

Indiana Public Defender Commission

Minutes
January 11, 1996

App'd

The Chairman called the meeting to order at 5:30. Other Commission members present were Lonnie Randolph, Susan Carpenter, Thomas Alevizos, and Ralph Foley. Also present were Larry Landis, David Shircliffe, and Meg Babcock.

1. The Commission approved the Minutes of the November 16, 1995 meeting.

2. Claims for reimbursement of expenses in non-capital cases:

Orange County - The claim for \$2,315.11 was approved.

Montgomery County - The claim for 25% of attorneys fees paid in the second half of 1995 was approved in the amount of \$10,500.00. The claim for "other expenses" for 1995 was disallowed pending a request to the county to resubmit a claim excluding non-defense transcript expenses. The consensus of the Commission is that it should not reimburse counties for the cost of appellate transcripts in non-capital cases, consistent with its policy in capital case reimbursement.

LaPorte County - The claim for \$27,505.17 was approved.

Clark County - The claim of \$36,305.57 was approved subject to confirmation that the claim for transcripts was not for appellate transcripts.

3. Claims for reimbursement of expenses in capital cases:

Elkhart County, State v. Garrett - This claim was rejected because the attorneys were not paid \$70.00 per hour and because some of the expenses have not yet been paid.

Hamilton County, State v. Adams - The claim for \$37,027.00 was approved.

Hamilton County, State v. Walls - The claim for \$67,073.63 was approved.

Marion County, State v. Mathisen - The claim for \$3,510.60 was approved.

4. The Chairman stated that the Annual Report will be ready soon for distribution to judges and other county officials.

5. The Commission briefly discussed its duties to make recommendations in other areas beyond what has already been accomplished.

6. The next meetings scheduled are for Thursday, March 7 and Thursday, May 9, 1996.

app. 9-16-96

INDIANA PUBLIC DEFENDER COMMISSION

MINUTES

May 9, 1996

Chairman Lefstein called the meeting to order at 4:40 p.m. Other Commission members present were Monica Foster, Susan Carpenter, Richard Bray, and Bettye Lou Jerrel. Also present were Larry Landis, David Shircliffe, and Meg Babcock.

1. The Commission approved the Minutes of the January 11, 1996 meeting.

2. The Commission approved the following claims for reimbursement of 50% of defense expenses in capital cases:

Marion County,	<u>State v. Alcorn</u>	\$ 1,624.46
Marion County,	<u>State v. Holmes</u>	750.00
Marion County,	<u>State v. Jerry Thompson</u>	24,426.01
Madison County,	<u>State v. Weatherford</u>	65,497.78
Delaware County,	<u>State v. Newton</u>	26,879.26
Hamilton County,	<u>State v. Walls</u>	17,721.03
Hamilton County,	<u>State v. Adams</u>	4,574.16

3. The Commission approved the following claims for reimbursement of 25% of defense expenditures in non-capital cases:

Orange County: The Commission approved reimbursement of \$1,104.75 for the first three months of 1996, representing expenses from Circuit and County Court, which are in compliance. Counsel assigned on a case by case basis are paid \$60.00/hr.

LaPorte County: The Commission approved reimbursement of \$29,118.40, representing expenses for the first four months of 1996.

Montgomery County: This claim was held over from the last meeting because the expenses claimed were unclear. The expenses have been clarified and the request for appellate transcripts subtracted. Therefore, the Commission approved reimbursement of \$13,142.15.

Clark County: The Commission approved reimbursement of \$8,762.62, representing expenses from 7/1/95 through 12/31/95.

Marion County: David Cook, Bob Hill, and Angela Dow appeared at the meeting representing the Marion County Public Defender Agency. The Commission approved reimbursement to Marion County of \$155,237.84.

4. NOTE: The Commission voted unanimously to amend its previous policy regarding appellate transcripts and to reimburse counties the expense of appellate transcripts in capital cases and in non-

capital cases where the appellate services plans are approved. Reimbursement of appellate transcripts will be prospective only. The Commission will reimburse any transcript expenses paid after May 9, 1996. Staff will distribute a memo about this policy change to all counties.

5. The Commission considered the letter from David Cook to the Chief Justice about using full-time salaried public defenders to work on capital cases. It was agreed that the Commission should present a proposed rule amendment to the Court. Larry Landis, David Cook, and Susan Carpenter will work on a proposal for the Commission to consider at the next meeting. Chairman Lefstein will contact the Chief Justice and advise him of the Commission's intention to draft a proposal.

6. The Commission approved the Parke County plan since the county deleted the sections of their proposed plan dealing with the involvement of the Board in determining eligibility for public defender services.

7. Annual Report - Meg Babcock will distribute the Annual Report to all Indiana judges, Presidents of County Councils, Presidents of Boards of Commissioners, County Auditors, and Public Defenders. Larry Landis will prepare a cover letter.

8. The next meeting will be Monday, September 16, 1996 at 4:30.

PDC 5/9/96

Minutes - 1/11/96
App'd

Claims all app'd

Claims for Non-Cap. Expe

Orange - 1/11 → 3/31 app'd - - Assigned counsel pd
case by case 60/hr.

This info circuit + work let
w/ are in compliance

rec. 1,104.75 OK

Lafayette County

all part-time

For 1st 9 months of year -

29,118.40

OK

Martin

Montgomery

had had this, fees
the expenses were undea-
subtracted appeal f's

13,142.15

Clark - had held out

- we made mistake - overlooked

po this is 7/1/95 - 12/31/95

office - revenues =

8,762.67

Main County

lost time, ~~ad.~~ charged
members appellate t's

one positive, ~~ad.~~ it was
beg

(The Main County
appellate decision
is not in compliance)

issue: what does the PVC
want to do re. t's -

121

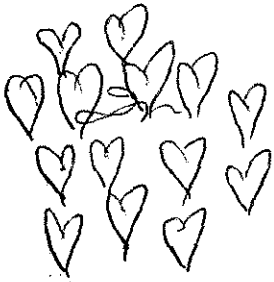
non appellate
appellate

6,192.00

115,460.80

620,951.34 x 25%

1 included, pay 620,951.34 x 25%



If we do this change,
then in capital cases
we pay if it comes out of pd
budget

If we adopt it + reim.
for capital - we set up a
situation that it will always
be in budget

Summary of this position

No Motion
change policy re: \pm 's -
consider it a d expense
for a + reim, regardless
of budget -
if court in compliance
(or appellate division) then reim.

It's 25% in non cap -
50% in cap -

Prospective only

Passed

It looks like Marin City denied

We
will
pay for
future
costs
incurred

We've got to tell
them

It's gotta be costs incurred
from this day forward

Any expense -
paid after today ~~★~~
regardless of when work done or
bill submitted

~~★~~ David amend
report to 155,237.84

Annual Rpt.

may will get orig. /

to all, plus comms,

Pres & CC, & judges

Need letter - L2 has
draft. -

5-600

Need a copy of 2 cases

Norm. - will call
cg & tell him

L², Dave,
Susan, ~~the~~
will work on
it

there will be a proposal

L² will get something in advance
of the meeting



Next meeting -

mid Sept. -

3rd Monday of Sept

Sept 16, 1986

430

Code Court Plan -

They have agreed
to delete C, 4 + 5

dealing w/ involvement of Bd

So. it looks OK - see. app

David Cook - letter -

it would be more
economical to have
full-time salaries
do pd work

The rule now reads
all must get 70.00/

There's a meeting next week
re: inappropriate funding
on capital cases

Norm. is inherently wrong
at it
but what about overburdening

We should offer suggestions
amend. to Rule

DC want a major case division -
(not just a dp atty = can't contribute)
need caps; salary reg; staff

INDIANA PUBLIC DEFENDER COMMISSION

MINUTES

September 16, 1996

The meeting was called to order at 4:45 p.m. Present at the meeting were Chairman Norman Lefstein, Monica Foster, Susan Carpenter, Bettye Lou Jerrel, Ralph Foley, Richard Bray, Barry Brown, and Judge Daniel Donahue. Also present were Larry Landis and Meg Babcock.

1. The Commission approved the Minutes of the May 9, 1996 meeting.
2. The Commission reviewed and approved the following claims for reimbursement in capital cases:

Marion County, <u>State v. Burris</u>	\$ 786.50
Marion County, <u>State v. Barker</u>	1,083.50
Marion County, <u>State v. Barker</u>	3,228.23
Marion County, <u>State v. Barker</u>	4,011.30
Marion County, <u>State v. Huffman</u> (Monica Foster abstaining)	13,304.21
Marion County, <u>State v. Underwood</u> (Monica Foster abstaining)	29,623.64
Marion County, <u>State v. Webber</u>	14,623.71
Lake County, <u>State v. Rogers</u>	29,093.12
Hamilton County, <u>State v. Ajabu</u> (Monica Foster abstaining)	329.50
Elkhart County, <u>State v. Garrett</u>	35,107.96

The Marion County State v. Denon Taylor claim for \$ 1,467.50 was denied because it requested payment for the appellate transcript, which cost was incurred prior to May 1, 1996, the effective date of the Commission's policy to reimburse for appellate transcripts.

3. The Commission approved the following claims for reimbursement of 25% of defense expenditures in non-capital cases:

Montgomery County: The Commission approved the first claim for attorney salaries, and will pay \$8,125.00. The second claim for reimbursement of \$1,544.18 was deferred until the next meeting on Mr. Landis' recommendation. Mr. Landis indicated there were questions about what was included in "additional services" and

about whether attorneys in conflict cases were compensated at \$60.00/hr.

Clark County - The Commission approved payment to Clark County of \$42,670.80. Judge Donahue abstained.

Marion County - David Cook, Angela Dow, and Dee Dennis appeared at the meeting representing the Marion County Public Defender Agency. The Commission reviewed their claim for reimbursement of \$163,371.47, covering non-capital defense expenses from April 1, 1996 through August 31, 1996. The Commission voted to approve the claim subject to Mr. Landis' review and Chairman Lefstein's final review and approval.

4. The Commission discussed the proposed amendment to Criminal Rule 24 regarding guidelines for full-time public defenders, and heard from Mr. Cook on the issue. The Commission voted to approve the amendment for submission to the Court subject to some non-substantive changes by Chairman Lefstein. The proposed amendment provides:

(B) Appointment of Trial Counsel

(B)(3)(d) In a county with a county public defender office and a comprehensive plan for indigent defense services approved by the Public Defender Commission, full-time salaried public defenders may be appointed as trial counsel in a capital case if there is compliance [with] the caseload provisions in paragraph (B)(3)(c), and may be appointed to two (2) cases if the public defender's caseload will not exceed five (5) open felony cases, which may include Murder or Class A felonies.

(C) Compensation of Appointed Trial Counsel. Except as provided in paragraph (C)(4)...

(C)(4) *Salaried Employees.* If counsel employed as a full-time public defender is appointed as defense counsel in a capital case under paragraph (B)(3)(d), the salary of such attorney shall be no less than the salary of a full-time chief deputy prosecutor in the county.

5. The Commission discussed the need for a full-time staff person for the Commission. Chairman Lefstein reported that he and Mr. Landis spoke with the Executive Director of State Court Administration, Bruce Kotzan, about budgeting for a full-time position, and Mr. Kotzan has spoken with the Chief Justice. The Commission agreed that a full-time person was needed to work with the Commission in working more proactively with the counties to stimulate compliance and to help the Commission in making recommendations in other areas outlined in its statutory mandate.

6. The Commission agreed it should seek legislation to increase the reimbursement in non-capital cases to 50%.

7. The Commission discussed whether the Public Defender Commission would have any role to play in the development of a pool of attorneys qualified in federal habeas cases, and concluded that, at this point, the Public Defender Commission did not have a meaningful role to play.

8. Monica Foster referred the members to a recent Indiana Supreme Court case, Williams v. State, wherein the trial court had imposed unreasonable limitations on the defendant's mitigation investigation. Staff will watch for claims on this case and will distribute the opinion to the members.

9. The next meeting is scheduled for 4:30 p.m., Wednesday, December 4, 1996 in Room 319, State House.

Indiana Public Defender Commission
Meeting Minutes
December 4, 1996

The meeting was called to order at 4:30 p.m. Members present at the meeting were: Chairman Norman Lefstein, Monica Foster, Susan Carpenter, Rep. Ralph Foley, Sen. Richard Bray, Rep. Tom Alevizos, and Sen. Lonnie Randolph. Also present was Larry Landis.

1. The Commission approved the minutes of the September 16, 1996, meeting
2. The Commission reviewed and approved the following claims for reimbursement in capital cases:

County	Cases	Amount	Action
Lake	Williams	\$1,330.00	tabled <i>approved</i>
Marion	Mathisen	\$1,952.10	approved
	Yerden	\$665.75	approved
	Thompson	\$15,732.26	approved
	Boyd	\$755.05	approved
	Huffman	\$4,868.16	approved
Morgan	Sherwood	\$65,873.95	approved
Vanderburgh	Wrinkles	\$6,720.00	tabled <i>approved</i>
TOTAL APPROVED		\$89,847.27	

The claims from Lake County in Williams v. State for \$1,330.00 and from Vanderburgh County in Wrinkles v. State for \$6,720.00 were tabled. The Commission requested that Meg Babcock make inquiry in both cases as to whether the trial attorneys were qualified to be appointed as appellate counsel and make a recommendation to the Commission as to whether the services provided and the claim comply with CR24. In addition, the Commission requested that Meg provide the Commission with copies of the claim for reimbursement for trial expenditures in Williams v. State.

3. The Commission approved the following claims for reimbursement in non-capital cases:

Orange County: \$1,556.11.

Parke County: \$15,612.27. Approval was subject to verification that the following items were eligible for reimbursement:

- (1) Payment to the Treasurer of the State on 10/7/96 for \$650.99
- (2) Payment to Dr. Ned Masbaum on 11/04/96 for \$800.00
- (3) Payment to Dr. Dwight Schuster on 11/04/96 for \$1,175.00

If any of these items are not reimbursable expenditures, they should be subtracted from the approved reimbursement.

4. The Commission approved the comprehensive plan for Warren County.
5. The Commission reviewed the Clark County proposed public defender ordinance that was submitted for information only. Larry Landis reported that he talked by telephone with the County Attorney, Daniel Moore, and the Chief Public Defender, Dawn Elston. Both persons requested that any action be postponed on this issue until the next meeting of the Commission. Due to the nature of the changes in the proposed ordinance and the financial consequences of non-compliance with the Commission's Standards for Non-capital Cases, the Chairman was authorized to send a letter to Clark County officials explaining the requirement of compliance with IC 33-9-15-7 and Standard A.
6. The Commission reviewed and discussed the proposed legislation increasing reimbursement in non-capital cases from 25% to 50%. The Commission also discussed the proposed fiscal impact of this legislation. No action was taken.
7. The Chairman and Larry Landis were requested to prepare a draft of an Annual Report for FY 1995-96.
8. The Commission set the following dates and time for the next two meetings: February 19, 1997 and May 7, 1997. Both meeting will be at 4:30 p.m. in Room 319 of the Statehouse.
9. Monica Foster requested that the next board meeting include a discussion on the need to amend CR24 to require a judge to consult with the Chief Public Defender, where one exists, prior to the appointment of counsel in a death penalty case.

Submitted by Larry A. Landis

Approved:

Norman Lefstein
Chairman

Date

INDIANA PUBLIC DEFENDER COMMISSION

Reimbursement Approved in Non-capital Cases From the Public Defense Fund

12-4-96

County	1995-96	1996-97	Total
Clark	\$47,147.23	\$42,670.80	\$89,818.03
LaPorte	\$82,262.69		\$82,262.69
Marion	\$440,965.19	\$163,371.47	\$604,336.66
Montgomery	\$20,642.15	\$8,125.00	\$28,767.15
Orange	\$3,419.86	\$1,556.11	\$4,975.97
Parke		\$15,612.27	\$15,612.27
Total	\$594,437.12	\$231,335.65	\$825,772.77

INDIANA PUBLIC DEFENDER COMMISSION

Reimbursement Approved in Capital Cases From the Public Defense Fund

12-4-96

County	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97	TOTAL
Allen			\$12,746					\$12,746
Boone		\$8,044	\$18,517	\$552	\$16,087			\$43,200
Clark			\$19,445					\$19,445
Daviess	\$4,432							\$4,432
Delaware		\$29,209	33,166			\$60,111		\$89,320
Elkhart							\$35,108	\$35,108
Greene			\$8,115					\$8,115
Hamilton					\$41,851	\$126,396	\$329	\$168,576
Hancock	\$2,064							\$2,064
Henry	\$1,573							\$1,573
Jefferson				\$87,054				\$87,054
Lake	\$1,516	\$45,091	\$17,049	\$56,663	\$8,244		\$29,093	\$157,656
Madison			\$45,213	\$77,087	\$44,646	\$95,103		\$262,049
Marion		\$89,557	\$93,026	\$133,121	\$125,562	\$143,690	\$90,634	\$675,590
Miami			\$17,919					\$17,919
Morgan							\$65,874	\$65,874
Porter		\$6,110	\$35,775	\$2,296				\$44,181
Posey		\$14,994	\$40,520					\$55,514
Putnam				\$25,555	\$25,555	\$17,476		\$68,586
Randolph	\$4,268	\$21,041						\$25,309
Shelby	\$40,348							\$40,348
Steuben			\$117,141					\$117,141
Sullivan		\$70,576						\$70,576
Tippecanoe			\$21,120					\$21,120
Vanderburgh		\$33,919			\$26,510	\$27,475		\$87,904
Washington			\$3,878					\$3,878
TOTAL	\$54,201	\$318,541	\$450,464	\$382,328	\$288,455	\$470,251	\$221,038	\$2,185,278

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