

INDIANA PUBLIC DEFENDER COMMISSION

Minutes
 January 31, 1994

Members present:

The following Commission members were present: Norman Lefstein, Bettye Lou Jerrel, Susan Carpenter, Monica Foster, Doug Kinser, and Barry Brown. Also present was Larry Landis.

Minutes:

The minutes of the meeting on December 15, 1993, were approved as submitted.

Reimbursement Request:


There were no pending claims for reimbursement for review by the Commission.

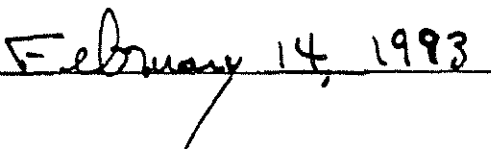
Standards In Non-Capital Cases:

The Commission reviewed draft three of the standards for indigent defense services in non-capital cases and made numerous changes. The Commission decided to review the proposed standards at the next meeting and then distribute the proposed standards to interested parties for comment.

Next Meeting:

The next meeting of the Commission was set for March 25, 1994, at 1:00 p.m. in the offices of Hammerle and Foster at 501 Indiana Avenue, Suite 200, Indianapolis.


 Norman Lefstein, Chairman


 Date

INDIANA PUBLIC DEFENDER COMMISSION

Minutes
March 25, 1994

Members present:

The following Commission members were present: Norman Lefstein, Bettye Lou Jerrell, Richard Bray, Susan Carpenter, Monica Foster, Lonnie Randolph, Rick Kammen, and Doug Kinser. Also present was Larry Landis.

Barry Brown

Minutes:

The approval of the minutes of the meeting on January 31, 1994, was postponed until the next meeting.

Annual Report:

Reimbursement Request:

The following requests for reimbursement were submitted and approved:

State v. Wingett - \$1,580.88 (Monica Foster abstained from voting)

State v. Eric Holmes - \$25,044.66 (Monica Foster abstained from voting)

State v. Alcorn - \$7,179.65 (Monica Foster abstained from voting)

Marion County Auditor:

Standards in Non-Capital Cases:

The Commission reviewed Draft Four of the Standards for Indigent Defense Services in Non-Capital Cases and the Caseload Study prepared by the Public Defender Council.

The Commission made several changes and approved the standards for distribution to interested parties.

Next Meeting:

The next meeting was scheduled for June 29, 1994, at 2:00 p.m.

Norman Lefstein
Norman Lefstein, Chairman

June 29, 1994
Date

AMENDMENT TO
3/25/94 MINUTES

"Members present"

Barry Brown
attended



INDIANA PUBLIC DEFENDER COMMISSION

MINUTES

June 29, 1994

app'd

Chairman Norman Lefstein called the meeting to order. Other Commission members present were Douglas Kinser, Susan Carpenter, Richard Bray, Rick Kammen, Monica Foster, Lonnie Randolph, and Barry Brown. Also present were Larry Landis and Meg Babcock.

1. The Commission approved the Minutes of the March 25, 1994 meeting after one amendment reflecting that Barry Brown also was present.

2. The Commission considered claims for reimbursement and approved the following claims for the amounts shown:

Marion County

<u>Burris</u>	\$ 7,031.50	
<u>Eric Holmes</u>	96.25	(Monica Foster abstaining)
<u>Steve Smith</u>	26,522.27	
<u>Timberlake</u>	9,468.90	
<u>Wingett</u>	1,258.75	(Monica Foster abstaining)
<u>Hurt</u>	4,312.50	
<u>Yerden</u>	1,225.00	(Monica Foster dissenting)
<u>Yerden</u>	502.25	(Monica Foster dissenting)

Lake County

Roseborough - This claim was disallowed because the attorneys could not certify compliance with the workload requirements.

<u>Potts</u>	\$ 1,216.25	
<u>Roark</u>	6,144.25	
<u>Williams</u>	20,725.23	
<u>Peterson</u>	7,717.50	

Madison County

<u>Saylor</u>	\$ 35,177.60	
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3. The Commission discussed Judge Clement's concern about the rule against assignment of new cases to appellate public defenders while the capital case brief is pending. He asked, in his letter to the Chief Justice, for permission to assign new cases prior to the filing of the brief in the capital case where the record in the new case will not be available until after the capital case brief is filed. The Commission agreed he had a valid point and authorized Chairman Lefstein to speak to the Chief Justice about an

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appropriate amendment to Rule 24.

4. The Commission voted unanimously in favor of a resolution stating that the members believe a substantial increase in the fund's appropriations are needed to meet the costs of reimbursement of defense expenses in non-capital cases once Indiana counties are in compliance with the new standards. The Commission urges that the State appropriate 2 1/2 million dollars for Fiscal Year 1995-96 and 4 million dollars for Fiscal Year 1996-97 to the Public Defense Fund to fulfill its statutory responsibilities in reimbursing counties for the defense expenses in non-capital indigent cases.

5. The Commission reviewed and discussed the Proposed Standards in Non-Capital Cases. Attached to these Minutes are the original proposed standards and the amendments agreed upon at the meeting.

6. The next meeting is scheduled for Thursday, September 1, 1994, at 3:00 p.m.

INDIANA PUBLIC DEFENDER COMMISSION

MINUTES

September 1, 1994

The Public Defender Commission met at 3:00 p.m. at 501 Indiana Avenue, Indianapolis, Indiana. Present were Commission Chairman Norman Lefstein, and Commission members Susan Carpenter, Richard Bray, Monica Foster, Lonnie Randolph, Barry Brown, Bettye Lou Jerrel, and Ralph Foley. Also present were Larry Landis and Meg Babcock.

1. The Commission approved the Minutes from the June 29, 1994 meeting with one amendment. Item #3 was amended to reflect that the Chairman contacted the Court by letter to the Chief Justice about an amendment to Rule 24 regarding assignment of new cases while a capital case appellate brief is pending.

2. The Commission considered the following claims and approved reimbursement in the amount shown:

Marion County,	<u>State v. Timberlake</u>	\$ 12,078.24
	<u>State v. Yerden</u>	4,649.87
	<u>State v. Sears</u>	2,254.00
Boone County,	<u>State v. Bivens</u>	16,086.66
	(Susan Carpenter abstaining)	

The Commission did not approve the three Steven Holmes claims and the two Denon Taylor claims from Marion County because counsel was not in compliance with Rule 24. Two of the three Sears claims were held in abeyance; Bruce Kotzan will be contacted about the payment to attorney Arnett of \$75.00/hr., a sum varying from the standard Rule 24.

3. The Commission briefly discussed the letter from John Von Arx and the Chairman's response.

4. The Commission discussed the issue in a capital case venued out of Putnam County in which Judge LaViolette apparently continues to exercise authority over the approval of the attorneys' expenses. Also, she apparently has cut the attorneys' bills. The Commission members believe this action constitutes non-compliance with Rule 24 which requires the "trial judge" to determine the reasonableness of the attorneys' services. The Commission voted, with Ms. Foster dissenting, that the appropriate action at this point is for the Chairman to draft a letter to the Court, which he will circulate to the Commission members for their approval.

5. The Commission reviewed the latest draft of the Standards in non-capital cases and agreed that the creation of a Board should be

J. LaViolette

mandatory, except in counties with fewer than 12,000 in population. The Commission considered the letters about the Standards from Janice Smith, Judge Payne, and Louis Heeb. The Commission agreed to amend C. Eligibility for Appointment of Counsel by adding the words "in criminal cases" after "public expense" and to amend D. Payment by accused of Defense Costs by amending "an indigent person to pay some or all of the costs" to read "indigent persons in criminal cases to pay some or all of the costs." The Commission agreed to change the caseload standards in juvenile cases from 150 to 200 for full time public defenders without adequate support staff and from 75 to 100 for part-time public defenders without adequate support staff, and to change the juvenile standards for public defenders with adequate support staff to 250, full-time, and 125, part-time.

The Commission agreed the Standards are ready for distribution and that their effective date should be 1/1/95. The Chairman will send the Chief Justice a copy of the new Standards.

6. Chairman Lefstein and Meg Babcock will meet with Bruce Kotzan about future staffing ideas.

7. The next meeting is Friday, December 2, 1994, at 3:00 p.m. The site of the meeting will be announced later.

INDIANA PUBLIC DEFENDER COMMISSION

MINUTES

December 2, 1994

The Commission met at 3:00 p.m. at 309 West Washington Street, Indianapolis, Indiana. Present were Chairman Norman Lefstein, Ralph Foley, Barry Brown, and Bettye Lou Jerrel. Also present were Larry Landis and Meg Babcock.

1. The Commission approved the Minutes of the September 1, 1994 meeting after one correction to paragraph 4.

2. The Chairman reported that Rick Kammen resigned from the Commission. His successor has not been named by the Governor, and the Chief Justice has an appointment open, so the Commission currently has nine members and two vacancies.

3. The Chairman reported that the black-letter rule and the commentary of the Standards for Defense Representation in Non-capital Cases was distributed state-wide. Larry Landis reported on the inquiries he has received from various counties.

4. The Commission approved the following claims for reimbursement in capital cases:

Marion County State v. Sears: \$ 3,632.75

Marion County State v. Sears: \$13,027.66

Marion County State v. Hurt: \$ 3,244.09

Because the Executive Director of the Division of State Court Administration was not asked to approve deviation from the presumptive \$70.00 per hour to the \$75.00 per hour which was paid to attorney Arnett in the Sears case and to attorney Nugent in the Hurt case, the Commission approved these claims only after reducing the attorneys fees to \$70.00 per hour. Also, in Hurt, a payment to the Neuro Sciene Center of \$1,050.00 appeared to relate to an expense incurred after the death count was dismissed and, therefore, reimbursement was not approved.

Vanderburgh County State v. Prowell: \$18,898.20

The following appeared not to be defense expenses, and were not approved for reimbursement: Transcripts - \$672.00; \$111.25; \$124.00; \$1,426.00.

Hamilton County State v. Walls: \$5,766.53
 State v. Adams: \$2,627.41
 State v. Ajabu: \$6,760.09

5. The Commission discussed the Chief Justice's letter to Judge LaViolette about the Stevens case. The Court advised her that she is not the trial judge and that Judge Heid, not she, should make the determination whether the attorneys' services are reasonable and necessary. Larry Landis will discuss with Judge Heid the previous cuts imposed by Judge LaViolette.

6. The Chairman will send a letter to Judge Clement advising him that the Commission will continue to disallow the entire claim in cases in which one attorney's appointment was not in compliance with Rule 24, but that the appeal will be treated separately and appellate claims will be reimbursed if the appointment was made in compliance with the Rule even if there was no compliance at the trial level.

7. The question raised by Susan Carpenter about standards in non-capital cases will be addressed at the next meeting.

8. The Commission discussed whether it would approve claims for reimbursement in non-capital cases only as of the date the Commission approves the plan, or retroactively back to the date an approved plan was implemented. There was some sentiment for making reimbursements as of the date of compliance, as opposed to approval, but the Commission will make that determination after scrutinizing the individual plans. Nonetheless, counties may submit claims for expenses incurred as of January 1, 1995 and the Commission will consider them.

9. The Commission members agreed that it would be appropriate to authorize reimbursement to counties who have complied with part, but not all, of a comprehensive plan, especially if the counties submit a proposal for a master plan of full compliance. Claims from counties in partial compliance will be considered on an ad hoc basis. Larry Landis will add language about partial compliance to the proposed Guidelines.

10. A staff lawyer in Larry Landis' office will provide technical assistance to counties about their plans and will educate the Commission by memo about each plan being submitted. The issue of clerical assistance will be discussed with Bruce Kotzan.

11. The Commission on Courts endorsed the Commission's request for additional money. Rep. Ralph Foley will authorize the drafting of a bill. Who will sponsor the bill

remains to be seen. January 4, 1995 is the approximate deadline for the submission of bills.

12. The Commission set a date for the next meeting: Tuesday, January 24, 1995. Meg will call the members not in attendance about the date, and it was suggested that the Commission have a dinner meeting from 6:15 to no later than 9:15 at the Westin. Meg will arrange the dinner with the Westin.