

INDIANA PUBLIC DEFENDER COMMISSION

MINUTES

February 11, 1998

Chairman Lefstein called the meeting to order at 4:40 p.m. in the meeting room at the National City Center, 115 West Washington Street, Suite 1080-A, Indianapolis, Indiana 46204. Also present were Commission members Hon. Daniel F. Donahue, Rep. Ralph Foley, Sen. Lonnie M. Randolph, Bettye Lou Jerrel, Susan Carpenter, and Monica Foster. Also present were Larry Landis and Paula Sites of the Public Defender Council, and Tom Carusillo. Present for a portion of the meeting were David Cook and Dee Dennis from the Marion County Public Defender Agency.

1. The Commission approved the Minutes of the November 18, 1997 meeting.
2. The Commission approved 50% reimbursement in the following death penalty cases:

Marion County,	<u>State v. Ronnie Miller</u>	\$ 5,998.75
	<u>State v. Tony Martin</u>	19,090.74
	(Monica Foster abstaining)	
	<u>State v. Timberlake</u>	11,295.99
	<u>State v. Eric Holmes</u>	4,083.43
	<u>State v. Kerrie Price</u>	8,642.30
	(Monica Foster abstaining)	
	<u>State v. Charles Barker</u>	9,376.00
	<u>State v. Underwood</u>	24,180.24
	(Monica Foster abstaining)	

(The Commission excluded \$49.50 from the Timberlake claim due to a lack of documentation. The Commission also excluded from the Underwood claim \$4,711.20 in attorney fees for services rendered after the dismissal of the death count.)

3. The Commission approved reimbursement of the following counties for non-capital expenditures:

<u>County</u>	<u>Period</u>	<u>Amount</u>
Clark County (Hon. Daniel F. Donahue abstaining)	10/1/97-12/31/97	\$ 47,010.13
Marion County	7/1/97-12/31/97	190,738.59
Orange County	10/1/97-12/31/97	2,998.98
Parke County	10/1/97-12/31/97	5,025.82
Vermillion County	8/28/97-12/31/97	11,216.58

A. The amount approved for Clark County differed from the amount requested because the salary of the Chief Public Defender does not comply with Commission guidelines. Therefore, this salary was deducted from the amount of the request. Larry Landis also noted that Clark County had excluded 20.9% of its expenses to take into account counsel handling qualifying felonies and non-qualified misdemeanors. Commission member Donahue reported that this misdemeanor question should not arise in the future as the County had entered into a contract with separate counsel to handle misdemeanor cases.

B. The Marion County claim was amended from that previously submitted at the request of David Cook, Public Defender of Marion County. Due to uncertainty whether conflict services were in compliance with Commission guidelines, request for reimbursement for conflict services was removed from this request. Mr. Cook also noted the following corrections to request for reimbursement dated February 11, 1998:

Page 4, Angie Dow has 3+ years experience,

Page 8, Kathy Downs has 3+ years experience, and,

Page 10, Luther Garcia is no longer employed by the Marion County Public Defender Agency.

Mr. Cook also noted an addendum to the request setting forth pending case loads for each counsel. The Commission requested that this addendum be made a regular part of the Agency's report to the Commission. Mr. Cook further noted the creation of an Appellate division staffed by three full time attorneys. Trial attorneys are being trained on the preservation of issues for appeal. Mr. Cook reported that without the funds from the Commission the improvements in the Marion County Public Defender system would have been difficult.

4. The Commission next considered Comprehensive Plans from Madison and Fulton Counties. Larry Landis reported that the **Madison County** plan was in compliance, except that the ordinance creating the Public Defender Board restricted the board members appointed by the Judges to one attorney only. A question was raised whether such a restriction was in compliance

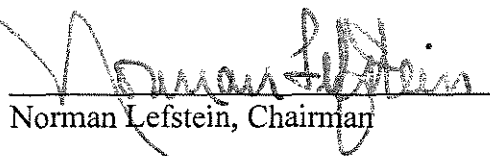
with the statute, which makes no reference to such a restriction on the Judges' appointments. Chairman Lefstein requested staff counsel to seek an opinion from the Attorney General on this issue. The Madison County plan was approved with the understanding that the approval would be reconsidered if no opinion was obtained from the Attorney General.

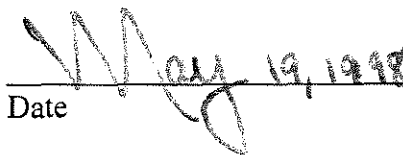
The **Fulton County** plan was noted to be lacking in some specificity regarding contract attorneys and assigned counsel. The plan was approved subject to Fulton County providing more detail concerning contract and assigned counsel.

5. The Commission considered a request from Vermillion County that Commission Standard N be amended. This matter was tabled for consideration at a later time, and staff counsel was requested to review the matter.

6. Paula Sites of the Public Defender Council made a presentation concerning her research regarding attorney fees in four capital cases exceeding \$200,000. Ms. Sites research noted seventeen possible subjects for discussion. The Commission decided to have a sub-committee of the Commission review these subjects and prepare recommendations to the Chief Justice. The recommendations of the sub-committee will be circulated to the entire Commission before transmittal to the Chief Justice.

7. The next Commission meeting is scheduled for Tuesday, May 19, 1998 at 4:30 p.m. in the National City Center, Hyatt Regency, 115 West Washington Street, Suite 1072, Indianapolis, Indiana.


Norman Lefstein, Chairman


Date

INDIANA PUBLIC DEFENDER COMMISSION

MINUTES

May 19, 1998

Chairman Lefstein called the meeting to order at 4:40 p.m. in the meeting room at the National City Center, 115 West Washington Street, Suite 1072, Indianapolis, Indiana 46204. Present were Commission members Hon. Daniel F. Donahue, Rep. Thomas Alevizos, Sen. Richard Bray, Rep. Ralph Foley, Sen. Lonnie M. Randolph, Bettye Lou Jerrel, Barry Brown and Monica Foster. Also, present were Larry Landis and Paula Sites of the Public Defender Council, and Tom Carusillo. Present for a portion of the meeting was David Cook from the Marion County Public Defender Agency.

1. The Commission approved the Minutes of the February 11, 1998 meeting.
2. Staff reported on activities since the last meeting, including a mailing and presentations to county officials regarding the 40% reimbursement program, preparation of projections for counties, updates of the capital case attorney roster, and review of claims.
3. A discussion was had concerning the status of the Commission Budget and staff advised the Commission that sufficient funds existed to complete the fiscal year. Larry Landis provided his estimate that the budget for the next biennium would need to be near five to six million dollars to accommodate increased defense cost and participation by additional counties. Staff informed the Commission that a meeting is scheduled with the budget office to review the status of the Commission's appropriation and previous reversions.
4. The Commission approved 50% reimbursement in the following death penalty cases:

DELAWARE	LAMBERT	\$3,325.00
	MOORE	\$7,009.58
TOTAL DELAWARE		\$10,334.58
LAKE	ROMAN JONES	\$22,545.25
	PETERSON	\$3,890.25
	WITT	\$18,899.51
TOTAL LAKE		\$45,335.01

MARION	BARKER	\$7,029.63
	DYE	\$4,886.72
	GAMES (Dean Norman Lefstein and Monica Foster abstaining)	\$1,939.00
	HOLMES	\$1,482.20
	LOWRIMORE	\$31,967.72
	LOWRIMORE	\$10,750.46
	RONNIE MILLER	\$4,309.85
	MOSELEY	\$27,622.42
	MOSELEY	\$13,989.65
	PRICE (Monica Foster abstaining)	\$17,781.11
TOTAL MARION		\$121,758.76
TOTAL		\$177,428.35

The Commission tabled requests for capital reimbursements from Laporte County pending receipt of current claim forms, information on the date the death requests were filed and further documentation of claims.

5. The Commission approved 40% reimbursement in the following non-capital cases:

FLOYD	11/01/97-02/28/98	ALL	\$33,737.98
FULTON	02/12/98-03/31/98	ALL	\$2,812.10
MARION	01/01/98-03/31/98 10/01/97-03-31/98	FELONY & CONFLICT	\$233,146.39
ORANGE	01/01/98-03//1/98	ALL	\$676.02
PARKE	01/01/98-03/31/98	ALL	\$5,087.29
VERMILLION	01/01/98-03/31/98	ALL	\$8,590.94
WARREN	07/01/97-04/06/98	ALL	\$14,367.52
TOTAL			\$298,418.24

A. David Cook of the **Marion County Public Defender Office** explained Marion County's request for reimbursement and the adjustments made to it. Due to noncompliance in the Juvenile division, \$19,166.03 was deducted from this quarter's claim to account for monies received when the division was not in compliance. In addition, the current request for reimbursement of the D felony division was withdrawn due to noncompliance with caseload guidelines. Staff and Marion County Public Defender officials have met to discuss this situation and will meet again to determine a plan for bringing these divisions into compliance.

B. Reimbursements to **Orange** and **Vermillion** Counties were adjusted to reflect overpayments made to the counties.

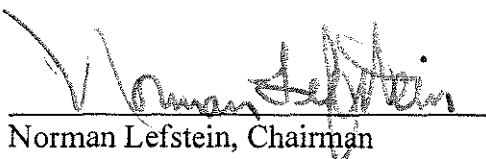
C. Requests for reimbursement from **LaPorte** and **Madison** Counties were tabled pending receipt of further information regarding caseloads and staffing so that compliance with Commission guidelines could be determined.

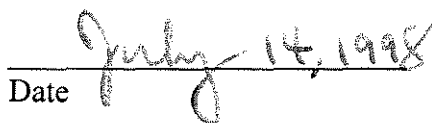
6. The Commission next considered the Comprehensive Plan from **Benton County**. Staff reported that the Benton County plan was in compliance. The Commission discussed the language of the plan regarding eligibility for appointment of counsel. It was determined that the Plan's language was substantially similar to the Commission Model and the Benton County plan was approved.

7. Staff reported that the Attorney General had not yet rendered an opinion regarding the **Madison County** ordinance. Larry Landis noted that **Fulton County** had provided additional information concerning its plan as required by the Commission's vote at the previous meeting. Their plan is now in compliance.

8. Dean Lefstein then distributed a draft of a letter responsive to an inquiry from the Chief Justice concerning the expenses in four capital cases. A discussion was had regarding the average costs in Federal death penalty cases and how this reflects upon the costs being incurred in State courts. The Commission also discussed the need to provide trial judges with assistance in handling capital cases. Having material and staff to assist judges was suggested. The Commission agreed to study the draft of Dean Lefstein's letter and to be prepared to discuss it at the next Commission meeting.

9. The next Commission meeting is scheduled for **July 14, 1998**, at **3:00 p.m.** in the **Supreme Court Conference Room**, in the **Statehouse, Room 319**, Indianapolis, Indiana. The following meeting is scheduled for October 28, 1998 at **3:00 p.m.**, with the location yet to be determined.


Norman Lefstein, Chairman


Date

INDIANA PUBLIC DEFENDER COMMISSION

115 W. WASHINGTON ST., SUITE 108
INDIANAPOLIS, IN. 46204
(317) 232-2542
FAX: (317) 233-6586

INDIANA SUPREME COURT
DIVISION OF STATE COURT ADMINISTRATION

FACSIMILE COVER SHEET

To: Charles Malinowski **Date:** March 30, 1998
Fax #: 876-9739 **Pages:** 4, including this cover sheet.
From: Thomas M. Carusillo
Subject: 40% reimbursement

COMMENTS:

Mr. Malinowski, accompanying this sheet is a break down of the reimbursements counties participating in the 40% reimbursement program have received thus far. As you can see a substantial payment to the county is available under the program. If you have any questions please feel free to call.

Tom

Our fax number is: (317) 233-6586. If you have not received all of these pages or if you have any questions or problems, please call the sender at: (317) 233-2779.

40% NON-CAPITAL REIMBURSEMENT
as of 2/13/98

PERIOD	COUNTY	REIMBURSEMENT
01/01/95 - 06/30/95	CLARK	\$38,384.61
07/01/95 - 12/31/95		\$8,762.62
01/01/96 - 03/31/96		\$36,305.57
04/01/96 - 06/30/96		\$42,670.80
07/01/96 - 12/31/96		\$46,354.25
01/01/97 - 06/30/97		\$35,284.65
07/01/97 - 12/31/97		\$47,010.13
TOTAL		\$254,772.63

PERIOD	COUNTY	REIMBURSEMENT
02/19/97 - 06/30/97	FLOYD	\$7,052.51
07/01/97 - 10/31/97		\$19,939.28
TOTAL		\$26,991.79

PERIOD	COUNTY	REIMBURSEMENT
01/01/95 - 08/31/95	LaPORTE	\$53,144.29
09/01/95 - 12/31/95		\$27,505.17
01/01/96 - 03/31/96		\$29,118.40
04/21/96 - 12/31/96		\$60,671.41
01/01/97 - 03/20/97		\$22,226.33
TOTAL		\$192,665.60

PERIOD	COUNTY	REIMBURSEMENT
01/01/95 - 06/30/95	MARION	\$154,153.51
07/01/95 - 10/31/95		\$131,573.84
11/01/95 - 03/31/96		\$155,237.84
04/01/96 - 08/31/96		\$163,371.47
09/01/96 - 03/31/97		\$235,478.82
04/01/97 - 06/30/97		\$117,967.38
07/01/97 - 09/30/97		\$230,204.69
10/01/97 - 12/31/97		\$190,738.59
TOTAL		\$1,378,726.14

PERIOD	COUNTY	REIMBURSEMENT
01/01/95 - 06/30/95	MONTGOMERY	\$7,500.00
07/01/95 - 12/31/95		\$10,500.00
01/01/95 - 12/31/95		\$13,142.15
01/01/96 - 06/30/96		\$8,125.00
07/01/96 - 12/31/96		\$14,163.33
01/01/97 - 06/30/97		\$13,624.18
01/01/97 - 06/30/97		\$6,622.58
TOTAL		\$73,677.24

PERIOD	COUNTY	REIMBURSEMENT
07/01/95 - 12/31/95	ORANGE	\$2,315.11
01/01/96 - 03/31/96		\$1,104.75
07/01/96 - 09/30/96		\$1,556.11
10/01/96 - 12/31/96		\$5,218.22
01/01/97 - 03/31/97		\$5,642.60
04/01/97 - 06/30/97		\$3,850.79
07/01/97 - 09/30/97		\$7,391.12
10/01/97 - 12/31/97		\$2,998.98
TOTAL		\$26,657.82

PERIOD	COUNTY	REIMBURSEMENT
05/09/96 - 11/27/96	PARKE	\$15,612.27
12/01/96 - 03/31/97		\$7,075.95
04/01/97 - 06/30/97		\$6,189.73
07/01/97 - 09/30/97		\$6,368.47
10/01/97 - 12/31/97		\$5,025.82
TOTAL		\$40,272.24

PERIOD	COUNTY	REIMBURSEMENT
12/05/97 - 04/07/97	WARREN	\$3,267.15
04/01/97 - 06/30/97		\$3,130.83
TOTAL		\$6,397.98

PERIOD	COUNTY	REIMBURSEMENT
08/29/97 - 12/31/97	VERMILLION	\$11,216.58
TOTAL		\$11,216.58

TRANSMISSION VERIFICATION REPORT

TIME : 03/30/1998 15:30
NAME :
FAX :
TEL :

DATE, TIME	03/30 15:28
FAX NO./NAME	88769739
DURATION	00:02:20
PAGE(S)	04
RESULT	OK
MODE	STANDARD ECM

INDIANA PUBLIC DEFENDER COMMISSION

MINUTES

July 14, 1998

Chairman Lefstein called the meeting to order at 3:15 p.m. in the **Supreme Court Conference Room**, in the **Statehouse, Room 319**, Indianapolis, Indiana. Present were Commission members, Hon. Daniel F. Donahue, Sen. Richard Bray, Rep. Ralph Foley, Barry Brown, Susan Carpenter and Monica Foster. Also, present were Larry Landis and Paula Sites of the Public Defender Council, and Tom Carusillo. Present for a portion of the meeting were David Cook, Richard Hill, Mark Inman and Dee Dennis from the Marion County Public Defender Agency.

1. The Commission approved the Minutes of the May 19, 1998 meeting.
2. The Commission approved capital reimbursement to Madison County in the Saylor case in the sum of \$32,945.22.
3. The Commission approved the following reimbursements in non-capital cases:

COUNTY	PERIOD COVERED	40% REIMBURSEMENT
BENTON	05/20/98-06/03/98	\$879.00
CLARK ¹	01/01/98-06/30/98	\$49,656.74
FLOYD	03/01/98-06/30/98	\$28,547.38
MADISON	02/12/98-06/30/98	\$119,495.65
MARION	03/01/98-06/30/98	\$274,948.99
MONTGOMERY	07/01/97-12/31/97	\$16,118.89
ORANGE	03/01/98-06/30/98	\$4,548.22
PARKE	04/01/98-06/30/98	\$30,401.75
VERMILLION	04/01/98-06/30/98	\$6,299.78
TOTAL		\$530,896.40

1. Honorable Daniel F. Donahue, abstaining.

In discussing the reimbursement from Clark County the Commission noted that the Chief Public Defender was not being compensated pursuant to Commission Standards. The request for reimbursement of the Chief Public Defender's salary was rejected. The Commission decided to notify Clark County that unless the Chief Public Defender's salary is brought into compliance with Commission Standards by January 1, 1999, Clark County would be found ineligible for any further reimbursement of any non-capital expenses.

4. The Commission considered the proposed 1999-2001 budget. Budget submissions are due August 21, 1998. This budget proposed a request of \$4,028,586 for fiscal year 99-00, and \$4,323,957 for fiscal year 00-01. The Commission approved submission of the budget, subject to further review. Documentation supporting the request will be prepared by staff and distributed to the Commission.

5. The Annual reports for 96-97 and 97-98 were reviewed and approved for distribution by the Commission, subject to the addition of information concerning the hiring of staff counsel. Staff reported the Commission's funding balance through June 30, 1998 was \$3,176,243.

6. The Commission next discussed the draft of the letter to the Chief Justice concerning expenses in four capital cases. The discussion began with staff expressing the concerns of member Bette Lou Jerrel, who was unable to attend the meeting. Further discussion was had concerning the responsibility of trial judges to contain costs. Concern was expressed regarding the possibility that reference to the discretion of trial courts to deny requests for defense funds could push the courts in an undesired direction. It was concluded that the trial judges have a legitimate concern about expenses and that they are in the best position to judge the reasonableness of requests for funds. The reference to trial court discretion was to be left in the letter, with the addition of language that the court's are understandably reluctant to exercise their discretion. The letter is to contain a recommendation that resources, including the Commission staff and Judicial Center, be made available to assist judges handling capital cases.

Concern was also expressed about specific references to particular cases in the letter, since two of the matters are still on appeal. It was decided that the references could be deleted without losing the substance of the observations. The Commission also decided the letter should indicate that the letter not reflect on the merits of any appeal.

Discussion was had regarding that portion of the letter dealing with compensation of attorneys. It was noted that counsel in state court are paid \$70 per hour, but when the appeal moves to federal jurisdiction the same counsel are paid in excess of \$100 per hour. It was observed that some of the most capable defense attorneys were not willing to take on capital cases at \$70 per hour. It was suggested that a state-wide system of capital defense attorneys, coupled with local counsel, would be a more efficient and cost-effective way of providing representation. This thought was to be added to the Commission's recommendations

In considering section three of the letter it was suggested that if the Commission was not adopting these suggestions, then we should attribute the comments to those making the suggestion. This portion of the letter is to be redrafted.

The next topic discussed was training for judges in capital cases. It was suggested that the current mandatory training language might be too broad since many judges never face a capital case. It was suggested that the Judicial Center should have programs available so that when a judge has a death case filed in his or her court, resources would be available to assist them in handling the case. It was suggested that the Commission's staff could assist with the preparation of budgets and the selection of experts. It was noted that Marion County has a list of experts for use by its public defender that has been successful.

Finally, during this discussion the Commission decided that counsel should not be reimbursed for attending seminars. This type of activity was viewed as professional development and not a part of representing an individual in a capital case. Similarly, the Commission consensus was that travel expense within an attorney's home county should not be a reimbursable expense.

Dean Lefstein was to redraft and distribute a new letter based on these discussions.

7. Several policy and standards' issues were next taken up by the Commission.

a. In a request regarding the Stephenson appeal, the Commission concluded that more than two appellate counsel could be appointed by the trial court and remain eligible for reimbursement, so long as one attorney is CR 24 qualified. The Commission also decided that an attorney not qualified under CR 24 may be appointed to a capital appeal so long as one attorney is CR 24 qualified. Such non-qualified counsel must be compensated at the same rate as qualified counsel.

b. The Commission considered staff's request to establish compensation guidelines for use in counties where there exists no similar position in the prosecutor's office corresponding with the public defenders. The Commission approved the guidelines proposed by staff and requested that staff prepare an amended standard for consideration by the Commission.

c. The Commission reviewed reimbursement of juvenile status, CHINS and mental health matters. The Commission concluded that juvenile status offense and CHINS matters should not be subject to reimbursement since they were not criminal in nature. It was decided to continue to reimburse mental health matters since they only comprise a small portion of reimbursements sought. Staff will research and draft language clarifying the scope of indigent defense services subject to reimbursement.

d. Caseload calculations were next considered by the Commission. This issue arose from confusion surrounding the individual ABC felony, D felony and all felony categories. The Commission decided to make no change to the standard and to allow staff to apply whichever standard best suited the county's situation.

The next Commission meeting is scheduled for **October 28, 1998**, at **3:00 p.m.** in the **Supreme Court Conference Room**, in the **Statehouse, Room 319**, Indianapolis, Indiana.


Norman Lefstein, Chairman


Date

INDIANA PUBLIC DEFENDER COMMISSION MINUTES

October 28, 1998

Chairman Lefstein called the meeting to order at 3:10 p.m. in the meeting room at the National City Center, 115 West Washington Street, South Tower, Suite 1088, Indianapolis, Indiana 46204. Present were Commission members, Hon. Daniel F. Donahue, Sen. Richard Bray, Rep. Ralph Foley, Susan Carpenter, Monica Foster, Bettye Lou Jerrel, Sen. Timothy S. Lanane, and Rebecca S. McClure. Also, present were Paula Sites of the Public Defender Council and Tom Carusillo.

1. Chairman Lefstein welcomed the Commission's newest members, Sen. Timothy Lanane and Rebecca McClure. A brief discussion was had regarding any concerns that might exist due to Ms. McClure's association with the Prosecuting Attorney's Council. Ms. McClure explained her limited involvement in one case (Majors) that is before the Commission. Her involvement centered on an allegation of misconduct by the prosecutors handling the case. Her involvement with that case is as a consultant. Ms. Foster praised the reputation for fairness Ms. McClure brings to the Commission, and expressed her anticipation of the Commission benefiting from Ms. McClure's perspective.
2. Chairman Lefstein read part of a letter from former member Barry Brown, expressing his appreciation for the opportunity to serve on the Commission and offering to be of assistance in the future. Mr. Brown observed that the Commission has done a great deal to improve the provision of indigent defense services in Indiana.
3. The Commission approved the Minutes of the July 14, 1998 meeting. Chairman Lefstein noted that the letter to the Chief Justice mentioned in the July Minutes has been sent to the Chief Justice.
4. A staff report was next presented, outlining activities since the last Commission meeting. Contacts with public defenders in 13 counties, auditors in 14 other counties and judges in an additional 32 counties were mentioned. Visits to 10 counties and drafting of ordinances, comprehensive plans and attorney contracts for 5 counties were also discussed.

The Commission was advised that Chairman Lefstein, Rebecca McClure and Tom Carusillo participated in the State Judicial Conference in Merrillville. Finally, highlights from the Spangenberg report were distributed to the Commission, with a brief description of the group's consulting background in indigent matters.
5. The Commission approved capital reimbursements as follows:

COUNTY	DEFENDANT	AMOUNT
Delaware	Moore	\$8,490.13
Floyd	Ingle	\$16,940.82
Johnson	Greer	\$4,519.22
	Greer, II	\$5,883.68
	Greer, III	\$4,268.73
	Overstreet	\$3,722.80
Johnson County Total	\$18,394.43	
Lake	Gorbea	\$21,639.38
LaPorte	Arion	\$19,616.26
	Beason	\$9,276.18
	Berry	\$7,739.77
	McIntyre	\$22,679.26
LaPorte County Total	\$59,311.47	
Marion	Barker	\$20,470.39
	Highbaugh	\$6,385.29
	Lowrimore	\$37,434.79
	Martin	\$1,495.62
	Powell	\$9,341.43
	Price	\$13,612.83
	Thompson	\$6,132.59
	Van Cleave	\$7,950.63
Marion County Total	\$102,823.57	
Putnam	Stevens	\$1,417.15
TOTAL		\$229,016.95

A. Ms. Foster abstained from consideration of the Price and Thompson matters.

The Commission noted that the claims from LaPorte County, covered cases from December 30, 1994 (Arion), December 5 and 11, 1995 (Beason and McIntyre, respectively) and August 26, 1996 (Berry). These claims violated Commission Capital Case Guideline B(3), which requires final requests for reimbursement within 90 days after sentencing or termination of appeal. After discussion, the

Commission, by 5-4 vote, approved these claims, but instructed staff to advise the county that this exception to the Guideline would not be indulged in the future. Staff was also directed to provide a copy of the letter to the State Board of Accounts.

6. The Commission approved the following reimbursements in noncapital cases:

COUNTY	PERIOD COVERED	ATTY. EXPEND.	OTHER EXPEND.	TOTAL EXPEND.	ADJUS'T	ADJUS'D EXPS	40% REIMB.
BENTON	07/01/98-10/09/98	\$11,792.50	\$91.83	\$11,884.33	\$0.00	\$11,884.33	\$4,753.73
FLOYD	7/01/98-09/30/98	\$50,389.71	\$8,353.05	\$58,742.76	\$0.00	\$58,742.76	\$23,497.10
FULTON	04/01/98-06/30/98	\$17,002.77	\$1,595.72	\$18,598.49	\$7,067.43	\$11,531.06	\$4,612.42
FULTON	07/01/98-09/30/98	\$20,418.85	\$1,652.09	\$22,070.94	\$4,634.90	\$17,436.04	\$6,974.42
LAPORTE	03/21/97-06/30/97	\$87,862.41	\$679.75	\$88,542.16	\$0.00	\$88,542.16	\$22,135.54
LAPORTE	07/01/97-09/30/97	\$65,862.45	\$0.00	\$65,862.45	\$0.00	\$65,862.45	\$26,344.98
LAPORTE	10/01/97-12/31/97	\$68,337.41	\$1,164.22	\$69,501.63	\$0.00	\$69,501.63	\$27,800.65
LAPORTE	01/01/98-03/31/98	\$68,388.93	\$1,917.25	\$70,306.18	\$0.00	\$70,306.18	\$28,122.47
LAPORTE	04/01/98-06/30/98	\$64,433.90	\$1,243.25	\$65,677.15	\$0.00	\$65,677.15	\$26,270.86
LAPORTE	07/01/98-09/30/98	\$62,888.70	\$2,788.45	\$65,677.15	\$0.00	\$65,677.15	\$26,270.86
MADISON	07/01/98-09/30/98	\$105,938.75	\$137,859.54	\$243,798.29	\$0.00	\$243,798.29	\$97,519.32
MARION	07/01/98-09/30/98	\$504,916.49	\$256,802.92	\$761,719.41	\$0.00	\$761,719.41	\$304,687.76
MONTGOMERY	01/01/98-06/30/98	\$42,457.19	\$1,817.18	\$44,274.37	\$0.00	\$44,274.37	\$17,709.75
ORANGE	07/01/98-09/30/98	\$39,907.00	\$2,083.37	\$41,990.37	\$0.00	\$41,990.37	\$16,796.15
PARKE	07/01/98-09/30/98	\$12,076.88	\$7,794.50	\$19,871.38	\$0.00	\$19,871.38	\$7,948.55
VERMILLION	07/01/98-09/30/98	\$12,578.63	\$0.00	\$12,578.63	\$0.00	\$12,578.63	\$5,031.45
WARREN	04/07/98-10/05/98	\$9,933.00	\$1,223.00	\$11,156.00	\$498.00	\$10,658.00	\$4,263.20
TOTAL		\$1,245,185.57	\$427,066.12	\$1,672,251.69	\$12,200.33	\$1,660,051.36	\$650,739.22

A. Sen. Timothy Lanane abstained from consideration of the Madison County claim.

7. The Commission considered a request from Judge Kellam of Henry County to consider whether the county would remain eligible for capital reimbursement in a case where the defendant was proceeding *pro se*. It was reported that the defendant had now accepted counsel, but that there might be expenses that predate his acceptance of counsel. The Commission concluded that in a *pro se* defendant capital case, an exception to the Commission's policy would be in order, and where there was a waiver of counsel the Commission would reimburse for other expenses approved by the court.
8. Considered next, was a request from Madison County to permit its appellate counsel in probation violation matters to meet the Commission's requirement of 6 hours of CLE, by the completion of two previous appeals. Madison County had been operating under this

procedure as it had been written into their comprehensive plan and approved by the Commission. The approval, with this provision, was an oversight. The Commission concluded that the county had acted in good faith and that all current claims are accepted. However, staff was instructed to advise the county to amend their comprehensive plan and to bring counsel into compliance with Commission Standards. All future claims will require compliance with the CLE requirement, or those noncomplying portions of future claims will be denied.

9. The Commission next considered an issue raised at the State Judicial Conference regarding the certification of services required of judges on the capital case claim forms. Considering the judges' protest, the Commission unanimously approved a change to the claim form, removing from the judges certification language certifying that the listed services were performed and adding the language to the certification required from counsel. A proposed new claim form was submitted to the Commission, which the Commission resolved should be adopted and changed promptly to correct the current inaccurate certification language.
10. Amendment to Standard G was reviewed by the Commission. After review of staff's memo the matter was tabled until the next meeting to give members further time to review the issue.
11. The Commission reviewed a report from staff on eligibility of cases for reimbursement and costs associated with this. The report had been requested at the Commission's previous meeting. No action was taken on this matter.
12. Amendment to Standard N was reviewed by the Commission. The proposed amendment, which is attached to the Minutes was approved by the Commission. Staff will distribute the amendment to participating counties and begin preparation of an update to the Commission's Standards for distribution.
13. Standard F dealing with appellate CLE in noncapital cases was considered by the Commission. No particular courses have been approved by the Commission. The Public Defender Council is to provide brochures regarding various seminars that the Commission will consider for approval. The Commission noted that counsel could submit material from seminars to the Commission for consideration of approval by the Commission.
14. The Commission next considered an issue raise at the State Judicial Conference regarding the counting of "inactive cases" (where the defendant was a fugitive) under the active case limit of 20 prescribed in Criminal Rule 24. Staff's memo was reviewed and it was concluded that no change to the rule was in order.
15. The opinion letter of the Attorney General, regarding the public defender ordinance in Madison County, was next considered by the Commission. After discussion it was decided Madison County should be informed that by March 30, 1999, the Commission expected the ordinance be amended to comply with the statute and for new appointments to be made consistent with the amended ordinance. The Commission recognized that the same people could be appointed to the board, but that the ordinance needed to comply with the statute. Sen. Timothy Lanane abstained from consideration of this matter.

16. The next meeting of the Commission is scheduled for Tuesday, February 16, 1999 at 3:00 p.m. in the National City Center, Hyatt Regency, 115 West Washington Street, South Tower, Suite 1088, Indianapolis, Indiana.

Norman Lefstein
Norman Lefstein, Chairman

5/17/1999
Date