the prosecutor will be. In order to balance the resources with DCS, we need funds to hire more attorneys and to hire experts. The imbalance in resource causes a real injustice. They can always have an expert and we are without a comparable ability. And the volume exacerbates the imbalance, as does the speed with which the cases are pushed through.

**Jason Meredith (Tr.P.155) Deputy PD, Monroe County**

* Monroe County has 13 lawyers, a medium sized county, 150,000 population for 9 months of the year with a drop during summers because of students. Their CHINS caseload has doubled in the last year. He feels that the felony and juvenile experience translates well from one to the other. The amount of time that CHINS cases take should require more lawyer resources and funding, and it’s difficult to get locally. He does not think the county is aware of how bad the situation is. The lawyers in his office is strained by the workload on the CHINS cases.