

MINUTES

INDIANA PUBLIC DEFENDER COMMISSION

DATE OF MEETING: March 23, 2016

Time: 2:00 PM EST (Immediately After Brief Executive Session)

LOCATION: KITE BUILDING

30 South Meridian Street, Room 804

Indianapolis, IN

Chairman Mark Rutherford called the meeting to order at approximately 2:05 p.m. Commission members in attendance were: Representative Fine, of House District 12; Larry Landis of the Public Defender Council; David Hensel, Indianapolis; Hon. Mary Ellen Diekhoff; Chairman Rutherford, Indianapolis. The Hon. Diane Boswell and Rep. Dvorak were present telephonically. In the audience were Professor Emeritus Normal Lefstein and Steven Hanlin of the American Bar Association; Neil Weismann, St. Joseph County; James Abbs, Chief Public Defender of Noble County; Steve Owens, Chief Public Defender of Vanderburgh County; Robert Hill, Chief Public Defender of Marion County; Ray Casanova, Marion County; Michael Sutherlin, Public Defender Board Member of Brown County. A quorum was found at 2:09 p.m.

1. Requests for 50% Reimbursement in Capital Cases

The requests for capital case reimbursement were as listed in the chart below. Mr. Landis moved to approve the requests, and the Hon. Diekoff seconded. Motion passed unanimously.

2. Requests for 40% Reimbursement in Non-Capital Cases

Mr. Mason noted this was a record level of reimbursement for the quarter, which reflected the increase level of expenses related to TPR/CHINS filings. He noted issues with Lagrange and Jackson County. Mr. Mason noted that the attorney that was out of compliance in Lagrange County had received an increase in pay and that she was receiving caseloads that were in compliance quarterly from this point forward. He reported that Tippecanoe County was reporting CHINS numbers inaccurately. Staff attorneys had already met with Lagrange and Tippecanoe this quarter to resolve the issues. Chairman Rutherford noted it was one of the best quarters for compliance thus far.

The amounts requested are reflected in the chart below. Mr. Hensel moved to approve the requests, and Rep. Fine seconded the motion. The motion passed unanimously.

3. Election of Chairperson

Chairman Rutherford stated he would be willing to serve as Chairperson as another 2 years. Mr. Landis moved that Mr. Rutherford be appointed for another two years as Chairperson. Mr. Hensel seconded the motion, which passed unanimously.

4. Tippecanoe County Request for Reimbursement on Older Expenses

Mr. Mason reported that Tippecanoe County had submitted a request for older expenses related to the purchase of a building in which the public defender would occupy one-quarter in a new office. The county bought the building and spent money retro-fitting it as far back as 4Q of 2014. The purchase of the building was \$765,000. The public defender office represents 20% of the building. They are requesting only 20% of those expenses since only 20% of those expenses are going to be dedicated to that floor. Mr. Mason recommended reimbursement of \$57,490.13, which would be the reimbursement amount to them had they submitted them on a timely fashion.

Mr. Landis said the first time that the Commission has reimbursed for capital expenses rather than just operating expenses. Chairman Rutherford agreed. Mr. Landis said it is a fundamental policy issue because the Commission has never made a policy decision on this issue before. Representative Fine had the same concerns. Chairman Rutherford questioned whether the standards need to be clearer. Mr. Hensel asked whether the statute does allow such reimbursement. Mr. Mason clarified that the only guidance was that the payments must be for an indigent expense paid by the county. He noted that the Commission does reimburse for rent, expert witness fees, and other capital-type expenses. Mr. Mason noted that there was a reduction already which is factoring in the non-reimbursable expenses that would otherwise not be reimbursed by the county. Mr. Mason believed it will be the most equitable approach--and if they stop using the space the reimbursement will end. He also stated that staff attorneys could present the Commission with an amortized amount at the next Commission meeting.

Chief Public Defender Hutchinson noted that several county offices had outgrown the courthouse, and that new space was needed to hold several offices. County representatives also spoke at the meeting. Mr. Winger of Tippecanoe County stated that they had limited options on what could be considered for several offices. Currently, county commissioners do not request reimbursement from the public defenders. He noted that the prosecutor was set to move into the new building, and that it would be unlikely to go anywhere else. He said that the delay was due to making sure the right people were moving into the new building. Thus, the delay in closing and the final decision that the public defender would move into the new building was due to this deliberative decision.

Mr. Landis suggested that the county figure out the market rate that the public defender would otherwise pay for rent, up to the amount that it cost to the public defender's portion in purchasing the building. Chairman Rutherford also voiced a concern as to whether the county may move out the public defender if it was expedient in later years. Mr. Landis also said it was important that the Commission thinks through the policy.

Mr. Landis proposes finding a solution that allows reimbursement of Tippecanoe without committing to reimbursing capital expenditures in one lump sum or capital expenditures in general, and to reimburse the building costs only. County officials would submit an amount that

would be considered rent, on a quarterly basis, that would be only for the construction of the building. Build outs would be submitted separately and submitted separately. Rep. Fine seconded the motion, which passed unanimously.

5. Approval of Minutes from December 9, 2015 Meetings

The Hon. Diekhoff moved to approve the minutes, which Mr. Landis seconded. The motion passed unanimously.

6. Resignation of Andrew Roesener

Mr. Roesener was recently appointed as a magistrate. Due to his new responsibilities, he could no longer serve on the Commission. The Chairman expressed appreciation for his service.

7. Staff Report

Mr. Mason reported that the Commission voted at last meeting to authorize the hiring of staff attorneys as employees of the Commission. This was the original intent when the legislation was drafted as Mr. Landis reported at last meeting. Language was approved by House bill 1322 to separate attorneys from State Court Administration. The bill should be effective July 1, 2016.

Mr. Landis explained State Court Administration does not want the Public Defender Commission competing with their other funding concerns and that independence frees the Commission to pursue its goals more freely.

Mr. Mason reported that the Sixth Amendment Center would be published the middle of April.

8. Approval of Amended Comprehensive Plan: Madison County

There was previous concern from Mr. Landis about language in the plan that allowed judge to hire an attorney directly. They have removed that language. Mr. Mason recommended approval. Mr. Landis says at some point it is necessary to engage with the fact they have a managing public defender because they don't want to pay him the salary of a chief then they need to have a chief and pay the chief what he deserves to be paid. He says at some point we need to more clearly define what a chief is.

Mr. Hensel moved to approve the plan, which Landis seconded. Motion passes unanimously.

9. Authorization to Implement Caseload Study

Staff attorneys previously applied for a grant for a caseload study but were denied. However, there is a statutory mandate to keep standards updated. At a previous meeting the Commission requested specifics on what the cost would be to implement a caseload study in Indiana. Mr. Mason reviewed the specific estimated expenses that would be brought by a caseload study in the state. The expense would be specifically is: \$216,000, approximately. He noted there would be some expense related to modifying the Public Defender Information System to create data gathering capability, since timekeeping is a required part of the caseload study when working with the American Bar Association (ABA).

Mr. Lefstein noted he would welcome the opportunity to do a caseload study in Indiana. They have also done a caseload study in Missouri. They have ongoing studies in several more states as well. Mr. Steven Hanlin is a former member of the ABA standing committee who is also directing those studies. Mr. Lefstein serves as a special advisor to that committee. He noted that staff attorneys asked to include TPR/CHINS as an additional case type to study; as a result of that, the budget is at least one they suggested that the Commission would want to be able to think about more closely. There may be additional expenses related to the study of TPR/CHINS as an additional case type to study. He said he did not believe it would be an exorbitant additional sum but that at least 30 days were required to determine the additional costs.

Mr. Hanlin and Mr. Lefstein stated they would need six months of continuous, full-time time keeping. Mr. Hanlin noted that this is a very difficult cultural change. They noted that the test is the *Strickland* standard for quality pursuant to prevailing professional norms. He explained that the methodology of the study would employ a method called the Delphi method, which would bring in a panel of experts to help determine ideal caseloads by reviewing what tasks are necessary on each type of case and how long those tasks would take.

Professor Lefstein noted that in the original implementation of Indiana's caseload standards, there was no true justification or empirical justification for the standards. They were borrowed from the a national 1972 report, and that even then "a huge guess, and that they were way off." Mr. Mason added that there was an additional need for new standards given the criminal code change. He stated the fund is able to pay for this study without jeopardizing reimbursements to counties.

Mr. Landis moved to authorize the caseload study. Mr. Hensel seconded the motion, which passed unanimously.

Mr. Lefstein stated that he wanted to be clear re: coverage of CHINS and TPR – he said that they need to do some work on this area. Need to be different categories of tasks and separate tasks. They need to asses what implications they have for possible additional costs.

10. Approval of Specific Case Trial Practice Courses: Standard E

Mr. Mason reported that the question was raised was whether or not Trial Practice Institute should qualify as experience for the Standard E and F qualification form. Mr. Landis said he has always been reluctant to substitute classroom experience for actual trial experience. He asked that the Commission delay action on this item until more research can be done on experience requirements for every level.

The conversation was tabled. The Chairman noted problems with rural counties getting people approved. Mr. Mason said he would provide a history of standards. Hon. Diekhoff noted that while personal experience counts for something, learning from a poor teacher is not a good solution either. She said it would be better to take a training where you will learn the right way to do things.

Mr. Landis moved to approve 1st three courses listed in the meeting materials; Hon. Diekhoff seconded. Motion passed unanimously.

11. Case Counting/Reporting Rules When a Vacancy Occurs

Mr. Mason noted that there is no Commission guideline to Standard J. However, staff attorneys have had multiple attorneys around the state call their office with issues related to caseload pressures despite their caseloads appearing within commission caseload standards. He also noted that currently the way that the Commission captures appointment data is not as accurate as it could be.

Mr. Mason explained the problem that once a case is assigned, it may be passed to another attorney, but that the case will not be reflected on the receiving attorneys' caseload. This often meant that the attorney was handling much more work than would be reported to the Commission. Questions were raised by the present Chief Public Defenders, who asked that it be referred to the Chief Public Defenders for consideration.

No action was taken at the meeting on this issue.

12. Other Matters

Mr. Mason noted that at the next meeting the hourly rate for public defenders may need to be adjusted.

A motion to adjourn was heard at 4:11 p.m.

MINUTES

INDIANA PUBLIC DEFENDER COMMISSION

DATE OF MEETING: June 8, 2016

Time: 2:00 PM EST (Immediately After Brief Executive Session)

LOCATION: KITE BUILDING

30 South Meridian Street, Room 804

Indianapolis, IN

Regular Meeting began at 2:30 p.m. after a brief executive session. In attendance were Chairman Mark Rutherford; Larry Landis, Executive Director of the Public Defender Council; Representative Ryan Dvorak, South Bend; Hon. Steve Myer, Tippecanoe; Representative Fine; Senator Steele, Bedford; Hon. Ahler, Jasper County; Senior Staff Attorney Derrick Mason and Staff Attorney Kathleen Casey. Chief Public Defenders Jeff Yelton, Jim Abbs, Gretchen Etling, Steve Owens, Deputy Chief Neil Weissman, Amy Hutchinson, David Shircliff, Amber Shaw and Alan Marshall were also present. Loral Paul of the Public Defender Council, Judge Faith Graham of Tippecanoe Court 3; Jennifer Culotta of Clark County, David Frank of Fort Wayne, Amy Karozos of the Public Defender Council, and Ray Casanova of Marion County were all also present.

An executive session was held prior to the meeting which was closed to the public. At the beginning of the regular meeting, Chairman Rutherford announced that due to legislative statutes, the Commission will formally hire Derrick and Kathleen as of July 1, 2016 when the statutes come into effect.

The Chairman explained that Derrick Mason will be the senior staff attorney, while Kathleen Casey will be listed as a staff attorney. The Chairman asked the senior staff attorney to create job descriptions. The senior staff attorney would then work with the Chairman and have the authority to make administrative decisions. The Chairman also gave authority for Mr. Mason to get assistance for clerical help beyond what the staff attorney could provide consistent with the amount paid to the clerical at State Court Administration that was provided as part of the working agreement between the two agencies. He also said that the Commission would consider pay changes to match the responsibilities outlined in the new job descriptions. Senator Steele asked to make clear the distinctions between the senior staff attorney and the staff attorney's roles and responsibilities.

Representative Dvorak made the motion to vote as the Chairman explained. Senator Steele seconded. Motion passed unanimously.

1. Approval of Minutes from March 23rd meeting

Representative Fine moved for approval of the minutes from the March 23rd meeting of the Public Defender Commission. Senator Steele seconded the motion. Motion passed unanimously.

2. Floyd County Amended Comprehensive Plan

Senior staff attorney Derrick Mason explained that Floyd County requested that the Commission approve an amended comprehensive plan. The largest change in the plan was the creation of a managing officer position rather than a chief position. At that moment, Floyd County had a chief public defender with supervisory duties that was subject to the pay parity requirements for chiefs. However, Floyd County had no salaried staff, just contracted attorneys. At the last meeting Mr. Landis noted that the Commission would need to outline the differences between these positions and also to avoid having to pay the pay parity required with a Chief PD position.

In this change, the county has removed the hire or fire position from the chief and put that authority with the Public Defender (PD) Board. The managing public defender is still responsible for the supervision of the attorneys. Mr. Mason also noted that there was no standard for what a managing officer is or what he is paid.

Mr. Mason noted a beneficial change, in that it brings in a court into the comprehensive plan that was not originally included in the plan. The new plan addressed this issue. All felonies will be handled within the office. Mr. Mason recommended approval of the plan and suggested to the Commission that they discuss what to do with the managing public defender and the responsibilities of the chief at a future meeting.

Mr. Landis asked where the duties of supervision were in the plan. Mr. Mason pointed to a section that outlined those duties. He stated that it was different from the statutory duties of a Chief Public Defender technically. Mr. Landis said the problems are obvious. If this is allowed, why not get rid of a chief public defender? He stated the chief is the quality control in the county. He said it would set a dangerous precedent. Never before has there been a demotion in this way. He also noted that there was a statute that required a chief public defender if a county has a public defender office.

Mr. Fine said that the Commission tolerated this in other counties, and now that Floyd County would like to experience the same option they are being punished. Mr. Mason said that the Floyd County situation was a problem that we have waiting to happen.

Chairman Rutherford noted that it was important that the Commission assist Floyd County in following the statute. Mr. Landis noted in reviewing the other counties with managing public defenders, they faced the same issue. Mr. Mason noted that staff attorneys will follow up on whether or not the county has an ordinance. Mr. Landis stated that he wanted to encourage Floyd County to follow best practices. He said to do something else is to discourage hiring a public defender. Senator Steele agreed.

Chairman Rutherford noted that possibly a definition of office is necessary. Chairman instructed the staff attorneys that the comprehensive plan was not approved and that more research was necessary.

No motion was taken at this meeting, and the action was to be revisited at the September meeting.

3. Schedule review of JC/JT standards modified in December 2015

At the December meeting, the Commission approved a 25% increase in TPR/CHINS maximum caseload standards. The Commission requested review in six months. At the present meeting, Judge Graham of Tippecanoe County appeared before the Commission and requested that the Commission make a further modification to count Termination appeals as Guilty Plea appeals rather than full trial appeals. Her reasoning was that most Termination appeals cover the same arguments, though the facts are very different. Mr. Mason noted that this scenario is not always the case and that at times novel situations are presented in the appeal.

Mr. Mason said in general, staff attorneys have not had a compliance issue. He recommended keeping standards were they are at this time.

Judge Graham addressed the letter. She expressed appreciation for staff attorneys help. She said though JC/JT cases rose, there were no commensurate raise in staff attorneys. She said that usually the same attorney handles the TPR appeal that handled the JC appeal; additionally, she said that there are usually only two arguments in the appeals. She said that they have added attorneys, but even with that addition they are still looking at expected increases. They are having CHINS hearings every day of the week, and are barely able to meet the caseload limits.

Mr. Abbs stated that he didn't believe what the Judge was requesting was out of the ordinary. Amy Karozos agreed there aren't as many issues, but say that TPR is like CHINS, they should be weighted about the same as a CHINS, which is currently weighted as a full trial appeal.

Currently, Mr. Mason noted they are weighted the same as a trial appeal. Judge Graham noted last year she had 98 terminations filed, which was very high. She said she can only expect the TPR/CHINS to increase.

Chairman Rutherford said that at this time the Commission will continue to monitor the issue and that they would work with Tippecanoe County to ensure that they remain in compliance. Mr. Landis noted a 40% increase in the last 5 years of CHINS cases.

4. Lack of standards for Level 6 cases

Mr. Mason noted that at the last meeting there were questions as to whether there were standards for Level 6. There are caseload standards but no experience requirements for Level 6/D Felony or misdemeanors. Mr. Mason noted that all levels of juvenile cases have experience requirements. He spoke with a few Chief Public Defenders before the meetings and they do not recall experience standards.

Mr. Landis asked to defer and see if he can look back to 1995 to see if the standards are available.

5. Reimbursement of Capital long-term expenses for public defender offices

At the last meeting, Tippecanoe County requested reimbursement for certain capital expenditures related to the purchase of a building. They were requesting reimbursement for a purchase that happened several quarters ago. At the last meeting, several Commission members expressed concern about reimbursing expenses that do not end up being used for indigent defense long-term. Staff attorneys were directed to research what precedent existed for such reimbursements in the Tippecanoe County situation.

Mr. Mason noted that Monroe County, in 2005-2007, spent approximately \$415,000 on the purchase and overhaul of a building for the 14 attorneys and staff. They began requesting quarterly reimbursement in the amount of \$10,352 dollars once they occupied the space. Those requests are scheduled to end in 2017. Mr. Mason also noted that there was an option to reimburse market rate rent. This could benefit large counties over small. He also noted a 10-year reimbursement prorated requirement. He recommended action that would require all capital expenses of \$50,000 or more shall be reimbursed or billed at the rate of market rent or over a 5-year period.

Mr. Mason noted that the \$50,000 was a number meant to separate those fairly common expenses from those that will have a much higher impact. Mr. Landis noted that the Commission needs to revisit the market rate rent. He looked at the statute, which he said that was clear. He said it raises a problem.

Mr. Mason said that there is no problem because the fictionalized rent, once they have billed for full expenditure, ceases. Rep. Fine asked what would happen if they dispose of capital expenses. Mr. Mason said there is nothing to recoup those expenses at this time and that we don't currently recoup expenses. Mr. Mason noted that the only county that has been reimbursed for purchasing a building is Monroe County that the Commission routinely reimburses for furniture and other capital-type expenses.

Hon. Meyer said he did not have an objection in theory, but that it was an interesting point that there is a potential for profit. He also said that we need to develop a standard amount potentially.

Reimbursement for capital expenses was a selling point to Jackson County, Mr. Mason noted. He however has yet to tell Jackson County how to act, given that the Tippecanoe expenditures were still outstanding. It was stated that many representatives in Jackson County are counting on reimbursement for such expenses. He said that a consistent approach was needed that also works for the county. This is a way to encourage that kind of development. The reimbursement for Jackson County's capital expenses was authorized in full.

This issue was tabled for the meeting.

6. Non-Capital hourly pay rate increase

Mr. Mason noted an increase in pay parity so that it follows on the county budget cycle. Mr. Mason has no specific recommendation of raising the hourly rate. The currently hourly is \$117 and is set to increase January 1st.

The non-capital rate was raised from \$60 to \$70 in 2013 with the intention to address the increase again in the future. Mr. Mason recommended that counties are given until January 1st to come into compliance with an increase. Mr. Landis recounted that during the first raise in 2013, \$90 an hour was the original goal, however the agreement was to raise it in increments in order not to cause counties to be able to afford the increases. Mr. Abbs stated that the Chiefs are asking to consider the raising the rate to \$90 an hour. The rising costs are why he is asking for this.

Rep. Dvorak moved that the Commission raise to \$90 effective Jan 1, 2017. Sen. Steele seconded the motion. Motion passed unanimously.

7. Case counting reporting rules when a vacancy occurs

Mr. Mason said that there was not enough time to consider this issue during this meeting. He also noted that the Chief Public Defenders had not given a recommendation to staff attorneys. He hopes to have a recommendation in September.

8. Creating an Electronic Reimbursement Request System

Several quarters ago, Mr. Mason asked the Commission for permission to switch to an electronic system for reimbursement request submission. He said that staff attorneys hand-audit the reports currently, which will soon become untenable as the amount of reimbursements continues to increase.

Additionally, Mr. Mason explained, the current system does not give the Commission the data it needs. Several organizations have asked for data trends which are currently not available with a paper system. Implementing the system will be expensive, Mr. Mason noted. However, the Commission has obtained a possibility of getting \$20,000 towards the total cost through a contribution from a grant from the Public Defender Council. Sen. Steele asked what grant opportunities are available. Mr. Mason reported that staff attorneys are still searching, but have not as yet found a grant that would specifically cover the costs of such an overhaul.

9. Electronic Submission and Data Analysis System

Amy Karozos addressed the Commission and explained that as part of the Juvenile Justice Improvement grant awarded to the Public Defender Council, her group was preparing to look for implementation funding from the federal government. She asked the Commission to write a letter in support of the grant. Senator Steele moved that the Commission write a letter in support. Rep. Dvorak seconded, and the motion passed unanimously.

10. Financial status of the Public Defense Fund

Mr. Mason stated that the Commission's fund currently has approximately 15.7 million dollars remaining.

11. Requests for 50% capital cases

Mr. Mason recommended approval of the requests for reimbursement on capital cases, which he noted had fewer errors than in previous quarters. Mr. Landis moved to approve, which Rep. Fine seconded. The motion passed unanimously.

INDIANA PUBLIC DEFENDER COMMISSION

Reimbursement Requests in Capital Cases June 8, 2016

COUNTY	DEFENDANT	TOTAL
Clark	Oberhansley	\$18,137.79
Lake	Blount	\$8,679.08
Lake	Isom	\$148.40
Lake	Vann	\$26,922.91
Marion	Davis	\$17,749.37
Marion	Rackemann	\$3,179.25
SUB-TOTAL		\$74,816.80

12. Requests for 40% non-capital cases

Mr. Mason reported that the Clark County chief public defender passed away, but that the county has appointed an interim chief and a regular chief to be appointed. Staff attorneys also discovered the county was not adequately staffed. With that, 10 of 19 attorneys became out of compliance. County officials will work with Mr. Mason over the next month to prepare for an August presentation. His hope is that they can reimburse.

Decatur County was found to have 2 of 9 attorneys out of compliance. Staff attorneys have a meeting scheduled and would recommend reimbursement. Brown and Orange are at 0. Orange was at 0 last quarter. Those counties had difficulty getting someone to do the report. Brown County did not receive reimbursement because of a lack of a submitted report.

Commission authorized full reimbursement for capital expenses. Mr. Mason asked for permission to reimburse for several Jackson County Capital requests that were submitted late; Sen. Steele moved for approval, and Dvorak seconded. Motion passed unanimously.

Mr. Mason recommended reimbursement for all counties requesting for non-capital expenses. Rep. Dvorak moved for approval, Hon. Ahler seconded. Motion passed unanimously.

INDIANA PUBLIC DEFENDER COMMISSION

First Quarter 2016 Requests for Reimbursements in Non-Capital Cases

6/8/2016

COUNTY	Late Factor	2016 Period Covered	Total Expenditure	Adjustment For Non-Reimbrsbl	% of Adjstmt	Eligible Expenditure	40% Reimbursed
ADAMS	0.00	1/1-3/31	\$87,817.76	\$15,381.05	18%	\$72,436.71	\$28,974.68
ALLEN	0.00	1/1-3/31	\$947,321.49	\$55,540.07	6%	\$891,781.42	\$356,712.57
BENTON	0.00	1/1-3/31	\$12,965.48	\$3,311.68	26%	\$9,653.80	\$3,861.52
BLACKFORD	0.00	1/1-3/31	\$37,414.33	\$6,140.42	16%	\$31,273.91	\$12,509.56
BROWN	0.00	1/1-3/31			#DIV/0!	\$0.00	\$0.00
CARROLL	0.00	1/1-3/31	\$61,965.64	\$10,310.67	17%	\$51,654.97	\$20,661.99
CASS	0.00	1/1-3/31	\$142,548.11	\$22,090.88	15%	\$120,457.23	\$48,182.89
CLARK	0.00	1/1-3/31	\$191,811.38	\$39,182.90	20%	\$152,628.48	\$61,051.39
CRAWFORD	0.00	1/1-3/31			0%		
DECATUR	0.00	1/1-3/31	\$53,244.76	\$9,890.25	19%	\$43,354.51	\$17,341.80
DEKALB	0.00	1/1-3/31	\$118,713.48	\$16,004.35	13%	\$102,709.13	\$41,083.65
DELAWARE	0.00	1/1-3/31	\$325,183.34	\$14,003.56	4%	\$311,179.78	\$124,471.91
FAYETTE	0.00	1/1-3/31	\$81,355.57	\$15,126.51	19%	\$66,229.06	\$26,491.62
FLOYD	0.00	1/1-3/31	\$152,179.38	\$43,427.77	29%	\$108,751.61	\$43,500.64
FOUNTAIN	0.00	1/1-3/31	\$25,380.13	\$2,861.61	11%	\$22,518.52	\$9,007.41
FULTON	0.00	1/1-3/31	\$71,686.93	\$23,071.66	32%	\$48,615.27	\$19,446.11
GRANT	0.00	1/1-3/31	\$233,994.86	\$4,167.34	2%	\$229,827.52	\$91,931.01
GREENE	0.00	1/1-3/31	\$99,697.67	\$13,384.56	13%	\$86,313.11	\$34,525.24
HANCOCK	0.00	1/1-3/31	\$151,521.35	\$19,166.50	13%	\$132,354.85	\$52,941.94
HENRY	0.00	1/1-3/31			0%		
HOWARD	0.00	1/1-3/31	\$372,501.41	\$56,722.60	15%	\$315,778.81	\$126,311.52
JACKSON*	0.00	1/1-3/31	\$411,040.20	\$15,773.42	4%	\$395,266.78	\$158,106.71
JASPER	0.00	1/1-3/31	\$52,944.00	\$17,141.69	32%	\$35,802.31	\$14,320.92
JAY	0.00	1/1-3/31	\$85,485.89	\$15,311.94	18%	\$70,173.95	\$28,069.58
JENNINGS	0.00	1/1-3/31	\$95,095.05	\$10,381.56	11%	\$84,713.49	\$33,885.40
KNOX	0.00	1/1-3/31	\$245,200.21	\$91,076.15	37%	\$154,124.06	\$61,649.62
KOSCIUSKO	0.00	1/1-3/31	\$159,307.09	\$39,271.05	25%	\$120,036.04	\$48,014.42
LAGRANGE	0.00	1/1-3/31	\$27,545.03	\$3,338.60	12%	\$24,206.43	\$9,682.57
LAKE	0.00	1/1-3/31	\$1,038,910.11	\$3,148.21	0%	\$1,035,761.90	\$414,304.76
LAPORTE	0.00	1/1-3/31	\$180,531.37	\$16,820.77	9%	\$163,710.60	\$65,484.24
LAWRENCE	0.00	1/1-3/31	\$186,048.40	\$11,753.58	6%	\$174,294.82	\$69,717.93
MADISON	0.00	1/1-3/31	\$486,959.26	\$23,024.22	5%	\$463,935.04	\$185,574.02
MARION	0.00	1/1-3/31	\$4,724,377.55	\$445,908.21	9%	\$4,278,469.34	\$1,711,387.74
MARTIN	0.00	1/1-3/31	\$63,848.09	\$9,637.12	15%	\$54,210.97	\$21,684.39
MIAMI	0.00	1/1-3/31			0%		
MONROE	0.00	1/1-3/31	\$471,267.81	\$66,260.40	14%	\$405,007.41	\$162,002.96
MONTGOMERY	0.00	1/1-3/31			0%		
NEWTON	0.00	1/1-3/31			0%		
NOBLE	0.00	1/1-3/31	\$177,490.92	\$26,586.66	15%	\$150,904.26	\$60,361.70
OHIO	0.00	1/1-3/31	\$21,186.77	\$3,375.98	16%	\$17,810.79	\$7,124.32
ORANGE	0.00	1/1-3/31			#DIV/0!	\$0.00	\$0.00
OWEN	0.00	1/1-3/31	\$57,971.12	\$10,221.26	18%	\$47,749.86	\$19,099.94
PARKE	0.00	1/1-3/31	\$35,720.81	\$8,990.95	25%	\$26,729.86	\$10,691.94
PERRY	0.00	1/1-3/31	\$34,170.67	\$13,017.40	38%	\$21,153.27	\$8,461.31
PIKE	0.00	1/1-3/31	\$56,075.93	\$3,750.39	7%	\$52,325.54	\$20,930.22

PULASKI	0.00	1/1-3/31	\$42,518.45	\$5,980.99	14%	\$36,537.46	\$14,614.98
RIPLEY	0.00	1/1-3/31	\$45,297.84	\$4,346.71	10%	\$40,951.13	\$16,380.45
RUSH	0.00	1/1-3/31	\$79,270.33	\$23,519.77	30%	\$55,750.56	\$22,300.22
SAINT JOSEPH	0.00	1/1-3/31	\$568,445.02	\$63,082.45	11%	\$505,362.57	\$202,145.03
SCOTT	0.00	1/1-3/31			0%		
SHELBY	0.00	1/1-3/31	\$121,354.31	\$21,936.85	18%	\$99,417.46	\$39,766.98
SPENCER	0.00	1/1-3/31	\$85,822.24	\$11,843.55	14%	\$73,978.69	\$29,591.48
STEUBEN	0.00	1/1-3/31	\$101,998.59	\$23,699.00	23%	\$78,299.59	\$31,319.84
SULLIVAN	0.00	1/1-3/31	\$50,134.90	\$15,089.26	30%	\$35,045.64	\$14,018.26
SWITZERLAND	0.00	1/1-3/31	\$43,135.97	\$11,092.11	26%	\$32,043.86	\$12,817.54
TIPPECANOE	0.00	1/1-3/31	\$587,848.08	\$144,448.72	25%	\$443,399.36	\$177,359.74
UNION	0.00	1/1-3/31	\$12,398.00	\$1,771.14	14%	\$10,626.86	\$4,250.74
VANDEBURGH	0.00	1/1-3/31	\$584,068.93	\$98,562.04	17%	\$485,506.89	\$194,202.76
VERMILLION	0.00	1/1-3/31	\$42,081.09	\$11,221.21	27%	\$30,859.88	\$12,343.95
VIGO	0.00	1/1-3/31	\$461,608.68	\$72,325.39	16%	\$389,283.29	\$155,713.32
WABASH	0.00	1/1-3/31	\$74,550.27	\$14,149.08	19%	\$60,401.19	\$24,160.48
WARREN	0.00	1/1-3/31	\$4,205.50	\$1,802.36	43%	\$2,403.14	\$961.26
WASHINGTON	0.00	1/1-3/31	\$105,314.51	\$12,525.87	12%	\$92,788.64	\$37,115.46
WELLS	0.00	1/1-3/31			0%		
WHITE	0.00	1/1-3/31			0%		
WHITLEY	0.00	1/1-3/31			0%		
TOTAL			\$14,788,532.06	\$1,741,970.44		\$13,046,561.62	\$5,218,624.65
*Includes \$245,403.98 Expenses, \$7793.38 Non-Reimb., and \$95,044.24 reimbursement for 4Q15							

13. Staff report

Agenda for next meeting will include addressing Mr. Sutherlin to require a timekeeping requirement. The date of September meeting is: September 21, 2016 at 2:00 p.m. Mr. Landis took time to thank Jennifer Culotta and Amber Shaw for their work in Clark County.

MINUTES

INDIANA PUBLIC DEFENDER COMMISSION

DATE OF MEETING: September 21, 2016

Time: 2:00 PM EST

LOCATION: KITE BUILDING

30 South Meridian Street, Room 804

Indianapolis, IN

An executive session was advertised before the regular session, but because of the presentation from the Sixth Amendment Center, the regular meeting began at approximately 2 p.m. In attendance were: Present for the meeting were Chairman Mark Rutherford, Indianapolis; Larry Landis, Indianapolis; the Honorable Mary Ellen Diekhoff, Bloomington; David Hensel, Indianapolis; Hon. James Ahler, Rensselaer; Hon. Steven Myers, Lafayette; Rep. William Fine, District 12; Chief Public Defender James Abbs of Noble County; Chief Public Defender Robert Hill of Marion County; David Carroll; Colette Tvedt of the National Association of Criminal Defense Lawyers; Derrick Mason and Kathleen Casey, Staff Attorneys for the Commission.

1. Presentation from the Sixth Amendment Center

Mr. David Carroll of the Sixth Amendment Center, Colette Tavette from the National Association from Criminal Defense Lawyers, and Dean Emeritus Norman Lefstein from the ABA presented to the Commission.

Mr. Carroll stated that in many instances, his team was not prepared for the variation among the practices from county to county, even in those that participate in the Indiana Public Defender Commission. He also wanted to apologize for the size of the report, but he felt that his team needed to publish a report of sizeable length in order to cover all of the details necessary.

Mr. Carroll reiterated that Sixth Amendment services are a state obligation, and that currently, the State of Indiana has no mechanism to ensure that its constitutional obligation to provide effective counsel to the indigent accused is met in misdemeanor cases in city and town courts. Although misdemeanor cases carry less jail time, the collateral consequences can be just as severe. Currently, the State of Indiana and Indiana Public Defender Commission do not exercise any authority over misdemeanors.

Mr. Carroll stated that 37 of Indiana's 92 counties, or 40%, choose not to participate in the state's non-capital case reimbursement system as of June 2015. The Commission has no authority whatsoever over the representation of indigent people in those counties. The counties do not have to abide by Commission standards. Additionally, Lake County is able to limit its participation by statute.

Together, the non-participation amounts to 1/3 of Indiana's population. Although the Indiana model could potentially work to provide effective representation in those programs (1) state-

funding for reimbursement has not kept pace with the costs; (2) there is too little staff. Cannot ensure compliance.

The problem with the lack of oversight means that counties rely on judges to fill the void of supervision. This is contrary to the ABA's 10 Principles of Indigent Defense, which require independence from the judiciary.

Even within the program, there is a stunning lack of oversight – certain counties only ask for reimbursement in certain types of cases. He gave the example of Miami County, who paid attorneys hourly from October to December on an hourly basis, because they reached their maximum cases under their contracts during the months of January through September. The county did not ask for reimbursement for those cases. This circumvented caseload compliance requirements.

The Indiana Public Defender Commission is limited to entice counties to meet standards only through partial reimbursement. Because counties are always free to leave the program, the IPDC is in the difficult position of allowing non-compliance in the hopes that counties will meet standards in the future.

This structural flaw has caused IPDC to make exceptions to the rules. Recently, there have been reforms in other states such as Utah and Idaho. Mr. Carroll recommended that all counties must meet standards whether the counties seek reimbursement or not.

The absence of institutionalized state oversight does not mean that all right to counsel services provided by all county municipal governments are constitutionally inadequate. But it does mean that the state has no idea whether the sixth amendment obligations are being fulfilled.

Mr. Carroll reviewed the counties picked by the Sixth Amendment Center stakeholder group. The counties studied were: Lake, Elkhart, Blackford, Marion, Scot, Warrick, Lawrence, and Montgomery.

Mr. Carroll cited *United States v. Cronin* for certain standards including the appointment of qualified attorneys that have sufficient time and resources to provide competent representation under independent supervision. If those factors are absent, then ineffective assistance of counsel should be presumed. Mr. Carroll and his team used these standards to evaluate the program.

Mr. Carroll also found in his report that the State of Indiana's constitutional obligation to provide counsel at all critical stages of a criminal proceeding is not consistently met on the local level, where some counties encourage defendants to negotiate directly with prosecutors or otherwise continue forward with the hearing without counsel. Mr. Carroll cited with Lawrence County, where attorneys staffed initial hearings but only as a "friend of a court," which still contravenes the Sixth Amendment. By not being formally appointed, they did not have to report those cases on their caseload, even though they were in fact advising these people.

Mr. Carroll acknowledged he submitted a long report, but his team felt that the system was failing throughout. His team decided to provide broad recommendations. Mr. Carroll said he hopes to work with the advisory group to implement changes.

Discussion and questions followed the presentation. There were no questions – Chairman Rutherford then asked what the Commission members wanted to do with the report. Mr. Carroll said he would like to continue the advisory group to work through what recommendations need to be made. He said that there was room for the Supreme Court to act and to expand the current standards to all counties, working with policy makers as far as whether it is moved to statewide system or other models.

Colette Tavette then spoke. She is the the NACDL training and reform director, and she held this position for two-and-a-half years. For the last two years she has been coming to Indiana and conducting court observations. All of the Constitutional deficiencies mentioned in the report are things that she observed herself. In speaking to all different members of the bar, she found excessive caseloads, flat-fee contracts, and a “meet, greet, and plead” style of representation in some areas. She acknowledged that it was a long process, but that more oversight was needed. She emphasized the importance of misdemeanors and having competent attorneys handling those cases.

Dean Norm Leftstein then spoke. He first started with his background, and stated that he has devoted his professional life to the subject of criminal defense services for the poor and juveniles. It’s been his primary focus of research and scholarship. He has written several national reports about the state of public defense. He commended Mr. Carroll for having delved into the problems here in Indiana, saying that the report properly is very critical of Indiana and he believed it should be. It also has some findings that are “absolutely spot-on,” according to Dean Emeritus Lefstein. Standards are needed in a wide variety of areas that were identified in the report. There was not sufficient oversight in Indiana for all kinds of ways in which defense services are delivered.

Dean Emeritus Lefstein also wanted to make one statement about caseload standards. When the Public Defender Commission developed caseload standards they were borrowed from the National Advisory Commission of 1973. They were never empirically based, he said. The studies that are being done now show that the caseload standards are woefully inadequate. They require adequate support services especially investigators and social workers.

Dean Lefstein noted that he was part of the effort to undertake a caseload study and revise the Commission’s caseload standards. He said that the workload findings from the study will most likely show much lower numbers. Dean Lefstein also said he had a quibble with the recommendations. He noted that in the last chapter of the report it states that there is no cookie-cutter way in which to provide defense services. He did not agree. He said that there is a way that needs to be done, and it does need to be done with a strong independent public defense commission. He said he saw the report as ammunition to make the case for an independent commission.

Dean Lefstein stated that he believes that the Commission should have broader authority, jurisdiction over all misdemeanors, felonies, and delinquency cases, and that no counties can opt-out. He said that this could be accomplished by abandoning caseload reports and arguing about the counties about the numbers. Instead, Dean Lefstein stated that what the Commission should

do is propose amendments that would cover all counties, would cover all misdemeanors, and suggest a different way of funding going forward. He stated that he believed money should be distributed in a scheme based on population and caseload. Because the primary commission function needs to be auditing in addition to developing standards, the Commission staff should have an audit function for how standards are being enforced and looked at, and probably the Commission needs to have some ability to sanction counties that out to be withholding funds.

Dean Lefstein also noted that 11 people serving on the Commission is not enough. Instead, he suggested at least 17 with at least some Committees. He also stated the need for an appellate program at the state level. He also suggested that the Commission retain authority to implement rules rather than have the Judiciary implement the rules.

Chairman Rutherford then asked the Commission for suggestions on how to move forward. Mr. Hensel said this needed to be made as public as possible. Rep. Fine said even the act of releasing the report is a tacit endorsement. He wondered whether we need to vote and specifically endorse the findings are recommendations. Hon. Diekhoff agreed. Hon. Ahler said he liked the report's recommendation to further remove the judiciary from the process of managing the employment of public defenders.

Rep. Fine asked what can be done immediately to implement changes in response to the report. Mr. Mason noted that some changes could be made, such as increasing the standards for appointment. However, most of the standards will require a legislative change.

Mr. Landis made a motion to accept the report because it does identify serious and systemic deficiencies in the report, and the Commission recognizes those deficiencies. This motion also stated that the Commission will continue to study the problems and propose remedies to address the deficiencies identified in the report. Rep. Fine seconded. Motion passed unanimously.

Mr. Landis had a second motion that the Commission recommend legislation that would recommend amending both the Public Defender Commission statute and Public Defender fund statute by striking the phrase "except misdemeanors," thus authorizing the commission to reimburse 40% in all indigent defense services. The Hon. Myers seconded.

Robert Hill stated his concern with how Marion County will be able to pay to come into compliance in the misdemeanor arena because his agency's calculation saw the need for 27 new full-time lawyers and 22 additional support staff to meet Commission caseload guidelines.

Dean Lefstein stated that what was needed was an overall strategy to respond to the report rather than enact a piecemeal solution. Mr. Myers agreed with Dean Lefstein and suggested an overall plan. Mr. Landis stated he doesn't mean it to be the sole solution but the legislative cycle requires that the bill has to be in early.

The Hon. Diekhoff said she thought counties are going to leave if misdemeanors were enacted without any additional support or funding, and that it would be a fight to have those counties rejoin in the future. Mr. Landis said that in previous instances that have considered phasing in compliance.

At this point in the preceding the Chairman asked for a vote on Mr. Landis' motion to recommend to the legislature to change the enabling statute to include misdemeanors. Those in favor were: Larry Landis and Rep. Fine. Those against were Hon. Diekhoff, Mr. Hensel, and Hon. Ahler. The motion failed.

Chairman Rutherford asked whether it was prudent to schedule an interim meeting between September the upcoming December meeting. Mr. Landis stated that if legislation was contemplated for this year, a meeting was necessary before December. Mr. Carroll suggested a task force to contemplate long-term changes.

2. Mr. Sutherlin and Timekeeping

Mr. Sutherlin of the Brown County Public Defender board addressed the group with a proposal that all public defenders should keep track of the time spent on their cases. He stated that there is no reason why public defenders cannot keep time and to include a short summary of the case in the case file. He said his county has recently included the requirement of taking notes in his cases, and that the Board would periodically do a file audit to make sure that the attorneys were working on their cases. He said that timekeeping could solve making of the issues discussed by the Commission at the meeting so far. He said that there was no cost, and that private attorneys keep time in their cases. He also said the timekeeping data could be used for research. He noted that in Brown County, which requires timekeeping, attorneys are paid extra if they spend over 20 hours on a case, which provides incentive to work on their public defender cases.

Mr. Sutherlin also reviewed the lawsuit that he filed on Johnson County. He also said that even counties within the program face problems that would be caught if attorneys were required to have timekeeping as part of their duties.

After the presentation by Mr. Sutherlin, Dean Lefstein spoke and stated that there are advantages for timekeeping in public defense and that part of his 2011 book reviewed the concept of timekeeping. He also noted that the NAPD has also endorsed the concept of mandatory timekeeping and that support for this concept continues to grow.

3. Tippecanoe County

Chief Public Defender Amy Hutchinson spoke and told the Commission that their target date to move into their new offices is December 19th, 2017. She wanted to make sure that her county would be reimbursed or is that just a separate issue from the capital expense.

Mr. Mason reviewed proposed language on how to reimburse for capital (as in building, rather than death penalty) expenses in the future. No action was taken, but the Commission assured the Chief that the county will be reimbursed for typical expenses.

4. Requests for 50% in Capital Cases, late requests

Mr. Mason noted that the Commission had reimbursed a handful of late requests and that he had previously reaffirmed to counties that these requests needed to be timely. This quarter, staff attorneys received 31 capital requests, the majority of which were from Harrison County with reimbursements that went back to as far as year ago.

Mr. Mason said such late requests were troubling because the Commission has already submitted a budget request to the legislature that did not contemplate these additional reimbursements. However, he noted that the judge in Harrison County that submitted these requests was doing so on cases not even heard in his county, but rather a special judge on behalf of his county. This meant the forms must travel across the state before they are submitted. Rep. Fine asked if there was any precedent for this issue.

Mr. Mason said there is no precedent for reimbursements submitted four quarters late. The chairman added they once rejected some very late death penalty claims. Mr. Mason said that for what it's worth, the judge that submitted these late requests is an advocate for the Commission in his county.

Mr. Hensel submitted a motion that the Commission reimburse all requests with a letter that indicated there would be no more reimbursement for late requests. The Hon. Diekhoff seconded. Motion passed unanimously.

5. Requests for 50% in Capital Cases, regular requests

Mr. Mason recommended approval of the capital case requests. The Hon. Diekhoff moved to approve, and Mr. Landis seconded. Motion passed unanimously.

INDIANA PUBLIC DEFENDER COMMISSION		
Reimbursement Requests in Capital Cases		
September 21, 2016		
COUNTY	DEFENDANT	TOTAL
Clark	Oberhansley	\$16,811.25
Harrison	Schuler	\$36,225.16
Harrison	Scott	\$46,547.13
Lake	Blount	\$10,959.75
Lake	Vann	\$29,025.21
Marion	Davis	\$15,330.60
Marion	Rackemann	\$1,141.30
Vanderburgh	Weisheit	\$3,203.52
SUB-TOTAL		\$159,243.91

LATE <i>CURRENT</i> QTR FILINGS BY HARRISON COUNTY		
Harrison	Schuler - This Qtr	\$23,133.84
Harrison	Scott - This Qtr	\$17,103.37
SUB-TOTAL		\$40,237.21
LATE OLD QTR FILINGS BY HARRISON COUNTY		
Harrison	Scott 3Q 2015	\$ 39,298.08
Harrison	Scott 4Q 2015	\$ 49,017.18
Harrison	Scott 1Q 2016	\$ 22,721.79
Harrison	Schuler 3Q 2015	\$ 39,989.54
Harrison	Schuler 4Q 2015	\$ 34,852.89
Harrison	Schuler 1Q 2016	\$ 31,548.78
SUB-TOTAL		\$217,428.26
TOTAL IF ALL APPROVED		\$416,909.38

6. Non-Capital (40%) reimbursement and Status of the Public Defense Fund

Mr. Mason reported that compliance fell to 80% during this quarter, though these issues were usually concerning only one or two attorneys and were problems recognized by the counties. The main concern was Clark County, which had 7 out of 24 attorneys in substantial compliance last quarter. This quarter the county had 10 attorneys out of compliance. Other complications included a Chief Public Defender who passed away, and the appointment of a new chief who then resigned after six weeks. Mr. Mason has visited personally. New county officials have asked for more attorneys and pay parity for the chief public defender.

Jennings County also had multiple attorneys out of compliance. Mr. Mason also noted that there are a handful of counties where an attorney is out of compliance because of CHINS. He also noted that Monroe County's submission for the second quarter would be filed with the third quarter. Upon auditing there were major issues discovered.

Mr. Mason recommend reimbursement to all counties.

Mr. Hensel moved to approve the requests, which was seconded by the Hon. Diekhoff. Motion passed unanimously. The reimbursements approved are as follows:

INDIANA PUBLIC DEFENDER COMMISSION

Second Quarter 2016 Requests for Reimbursements in Non-Capital Cases

9/21/2016

COUNTY	Late Factor	2016 Period Covered	Total Expenditure	Adjustment For Non-Reimbrsbl	% of Adjstmt	Eligible Expenditure	40% Reimbursed
ADAMS	0.00	4/1-6/30	\$82,152.57	\$6,755.50	8%	\$75,397.07	\$30,158.83
ALLEN	0.00	4/1-6/30	\$1,000,676.64	\$59,637.43	6%	\$941,039.21	\$376,415.68
BENTON	0.00	4/1-6/30	\$14,718.82	\$2,231.04	15%	\$12,487.78	\$4,995.11
BLACKFORD	0.00	4/1-6/30	\$59,155.38	\$12,407.55	21%	\$46,747.83	\$18,699.13
BROWN*	0.00	4/1-6/30	\$102,822.47	\$28,663.90	28%	\$74,158.57	\$29,663.43
CARROLL	0.00	4/1-6/30	\$62,831.29	\$6,250.58	10%	\$56,580.71	\$22,632.28
CASS	0.00	4/1-6/30	\$146,317.48	\$25,055.00	17%	\$121,262.48	\$48,504.99
CLARK	0.00	4/1-6/30	\$236,357.67	\$64,154.98	27%	\$172,202.69	\$68,881.08
CRAWFORD	0.00	4/1-6/30			0%		
DECATUR	0.00	4/1-6/30	\$52,546.74	\$17,104.00	33%	\$35,442.74	\$14,177.10
DEKALB	0.00	4/1-6/30	\$150,391.03	\$16,823.45	11%	\$133,567.58	\$53,427.03
DELAWARE	0.00	4/1-6/30	\$344,723.85	\$4,292.26	1%	\$340,431.59	\$136,172.64
FAYETTE	0.00	4/1-6/30	\$72,896.04	\$9,598.52	13%	\$63,297.52	\$25,319.01
FLOYD	0.00	4/1-6/30	\$175,389.15	\$43,434.80	25%	\$131,954.35	\$52,781.74
FOUNTAIN	0.00	4/1-6/30	\$31,082.47	\$3,935.22	13%	\$27,147.25	\$10,858.90
FULTON	0.00	4/1-6/30	\$75,853.08	\$26,481.25	35%	\$49,371.83	\$19,748.73
GRANT	0.00	4/1-6/30	\$303,618.88	\$3,710.47	1%	\$299,908.41	\$119,963.36
GREENE	0.00	4/1-6/30	\$114,539.28	\$15,615.32	14%	\$98,923.96	\$39,569.58
HANCOCK	0.00	4/1-6/30	\$174,216.46	\$24,037.56	14%	\$150,178.90	\$60,071.56
HENRY	0.00	4/1-6/30			0%		
HOWARD	0.00	4/1-6/30	\$376,780.95	\$58,707.81	16%	\$318,073.14	\$127,229.26
JACKSON	0.00	4/1-6/30	\$187,367.46	\$15,707.38	8%	\$171,660.08	\$68,664.03
JASPER	0.00	4/1-6/30	\$84,334.38	\$24,060.50	29%	\$60,273.88	\$24,109.55
JAY	0.00	4/1-6/30	\$97,925.57	\$12,321.53	13%	\$85,604.04	\$34,241.62
JENNINGS	0.00	4/1-6/30	\$74,842.48	\$7,136.57	10%	\$67,705.91	\$27,082.36

KNOX	0.00	4/1-6/30	\$443,341.26	\$163,434.64	37%	\$279,906.62	\$111,962.65
KOSCIUSKO	0.00	4/1-6/30	\$187,468.58	\$54,929.36	29%	\$132,539.22	\$53,015.69
LAGRANGE	0.00	4/1-6/30	\$55,573.87	\$7,849.00	14%	\$47,724.87	\$19,089.95
LAKE	0.00	4/1-6/30	\$1,047,062.59	\$9,348.77	1%	\$1,037,713.82	\$415,085.53
LAPORTE	0.00	4/1-6/30	\$195,609.97	\$12,832.00	7%	\$182,777.97	\$73,111.19
LAWRENCE	0.00	4/1-6/30	\$193,797.88	\$15,435.66	8%	\$178,362.22	\$71,344.89
MADISON	0.00	4/1-6/30	\$410,917.29	\$17,750.95	4%	\$393,166.34	\$157,266.54
MARION	0.00	4/1-6/30	\$4,774,196.58	\$480,012.78	10%	\$4,294,183.80	\$1,717,673.52
MARTIN	0.00	4/1-6/30	\$96,620.69	\$33,747.99	35%	\$62,872.70	\$25,149.08
MIAMI	0.00	4/1-6/30			0%		
MONROE	0.00	4/1-6/30	\$576,709.77	\$78,105.58	14%	\$498,604.19	\$199,441.68
MONTGOMERY	0.00	4/1-6/30			0%		
NEWTON	0.00	4/1-6/30			0%		
NOBLE	0.00	4/1-6/30	\$165,508.77	\$28,155.65	17%	\$137,353.12	\$54,941.25
OHIO	0.00	4/1-6/30	\$25,141.75	\$2,911.80	12%	\$22,229.95	\$8,891.98
ORANGE	0.00	4/1-6/30			#DIV/0!	\$0.00	\$0.00
OWEN	0.00	4/1-6/30	\$66,106.18	\$10,297.30	16%	\$55,808.88	\$22,323.55
PARKE	0.00	4/1-6/30	\$38,346.28	\$12,613.91	33%	\$25,732.37	\$10,292.95
PERRY	0.00	4/1-6/30	\$35,061.34	\$9,036.43	26%	\$26,024.91	\$10,409.96
PIKE	0.00	4/1-6/30	\$81,769.24	\$11,681.32	14%	\$70,087.92	\$28,035.17
PULASKI	0.00	4/1-6/30	\$109,760.73	\$17,401.43	16%	\$92,359.30	\$36,943.72
RIPLEY	0.00	4/1-6/30	\$40,284.56	\$2,998.18	7%	\$37,286.38	\$14,914.55
RUSH	0.00	4/1-6/30	\$68,282.10	\$19,029.44	28%	\$49,252.66	\$19,701.06
SAINT JOSEPH	0.00	4/1-6/30	\$630,902.84	\$66,424.67	11%	\$564,478.17	\$225,791.27
SCOTT	0.00	4/1-6/30			0%		
SHELBY	0.00	4/1-6/30	\$109,392.42	\$18,245.45	17%	\$91,146.97	\$36,458.79
SPENCER	0.00	4/1-6/30	\$47,674.61	\$9,260.33	19%	\$38,414.28	\$15,365.71
STEUBEN	0.00	4/1-6/30	\$103,025.31	\$22,301.56	22%	\$80,723.75	\$32,289.50

SULLIVAN	0.00	4/1-6/30	\$41,923.53	\$17,630.93	42%	\$24,292.60	\$9,717.04
SWITZERLAND	0.00	4/1-6/30	\$44,993.35	\$13,534.58	30%	\$31,458.77	\$12,583.51
TIPPECANOE	0.00	4/1-6/30	\$718,425.27	\$178,400.91	25%	\$540,024.36	\$216,009.74
UNION	0.00	4/1-6/30	\$29,765.07	\$2,880.49	10%	\$26,884.58	\$10,753.83
VANDEBURGH	0.00	4/1-6/30	\$622,614.53	\$125,008.42	20%	\$497,606.11	\$199,042.44
VERMILLION	0.00	4/1-6/30	\$37,245.29	\$7,768.64	21%	\$29,476.65	\$11,790.66
VIGO	0.00	4/1-6/30	\$527,519.67	\$74,438.95	14%	\$453,080.72	\$181,232.29
WABASH	0.00	4/1-6/30	\$85,777.97	\$19,453.45	23%	\$66,324.52	\$26,529.81
WARREN	0.00	4/1-6/30	\$8,862.90	\$2,510.00	28%	\$6,352.90	\$2,541.16
WASHINGTON	0.00	4/1-6/30	\$94,231.77	\$9,820.46	10%	\$84,411.31	\$33,764.52
WELLS	0.00	4/1-6/30			0%		
WHITE	0.00	4/1-6/30			0%		
WHITLEY	0.00	4/1-6/30			0%		
TOTAL			\$15,735,454.10	\$2,043,373.65		\$13,692,080.45	\$5,476,832.18
*Brown includes \$14,898.46 in reimbursement for late 1Q16 Request							

Bob Hill stated then addressed the Commission and indicated that his county was struggling with CHINS compliance due to new policies enacted by the Department of Child Services. He hoped that the Public Defender Commission would increase the funding overall, or the amount that is dedicated to reimbursement for CHINS. Mr. Abbs added that in Noble County they saw the same concerns as well.

Mr. Landis said that he would like to see a new state agency take over responsibility for CHINS/TPR defense, as that is the position the Public Defender Council has taken.

Subsequently, a vote was held to have a meeting on October 4, 2016 at 2 p.m. Mr. Landis made the motion which was seconded by David Hensel. Motion passed unanimously.

Mr. Landis asked members to think about who should be on the task force and how big it should be.

7. Staff report

Mr. Mason stated he had nothing to add other than what was in the printed materials.

8. Approval of minutes

Mr. Landis moved to approve the minutes, which Mr. Hensel seconded; motion passed unanimously.

9. Public approval of actions taken in executive session

Mr. Hensel moved to approve the job descriptions submitted by the staff attorneys, which Hon. Diekoff seconded. Motion passed unanimously.

Mr. Landis moved that the senior staff attorney salary start at \$81,000 with the staff attorney at \$70,000, and that the Commission authorize a new position at 55,000 subject to the hiring by the chairman. Rep. Fine seconded the motion, which passed unanimously. Further, Mr. Hensel moved that these salaries were effective July 1, 2016. Hon. Diekoff seconded the motion, which passed unanimously.

The Hon. Diekoff moved to adjourn the meeting, which Hensel seconded. Motion passed unanimously.

MINUTES

INDIANA PUBLIC DEFENDER COMMISSION

DATE OF MEETING: October 4, 2016

Time: 2:00 PM EST

LOCATION: KITE BUILDING

30 South Meridian Street, Room 804

Indianapolis, IN

After a meeting of the Sixth Amendment Center's Advisory Committee which began at 2:00 p.m., the meeting of the Public Defender Commission began at 3:22 p.m. In attendance were: Chairman Mark Rutherford, Indianapolis; Larry Landis, Indianapolis; Senator Greg Taylor, Indianapolis, Rep. William Fine, Highland; David Hensel; Hon. Judge Ahler, Rensselaer; Hon. Steven Meyer, Lafayette. Present in the audience were: Chief Trial Deputy Ann Sutton of Marion County; Jim Abbs, Chief Public Defender Noble County; David Carroll of the Sixth Amendment Center; Diane Price of the National Association of Criminal Defense Lawyers; Derrick Mason and Kathleen Casey, Staff Attorneys for the Commission. Do you

After a presentation to the Sixth Amendment Advisory Committee, Chairman Rutherford convened a meeting of the Public Defender Commission and asked if the Commission members wanted to take any formal decisions about what it recommends to the legislature about what to do about the issues raised by the report.

Mr. Landis made a motion with two parts: first, to request that misdemeanors be authorized for reimbursement by striking the portions of the Commission's enabling statute that excludes misdemeanors from reimbursement. Second, to raise funding to 50% reimbursement overall.

Mr. Mason reported that the rough estimated cost would be at least \$2 million for the counties that take advantage of the "misdemeanor loophole" in which they exclude misdemeanor attorneys exclusively from both reimbursement and caseload restrictions. He also added that there would be a funding impact of \$6 million for funding misdemeanors across the board. Mr. Mason also noted that the upcoming increase in hourly pay will also create a fiscal impact on the fund. He noted the importance of increasing reimbursement overall to help counties that currently take advantage of the misdemeanor loophole to help them come into compliance without causing the counties to drop out of the program entirely because of the onboarding costs of bringing misdemeanor caseloads under control.

Mr. Abbs noted that the Association of Chief Public Defenders was in favor of this action but that time would be needed to bring counties into compliance.

The Chairman clarified Mr. Landis' motion, and the final wording of the motion was for the Commission to ask the legislature to include misdemeanors in the Commission's authority to reimburse; to add additional funding of upwards of \$6 million to implement misdemeanor reimbursement; to change the statutes governing the Commission to reimburse counties at a rate of 50% rather than 40%, and to increase the funding to the Public Defender Commission to be

able to carry out this increased reimbursement. Mr. Hensel seconded the motion, and the motion passed unanimously.

Mr. Mason suggested that the Commission create a subcommittee to address all of the issues raised by the report. The Chairman responded that it would be addressed at the December meeting.

Commission adjourned at 3:44 p.m.

DRAFT MINUTES

INDIANA PUBLIC DEFENDER COMMISSION

DATE OF MEETING: December 14, 2016

Time: 2:00 PM EST

LOCATION: INDIANA GOVERNMENT CENTER

302 West Washington Street, Conference Room #17

Indianapolis, IN

Meeting was called to order. Commission members in attendance were: Chairperson Mark Rutherford, Indianapolis; Rep. Washburne, Darmstadt; Hon. Mary Ellen Diekhoff, Bloomington; David Hensel, Indianapolis; Larry Landis, Indiana Public Defender Council; Hon. Steven Meyer, Lafayette; Rep. Ryan Dvorak, South Bend; Hon. James Ahler, Rensselaer.

In audience were Chief Public Defender Robert Hill, Ray Casanova, Indianapolis; Chief Public Defender Gretchen Etling, Vigo County; Chief Public Defender David Shircliff, Lawrence; Chief Public Defender James Abbs, Noble County; Chief Public Defender Amy Hutchinson, Tippecanoe County; Chief Public Defender Geoff Yelton, Madison County; Deputy Chief Neil Weisman, St. Joseph County; Kristen Casper, Indiana Public Defender Council.

1. Approval of Minutes From September 21, 2016 and October 4, 2016 minutes

David Hensel moved to approve the minutes from the September meeting of the Commission. Mr. Landis seconded the motion. Motion passed unanimously.

2. Proposed 2017 Commission meeting dates

Mr. Landis pointed out that the March proposed meeting date could be difficult for legislators. However, after discussion the Chair proposed that the dates remain as listed and should the need to move the meeting arise, the Commission would do so in line with proper public notice procedure.

Hon. Diekhoff made a motion to approve the meeting dates, which Mr. Landis seconded. The motion passed unanimously.

3. Amended Knox County Comprehensive Plan

Mr. Mason explained that Knox County is having huge overruns in costs. They are switching to a new contract system with a part-time chief public defender. However, they are not establishing an office. So they are implementing a modified plan. Mr. Mason recommended approval. The county still has a secondary system of assigned council but primarily it will be contracts.

Chairman Rutherford asked what the advantage was to Knox County. Mr. Mason said they went to a contract system to control costs and because there needs to be oversight in the county over the indigent defense system. Up until this change, no one person or entity was managing the

costs to the county, which ran out of control. They hope the part-time Chief will prevent these overruns from happening again.

Mr. Landis moved to approve the plan, which Mr. Hensel seconded. Motion passed unanimously.

4. Jefferson County Comprehensive Plan

Mr. Mason reported that Jefferson County will join the program, but that their comprehensive plan will preserve the plan that the county uses currently. Mr. Mason said that they had been somewhat following the requirements without receiving reimbursement, and that now they wish to come into compliance to earn reimbursement.

Mr. Mason estimated that they will pay \$50,000 per contract, but that the exact details are not finalized. Mr. Landis moved to approve, which Mr. Hensel seconded. Motion passed unanimously.

5. Building related expenses

Mr. Mason presented to the Commission a proposed guideline that would guide the Commission on how to reimburse counties who purchase/retrofit a building for indigent defense purposes. He noted that the Commission has been reimbursing Monroe County for nine years for the purchase of a building and a retrofit. They are billing the Commission quarterly over a ten-year period for those costs.

Last year, Tippecanoe County reached out to the Commission because of their need for a new space. The County had the opportunity to purchase a building that would include a dedicated floor for the public defender office. However, there then arose an issue in the Commission as how to reimburse in a way that controls costs and prevents unjust enrichment.

Mr. Mason explained the proposed guideline as follows: purchase of a building will be reimbursed over a ten-year period, with reimbursement capped at the amount the county would have spent for renting comparable office space. Mr. Mason noted that Commission staff will be required to ensure the purchase/retrofit is reasonable, and reimbursement would only begin once the project is completed and the public defenders have moved in. If the county public defenders cease to occupy the space or sell the building, then the reimbursement would stop. He recommended adoption of the rule.

Judge Meyer noted that the Tippecanoe County building is a great improvement from their current dwellings and that he believes it is a good policy to adopt to encourage counties to obtain proper space to provide effective indigent services.

David Hensel asked whether the Commission has limited itself by noting that modifications or exceptions can apply “upon request.” Mr. Mason does not believe that the rule limits the Commission to reacting and will still allow proactive action.

After discussion, the guideline was moved to be adopted as proposed in the binder materials. Mr. Landis moved to approve, and Rep. Washburne seconded. Motion passed unanimously.

6. Request for Sub-Committee to Update Commission Standards/Guidelines

Mr. Mason noted that the Commission Standards and Guidelines need updating, and requested a smaller sub-group of the Commission to provide input on how to reform the standards given the recent study of the Commission and the state by the Sixth Amendment Center. He noted that there are many things in the standards that are not clarified in statute or guidelines, and that such clarification would be very helpful for the counties.

The Chairman added that this is an effort by the Commission to be proactive. Mr. Mason noted that there has been no look at the standards from a holistic view for several years. He added that the subcommittee would comply with open door requirements to ensure proper notice.

Mr. Mason stated that he would like to start this subgroup around the time the Task Force starts for the Sixth Amendment Center, possibly by the next meeting which is in March. Mr. Mason stated that effective changes can take place in the future, especially if funding is increased.

Hon. Meyer asked about whether this includes updating the caseloads. Mr. Mason said this is not related to that study; this is an additional look at the standards, other than caseloads, which is a partnership with the ABA.

Mr. Hensel said that he thought the sub-committee was a good idea. Mr. Landis made a request that it also include updating the commentary to the non-capital standards. He did not believe that they had ever been amended since the 1990s.

Mr. Mason asked that a cross-section of Commission members be on the subcommittee. Hon. Meyer and David Hensel volunteered. James Abbs nominated David Shircliff from the Chief's Association. Mr. Mason said he would talk to the legislature and keep Commission members informed as to who can be available during the busy legislative season.

Mr. Landis moved to authorize the Chair to make appointments as seen fit. Mr. Hensel seconded. Motion passed unanimously.

7. Financial Status of PD Fund

Mr. Mason noted that the non-capital claims alone will exceed the appropriation this year, and noted that an additional appropriation from the legislature is imperative. He noted a \$2.5 million request for the legislature to continue operations as they are now. He is working on a fiscal impact for the bill endorsed by the Commission that reimburses misdemeanors and raises the overall rate of reimbursement to 50 percent.

8. 50% Capital Reimbursements

Mr. Mason noted that Harrison County, which submitted multiple late reimbursements last quarter, is generally on board. He recommended that Floyd County's request should have been heard in September but was sent to the wrong address. He recommended that all the expenses be approved.

Hon. Diekhoff moved to approve, Rep. Dvorak seconded. Motion passed unanimously.

INDIANA PUBLIC DEFENDER COMMISSION		
Reimbursement Requests in Capital Cases		
December 14, 2016		
COUNTY	DEFENDANT	TOTAL
Floyd	Gibson	\$22,162.80
Harrison	Schuler	\$23,367.33
Harrison	Scott	\$48,447.61
Lake	Blount	\$13,014.83
Lake	Vann	\$23,293.41
Marion	Cruz	\$5,763.27
Marion	Davis	\$27,296.99
TOTAL		\$163,346.24

9. 40% Non-capital Reimbursements

Mr. Mason noted that compliance dropped from 88% to 84%. He recommended two counties for 90-day warning letters.

The first warning letter he requested was for Jennings County. In 2015 they discovered that public defenders were underwriting the system by not paying them sufficiently, then giving them a bonus for the year to make up for the lower payments. The county fixed that issue but now have major compliance issues. The majority of attorneys are out of compliance with caseloads. When Mr. Mason sent an e-mail to the public defender board, he had not yet received any responses as to the noncompliance.

Mr. Mason recommended sending a 90-day letter. They would be reimbursed this quarter but the letter would put them on notice if they do not address it.

The second letter Mr. Mason requested was for Clark County. Last quarter the Commission discussed that there has been a great deal of turnover with Chiefs, recommended that they needed an additional staff person. Mr. Mason had informed them that they needed additional support staff and staff attorneys to come into compliance. The County Council was on-board with changes as of last quarter. Now, the county council has not yet fully committed to funding for four new attorneys. The Chief PD has requested that the Commission send the 90-day letter in order to emphasize the need for the new lawyers to maintain reimbursement.

Other than those issues, Mr. Mason recommended reimbursement. Rep. Dvorak stated that he would like to be stricter on counties such as Owen and Sullivan who also have a great deal of attorneys out of compliance. Mr. Landis agreed as to Sullivan County, who spoke with an attorney in that county who stated he had no idea what his caseload was. Mr. Mason reported

that sometimes, counties may have a bad quarter but then rectify the situation in subsequent quarters, which was the case for Owen County. He stated that it has been the practice of the Commission to work with the counties before sending the 90-day letters.

Rep. Dvorak made a motion to approve 90-day letters to Sullivan, Jennings and Clark Counties and then approve reimbursement for all counties. Mr. Hensel seconded. Motion passed unanimously.

INDIANA PUBLIC DEFENDER COMMISSION

Third Quarter 2016 Requests for Reimbursements in Non-Capital Cases

12/14/2016

COUNTY	Late Factor	2016 Period Covered	Total Expenditure	Adjustment For Non-Reimbrsbl	% of Adjstmt	Eligible Expenditure	40% Reimbursed
ADAMS	0.00	7/1-10/31	\$90,704.21	\$11,170.93	12%	\$79,533.28	\$31,813.31
ALLEN	0.00	7/1-10/31	\$959,555.57	\$49,333.02	5%	\$910,222.55	\$364,089.02
BENTON	0.00	7/1-10/31	\$20,832.00	\$3,839.57	18%	\$16,992.43	\$6,796.97
BLACKFORD	0.00	7/1-10/31	\$60,663.86	\$9,748.65	16%	\$50,915.21	\$20,366.08
BROWN	0.00	7/1-10/31			#DIV/0!	\$0.00	\$0.00
CARROLL	0.00	7/1-10/31	\$56,897.96	\$26,727.16	47%	\$30,170.80	\$12,068.32
CASS	0.00	7/1-10/31	\$145,878.74	\$23,641.95	16%	\$122,236.79	\$48,894.72
CLARK	0.00	7/1-10/31	\$251,958.75	\$51,943.31	21%	\$200,015.44	\$80,006.18
CRAWFORD	0.00	7/1-10/31			0%		
DECATUR	0.00	7/1-10/31	\$61,835.83	\$14,645.33	24%	\$47,190.50	\$18,876.20
DEKALB	0.00	7/1-10/31	\$161,480.20	\$15,234.99	9%	\$146,245.21	\$58,498.08
DELAWARE	0.00	7/1-10/31	\$309,451.34	\$4,183.35	1%	\$305,267.99	\$122,107.20
FAYETTE	0.00	7/1-10/31	\$85,467.18	\$14,029.81	16%	\$71,437.37	\$28,574.95
FLOYD	0.00	7/1-10/31	\$183,454.59	\$36,817.86	20%	\$146,636.73	\$58,654.69
FOUNTAIN	0.00	7/1-10/31	\$28,230.53	\$6,273.45	22%	\$21,957.08	\$8,782.83
FULTON	0.00	7/1-10/31	\$74,980.12	\$22,000.15	29%	\$52,979.97	\$21,191.99

GRANT	0.00	7/1-10/31	\$254,866.35	\$5,182.13	2%	\$249,684.22	\$99,873.69
GREENE	0.00	7/1-10/31	\$123,733.90	\$15,615.32	13%	\$108,118.58	\$43,247.43
HANCOCK	0.00	7/1-10/31	\$134,007.26	\$18,492.39	14%	\$115,514.87	\$46,205.95
HENRY	0.00	7/1-10/31			0%		
HOWARD	0.00	7/1-10/31	\$385,977.59	\$58,404.51	15%	\$327,573.08	\$131,029.23
JACKSON	0.00	7/1-10/31	\$183,523.52	\$11,768.38	6%	\$171,755.14	\$68,702.06
JASPER	0.00	7/1-10/31	\$97,830.09	\$23,583.77	24%	\$74,246.32	\$29,698.53
JAY	0.00	7/1-10/31	\$95,839.63	\$16,223.67	17%	\$79,615.96	\$31,846.38
JENNINGS	0.00	7/1-10/31	\$92,512.83	\$16,748.01	18%	\$75,764.82	\$30,305.93
KNOX	0.00	7/1-10/31	\$232,609.60	\$78,149.04	34%	\$154,460.56	\$61,784.22
KOSCIUSKO	0.00	7/1-10/31	\$149,453.12	\$52,474.65	35%	\$96,978.47	\$38,791.39
LAGRANGE	0.00	7/1-10/31	\$35,800.78	\$6,240.41	17%	\$29,560.37	\$11,824.15
LAKE	0.00	7/1-10/31	\$1,001,728.05	\$6,616.43	1%	\$995,111.62	\$398,044.65
LAPORTE	0.00	7/1-10/31	\$223,385.21	\$20,774.53	9%	\$202,610.68	\$81,044.27
LAWRENCE	0.00	7/1-10/31	\$188,814.63	\$13,461.13	7%	\$175,353.50	\$70,141.40
MADISON	0.00	7/1-10/31	\$477,137.35	\$24,491.61	5%	\$452,645.74	\$181,058.30
MARION	0.00	7/1-10/31	\$5,180,331.16	\$417,316.13	8%	\$4,763,015.03	\$1,905,206.01
MARTIN	0.00	7/1-10/31	\$78,175.90	\$10,317.74	13%	\$67,858.16	\$27,143.26
MIAMI	0.00	7/1-10/31			0%		
MONROE	0.00	7/1-10/31	\$585,458.52	\$93,195.44	16%	\$492,263.08	\$196,905.23
MONTGOMERY	0.00	7/1-10/31			0%		
NEWTON	0.00	7/1-10/31			0%		
NOBLE	0.00	7/1-10/31	\$175,824.88	\$29,272.91	17%	\$146,551.97	\$58,620.79
OHIO	0.00	7/1-10/31	\$17,310.69	\$3,897.29	23%	\$13,413.40	\$5,365.36
ORANGE	0.00	7/1-10/31			#DIV/0!	\$0.00	\$0.00

OWEN	0.00	7/1-10/31	\$73,849.07	\$14,575.35	20%	\$59,273.72	\$23,709.49
PARKE	0.00	7/1-10/31	\$37,611.72	\$12,929.03	34%	\$24,682.69	\$9,873.08
PERRY	0.00	7/1-10/31	\$45,398.11	\$6,637.15	15%	\$38,760.96	\$15,504.38
PIKE	0.00	7/1-10/31	\$34,876.51	\$3,013.05	9%	\$31,863.46	\$12,745.38
PULASKI	0.00	7/1-10/31	\$89,388.66	\$9,642.65	11%	\$79,746.01	\$31,898.40
RIPLEY	0.00	7/1-10/31	\$47,660.55	\$4,149.56	9%	\$43,510.99	\$17,404.40
RUSH	0.00	7/1-10/31	\$82,732.23	\$22,916.44	28%	\$59,815.79	\$23,926.32
SAINT JOSEPH	0.00	7/1-10/31	\$601,834.12	\$66,732.38	11%	\$535,101.74	\$214,040.70
SCOTT	0.00	7/1-10/31			0%		
SHELBY	0.00	7/1-10/31	\$103,715.40	\$20,098.48	19%	\$83,616.92	\$33,446.77
SPENCER	0.00	7/1-10/31	\$18,920.31	\$2,299.35	12%	\$16,620.96	\$6,648.38
STEUBEN	0.00	7/1-10/31	\$108,913.80	\$24,773.41	23%	\$84,140.39	\$33,656.16
SULLIVAN	0.00	7/1-10/31	\$46,576.49	\$17,029.47	37%	\$29,547.02	\$11,818.81
SWITZERLAND	0.00	7/1-10/31	\$47,521.07	\$11,314.54	24%	\$36,206.53	\$14,482.61
TIPPECANOE	0.00	7/1-10/31	\$731,199.47	\$212,359.62	29%	\$518,839.85	\$207,535.94
UNION	0.00	7/1-10/31	\$28,848.15	\$3,898.40	14%	\$24,949.75	\$9,979.90
VANDEBURGH	0.00	7/1-10/31	\$668,178.04	\$116,233.91	17%	\$551,944.13	\$220,777.65
VERMILLION	0.00	7/1-10/31	\$43,972.34	\$12,729.82	29%	\$31,242.52	\$12,497.01
VIGO	0.00	7/1-10/31	\$577,920.73	\$95,468.68	17%	\$482,452.05	\$192,980.82
WABASH	0.00	7/1-10/31	\$72,424.87	\$18,024.12	25%	\$54,400.75	\$21,760.30
WARREN	0.00	7/1-10/31	\$8,532.65	\$2,095.00	25%	\$6,437.65	\$2,575.06
WASHINGTON	0.00	7/1-10/31	\$127,423.34	\$11,279.86	9%	\$116,143.48	\$46,457.39
WELLS	0.00	7/1-10/31			0%		
WHITE	0.00	7/1-10/31			0%		
WHITLEY	0.00	7/1-10/31			0%		

TOTAL			\$15,803,209.57	\$1,900,015.29		\$13,903,194.28	\$5,561,277.71
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10. Staff report

At a previous meeting, the Commission approved requesting from the legislature 50% reimbursement for non-capital cases, including misdemeanor reimbursement. When Mr. Landis and Kristen Casper and Mr. Mason met with the fiscal analysts for the legislature, there was some surprise that the Public Defense Fund wasn't a fund that essentially allows the Commission to continue to pay reimbursements at the normal rate in the event of unanticipated expenses that would otherwise exceed the annual appropriation. This is accomplished by having an augmented fund. It allows a fund to obtain more funds without going through the traditional process and not wait until the next fiscal year. This would prevent ever having to pro-rate counties again for lack of funds. The Chief Public Defender's Association agreed to support a request that the Public Defense Fund become an augmented fund.

Mr. Landis moved to ask the legislature to make the Public Defense fund an augmented fund. Mr. Hensel seconded the motion which passed unanimously.

Mr. Mason reported that Orange County did not request reimbursement for the fourth quarter in a row. This will be four quarters they are behind. Commission staff received information from the county, but did an investigation in Doxpop and discovered that it was not accurate. Additionally, the auditor and the judge did not win re-election for January so there is little incentive to respond to staff for clarification. Mr. Mason stated he would do his best to work with the incoming people to get all of the reports.

Mr. Mason reported that Brown County also did not submit reimbursement due to the resignation of all of the public defender board members.

Rep. Dvorak stated that he does not want to reimburse counties for four or five quarters of non-compliance. He also did not want to spend resources on counties that refuse to come into compliance at the expense of the rest of the program. He also suggested creating a way for small counties to join up and work jointly to share resources. He also wanted to express his displeasure with the Sixth Amendment Center for their negative report when many other states are in the same position. Mr. Landis noted that Mr. Sutherlin will hold a press conference the following day asking the Supreme Court make a rule to require compliance with the Public Defense Commission. Hon. Meyer asked whether the Commission should prepare a response, but the consensus was that no response was necessary unless the Commission was asked directly. Mr. Mason reported that the Commission had already committed to a stance to accept the report and address the problems identified therein.

Meeting adjourned at 3:08 p.m.