

MINUTES
INDIANA PUBLIC DEFENDER COMMISSION
MARCH 20, 2019

2:45 P.M.

200 WEST WASHINGTON STREET, SUPREME COURT CONFERENCE ROOM
INDIANAPOLIS, IN 46204

The meeting was called to order at approximately 2:45 p.m. by Chairman Mark Rutherford. Also present at the meeting were: Sen. Eric Koch, Hon. Kelsey Hanlon, Vice Chair Larry Landis, David Hensel, Richard Bray, Hon. Steven Meyer, and Rep. John Young. Staff in attendance include: Derrick Mason, Andrew Cullen, Jennifer Pinkston, Torrin Liddell, and Paula Diaz. Audience members included: Bernice Corley, David Shircliff, Jim Abbs, Jennifer Schlegelmilch, Michael Moore, Gretchen Etling, Michelle Kraus, Cody Eckert, Mark Clark, Mark Carnell, and Ray Casanova.

- **Approval of Capital Case Reimbursements**

Mr. Mason recommended approval of the capital case reimbursements shown at the end of the minutes. Judge Hanlon made the motion, Mr. Hensel seconded and they were unanimously approved.

- **Discussion of County Caseload Compliance**

Derrick Mason noted an increase in non-compliance overall this quarter. However, most noncompliance issues were minor. Madison County's request was both late and potentially inaccurate. Madison County could not guarantee that its request's case counts were accurate. They also submitted their request eleven days late and it was their third quarter in a row with a tardy request for reimbursement. Madison County has had two new managing public defenders. They anticipate that it will take another quarter for them to figure out if the case counts are accurate. Mr. Mason's recommendation was that a letter be sent stating that reimbursement is being withheld pending their timely completion of the next quarter's reimbursement request and they fix their case counting accuracy. Mr. Landis stated that Madison County's managing public defender is to be commended for his honesty

Mr. Mason also mentioned Scott County's caseload is going to be continue to be very tight. They've had an attorney leave and are moving some things around and would require almost 100% utilization of each attorney in order to avoid noncompliance going forward. Mr. Mason stated concern that in the next quarter or two the Commission may need to send them a ninety-day letter and Scott County may need to hire someone.

Senator Koch asked about Jackson County's state of compliance as they were previously out of compliance. Mr. Mason noted that Jackson County still is out of compliance. Senator Koch states that his understanding was that Mr. Mason had a meeting with some of the commissioners from Jackson County and that it was a very productive meeting and thanked Mr. Mason for handling the situation. Mr. Mason confirmed the meeting and that Jackson County made some

changes in the first quarter, and it will take a couple of quarters for them to come back into compliance.

Chairman Rutherford pointed out that Decatur, Fayette, and Clark are continually out of compliance. He questions if there are any concerns regarding those counties. Mr. Mason stated that Clark County is down to two attorneys out of compliance and they also hired a new attorney January first. A lot of these counties were waiting until their new fiscal year as much as possible and had developed plans months prior to hire someone. Mr. Mason isn't recommending a ninety-day letter on any counties at this time; however, Scott and Decatur made significant changes, and at this time the Commission will need to wait to see what the future holds regarding whether they will continue to be out of compliance or if, when the planned changes are implemented, those counties will move back into compliance over a full year. Mr. Mason also noted that counties, such as Decatur, sometimes attempt to fix caseload issues through altering assignments but it took them time to realize that they simply had to hire someone to resolve the caseload issue.

Chairman Rutherford asked if anyone had any questions regarding Mr. Mason's request that the Commission delay reimbursement pending Madison County rectifying their timeliness and accuracy problems. Mr. Landis said that he thought it was a good suggestion. Mr. Hensel makes the motion, and Chairman Rutherford asks if everyone understands the action. It's further clarified that Madison County's reimbursement request is only being held over until the next quarter in an effort to see how they do with getting back to an accurate case count and rectifying their timeliness issues. Mr. Bray seconds the motion, and Chairman Rutherford calls for a vote. The motion passed unanimously.

- **Grant County Clawback**

Mr. Mason explained that at the last meeting staff had recommended the Commission clarify and modify standards regarding what public defense expenses actually are, as the Commission was being billed for a broad range of multiple layer public defense expenses including county commissioner expenses, county council expenses, and auditor expenses in the same manner in which indirect costs are calculated for federal grants. The explanation that such indirect expenses were not public defense expenses was sent out as a part of the newsletter and a letter was sent to Grant County requesting that they explain their rationale for including these expenses previously and that the Commission was considering clawing back \$39,304.98 in indirect expense reimbursements already paid.

Grant County officials did not attend the meeting in person but explained in a letter that they misunderstood during annual training regarding how some indirect costs might be reimbursable, and the county is requesting, and staff is recommending, that a clawback not happen due to the misunderstanding. Rep. Young stated that his understanding was that Grant County hired a consultant and relied on them which was how they came to this misunderstanding. Mr. Mason clarified that the Grant County Council told the public defender office to use the consultant, and they did so without question. Mr. Hensel asked if Commission staff is enlightening other counties so that it doesn't come up again. Mr. Mason stated that the newsletter and Commission guidelines now illustrate this example.

Judge Hanlon stated that she believes that the Commission should adopt staff's recommendation and not do a clawback as she felt that it did not further the cause of indigent defense in Grant

County to do the clawback and made a motion to allow Grant County to keep the already reimbursed funds. Mr. Landis suggested it might be a good idea to explicitly place in Commission Guidelines that a clawback can occur in situations like this. Noting nods around the table, the Chairman Rutherford suggested that a proposal of be written up for the next meeting. Mr. Mason stated that we could simply add the words that the Commission reserves the right to do a clawback of previous overpayments. Mr. Landis suggested this be in the Guidelines. Chairman Rutherford clarified that the motion already on the table would include an addition to the guidelines about the possibility of a clawback. Chairman Rutherford then asked if there was a second to the addition. Judge Meyer seconded the motion. There being no questions, the motion passed unanimously.

- **Non-Capital Reimbursement**

Mr. Mason is asked if he sees seven million dollars as an average or if that's high or low. Mr. Mason stated it's high for what the Commission has been doing, but it seems to be becoming the new average. He expects it to be around seven million for a while though if other counties join this amount could potentially increase even more.

Mr. Mason recommended reimbursement as shown in the table at the end of the minutes, withholding Madison County's reimbursement. Mr. Hensel made a motion for reimbursement. Mr. Landis and Representative Young both second the motion. The motion passed unanimously.

- **Approval of the Minutes from December 18, 2018 Commission Meeting**

After correcting the spelling of two names, Mr. Bray made the motion for approval of the minutes, and Judge Meyer seconded the motion. With the modifications, the motion passed unanimously.

- **Legislative Update (Agenda Item Three)**

Mr. Mason reported that the Commission was granted \$4.7 million dollars more per year from the House Bill 1001 which was the Commission's number one priority to try to ensure that prorating reimbursements would not have to occur in the next biennium. Staff was continuing to work to maintain that amount through the Senate process.

House Bill 1453 was the fiscal bill to reimburse misdemeanors and create a centralized appellate support services system that was approved in the December meeting. That bill did not make it past House Appropriations; however, staff was told that if the Commission were to get something into HB 1001 from the Senate side that the House would not take it out. So, the misdemeanor effort has become the focus as that is the Commission's number one priority after base budget increases.

Mr. Mason also reported that the Senate is very focused on the half a billion dollars that is being discussed for the Department of Child Services and whether the Commission should be involved in the discussion of DCS funds. Staff has reiterated that the focus is on misdemeanors. Mr. Mason stated that we already have approval from the Commission to do something related to CHINS if the opportunity arises.

Senate Bill 488 is the non-fiscal bill which is the change of the local boards to allow a Commission appointment and allow for regionalization. It also changes the length of term for chief public defenders to at least four years which was voted on at the December meeting as well. That bill passed unanimously out of the Senate and House and is going to be headed toward the floor. Staff noted that in the regionalization language, the bill had included language prohibiting DCS attorneys from serving on a regional board. Mr. Rutherford and Mr. Landis discussed with staff that it should probably exclude all DCS staff and they approved, between Commission meetings, to have the bill language apply to regular boards as well.

The same goes for prohibiting attorneys who practice public defense from serving on their own local board – it was approved in December to apply to regional boards but the chairs felt it should apply to non-regional boards as well so that amendment was also made to SB 488. Chairman Rutherford asked if there's anything that needs to be approved for this.

Mr. Mason stated that since authority is vested in the Commission's chairperson and vice chairperson to make these decisions between meetings, staff simply wanted to inform the Commission that those changes were made and make sure there were no objections. Chairman Rutherford asked if there were any objections or comments and Judge Hanlon stated that she believes these are good changes.

There was also discussion about changing the Commission's composition as a follow-up to the December meeting but Mr. Landis announced he was withdrawing that proposal at this time.

- **Allen County Letter**

How to handle early termination of local public defense board appointments

Mr. Mason then directed everyone to the letter that was received from Allen County that's related to its board. Mr. Landis stated that he received a phone call concerning two members of the Allen County Public Defender Board who were both judicial appointees were asked by four of the six judges to resign their positions from the public defender board. He then clarified that both board members resigned as they felt they had no other choice since they're both practicing attorneys in front of the judges that told them to resign. He acknowledged that the board was currently deciding who to hire for the chief public defender position. He went on to state that he believed that the statute does not say "an appointee serving at the pleasure of" so they are appointed for three year terms. If there isn't any language regarding an appointee serving at the pleasure of, then the removal should be for just cause.

Mr. Mason pointed out that this isn't the first time this has happened because it happened in Lawrence County as well last year when the two judicially appointed board members were replaced. Mr. Landis said that the issue is what the Commission wants to do about this when it violates the concept of independence as outlined in the Task Force Report and the ABA principles of public defense. This issue has the appearance of not recognizing the independence of this board.

Rep. Young asked what the procedure is for removing an appointment for cause right now whether that be by the judges or anyone else. Chairman Rutherford stated that there isn't any such procedure or policy. The statute basically says for a three-year term, and our standard is that we don't reimburse if they're violating that statute or we can choose not to reimburse.

Judge Hanlon stated that she thinks that the Commission needs to strike a balance. She thinks there has to be some mechanism for removal if board members aren't showing up for meetings or doing their due diligence, but it seems like some review by the Commission or some independent review of what constitutes "good cause" would be could add a layer of insulation. Mr. Landis stated that he would agree that they can remove for cause but arbitrary removal, with no justification, violates the concept of independence of the board.

Senator Koch requested an explanation as to how Allen County is exempted from the Commission's rules regarding boards. Mr. Landis explained the board statute was done back in '91, they couldn't get the statute passed over the opposition of judges who did not want counties to even have the discretion to create county public defender boards. It was suggested at the time that different larger counties wanted their legislators to oppose the bill unless those larger counties were exempted, so population exemptions were created. Mr. Landis further explained how circuit court judges used to have a lot more power than they currently do, so it was the circuit court judges that opposed this even though they didn't have any criminal jurisdiction but they controlled the appointments of all of the public defenders and didn't want to lose that power. Mr. Mason stated that he pulled Allen County's ordinance and they adopted the exact same language as the existing statute for board composition. Rep. Young then said the next step will be that the judges will call the board members up to the bench and say they'd like for them to resign and there would be no document.

Mr. Landis noted that the chiefs had a meeting this morning and they do have a recommendation regarding the standard. Mr. Mason stated that the first part of the Chief's proposal is, "County public defender board members may only be removed or terminated for just cause." Judge Hanlon said that the Commission could then withhold reimbursement if they felt that the cause the appointing authority gave was inappropriate. Judge Hanlon agreed with Mr. Mason when he stated that if just cause was not found to exist, the Commission would have to withhold reimbursement or then there's really no consequence the Commission can impose.

Representative Young asked if the two former board members from Allen County won't be coming back, and if not then no matter what else happens today this issue with Allen County is a moot point. Mr. Hensel stated that judicial independence is the priority of the Commission and how it's supposed to operate, and he feels like the judges are calling the Commission out and that the Commission needs to do something in response. Senator Koch asked if we know that this was arbitrary and that maybe there was good cause since the letter didn't say one way or another.

Senator Koch suggested sending a letter stating that the resignation demand has come to our attention and that our interpretation is that board members do not serve at the pleasure of the judges but you may remove for good cause, and please provide an explanation. Mr. Landis said that the Commission should still set the standard that the board members do not serve at the pleasure of the appointing authority and can only be terminated for cause and possibly require an explanation. Senator Koch said that what Mr. Landis is talking about does two things. It disincentivizes negotiated resolutions of disputes and incentivizes the more public and more distasteful resolutions. If someone wants to eliminate a board member, they can find cause, and what the Commission is doing with that motion – that proposal – is that they are incentivizing bringing that cause forward in a very public sort of way and in a way that might otherwise be resolved through a negotiated resolution. Senator Koch said that the Commission needs to be very careful on this issue. Mr. Bray also expressed concern about forcing public explanations.

Judge Hanlon stated that she thinks that some of the situations like Senator Koch is talking about will be resolved simply through a resignation without any suggestion of a forced resignation. Chairman Rutherford stated that this has probably happened before, but the Commission hasn't known about it. Rep. Young stated that he would really and truly be uncomfortable with this if the Commission was the arbiter for whether something was or was not for cause.

Mr. Landis said that if you want to reinforce independence you have to do something that says that the board members do not serve at the pleasure of the judges. Judge Hanlon reiterated that she thinks that we have to be very clear that the Commission's interpretation of the statute is that the appointed person doesn't serve at the pleasure of the judge.

Mr. Abbs, Noble County Chief PD, stated that this is an independence issue, and when the judges get actively involved in the termination of board members, it lets judges decide that if they don't like something that's going on then they can fire that person. That is a major concern for the chief public defenders. Mr. Shircliff stated something in the guidelines would be very helpful to provide county attorneys, who provide advice to judges and commissioners, on their appointments. Ms. Kraus, interim Allen County Chief PD, stated that the perception of line public defenders is that this was done because they are on the eve of hiring a new chief public defender and the new board is going to hire who the judges want, but that no one really knows the judges' motivation.

Mr. Rutherford asks what should be done about the three-year appointments. Judge Hanlon stated that she thinks a guideline should be issued immediately and Mr. Hensel agreed. Mr. Mason read the proposal "County Public Defender Board Members are appointed for a three-year term and do not serve at the pleasure of the appointing authority. County Public Defender Board Members may only be removed or terminated for just or good cause or cause." Mr. Bray states that it should read only for cause as it's a little more subtle. Judge Meyer seconded. Mr. Landis made the motion, Mr. Hensel and Mr. Bray both second. The motion is approved unanimously.

How to Respond to Allen County

Mr. Bray stated that nothing should be done because they've already accomplished their objective. Judge Meyer stated that it's the same thing with the decision not to clawback from Grant County. If the rule was ambiguous to the judges, he would have a really difficult time overturning them. Mr. Landis asked if an explanation needs to be requested. Rep. Young stated that they should definitely get a copy of the new guideline and that moving forward they cannot terminate board members without cause. Judge Hanlon asked if the Commission should give Allen County the opportunity to divulge what happened. Mr. Landis stated that if the questions aren't raised with Allen County, then it's as if the Commission is letting them get away with what happened. Mr. Landis stated that it's fundamentally wrong, but the judges are still stating that they shouldn't have to give up the power they've historically had. He asked if the Commission is going to ask the judges about it as a fundamental issue. Mr. Bray stated that the judges should have some input in their system, and Mr. Landis agreed that it should be input but not control. Mr. Hensel recommended that one of the Commission members go up and speak to the judges in an effort to confidentially find out what happened and try to compromise. He stated that if the Commission doesn't stand up for independence then who will.

Judge Meyer stated that when it's a financial issue that Mr. Mason or someone gets sent to engage and have a dialogue between Commission staff and one or more judges who may be willing to meet with them. Mr. Mason adds that Judge Diekhoff had volunteered to reach out to Lawrence County when their judges terminated board members. Judge Hanlon volunteered to represent the Commission members and Mr. Landis clarified that Judge Hanlon and a possible staff member would request to meet with the four judges in an effort to understand where the decision came from. Judge Hanlon stated that she would like to see what the other two judges who weren't a part of the terminations might have to say. Chairman Rutherford concurred.

- **Approval of Trainings**

Allen County JC/JT Training Course

Mr. Mason explained that this is the first request to approve a new training for CHINS since the Commission first launched CHINS reimbursement about five years ago. At that time, the Commission had approved the Public Defender Council's training and Marion County's in-house training which a six hour training is required regardless of CLE credits.

Allen County's Bar Association and their juvenile court judges formed a six hour CLE covering Allen County's JC/JT practice, dual status, and other items related to CHINS/Termination practice in the county. Mr. Mason recommended approval of the course. Judge Meyer moved, and it is seconded by Rep. Young. The motion passed, unanimously. Sen. Koch announced his need to leave for a meeting, Chairman noted a quorum remains.

Approval of a course to substitute for felony trial

Mr. Mason then discussed the standard that for felony levels 1-4, one of the two jury trials required can be substituted with an approved training. The Commission has never actually approved such a training. In 2013 the Commission decided that attorneys needed a way to get experience outside of the court room due to a lack of trials. At that time, there was the Trial Practice Institute (TPI) offered by the Public Defender Council, but there were reservations that it wasn't long enough and was never approved.

Mr. Landis stated that he's changed his mind on counting the non-OWI TPI in place of one of the two required trials since taking one of these trainings would probably be about equivalent to sitting second chair in a trial. He thinks that someone actively participating in one of the Council's three and a half day program, the civil NITA program in the materials, or the civil ICLEF program should qualify for one of those jury trials. Judge Meyer stated that from experience, he sees young trial lawyers in his court desperately needing one of these courses, and he stated that he recalled going through the PD training twenty years prior. Mr. Hensel stated that he really enjoyed the classes when he went through them and he feels they are really beneficial. Judge Hanlon thinks that getting more attorneys qualified gives more flexibility to the counties with the caseloads.

Mr. Landis made the motion to approve the NITA, ICLEF, and non-OWI TPI courses to substitute for a felony trial for the purposes of qualifications to handle Levels 1-4 felonies and Judge Hanlon seconded the motion. The motion passed unanimously.

- **Development of Performance Based Standards and Technical Assistance Request**

Mr. Mason reported that at the last meeting there was a lengthy discussion about working with the chiefs between the last meeting and this meeting to determine what to do with data collection on private caseloads.

Mr. Mason then went and spoke with the Public Defender Council Board. Some members of that board said that this is very important and necessary, however, there were members that said what's more important than caseloads is the attorney's actual performance. Since then the Council and the Commission staff got together and applied for a BJA Technical Assistance Grant to help develop performance based/quality indicator standards.

There is an interview scheduled for Friday, March 29, on that grant that Mr. Mason and Ms. Corley will be attending in an effort to jointly develop performance based standards and see if that can be presented to the Commission.

In the meantime, private caseload information will be examined as part of the existing workload study. Mr. Abbs stated that the chiefs and the Council are trying to develop a seminar for the chiefs and supervising attorneys which will be held every two to three years which they hope the Commission can make mandatory in the future.

- **Carroll County 90 Day Letter Update Regarding Compliance**

Mr. Mason reminded members that at the December 2018 meeting, the Commission authorized a ninety-day letter be sent to Carroll County for non-compliance. Upon further investigation, staff discovered that the non-compliance is primarily with assigned, hourly counsel working on a part-time basis but reporting as full-time status. Upon conversation with Mr. Landis, it was decided that the ninety-day letter would not be sent until the Commission had an opportunity to review what should be done with full-time hourly counsel. Historically, the Commission has required that hourly counsel be reported on that part-time/fifty percent spreadsheet, and the Commission would hold them out of compliance if they went above fifty percent. There's no real basis in the standard and guidelines to limit them to exactly fifty percent. If attorneys go to seventy-five or ninety percent and get paid a contract, they may actually be paid less than what another attorney would get hourly and still handle more cases. It's a bit of an incongruous result.

Mr. Landis stated that his position is that it would be better to eliminate part-time contracts and they either go full-time or hourly. In the absence of that, Mr. Landis's recommendation is, unless their caseload is so high and they have a flourishing private practice in addition to it, these need to be handled on a case-by-case basis and possibly make some inquiries. As long as it's being handled case-by-case, Mr. Landis doesn't see why the Commission would punish the county when the attorneys are making more by being paid hourly for cases and they're not on a fixed contract which is where the economic difference comes into effect.

Mr. Mason states that Carroll County has an hourly attorney at 98% and one at 84% of a full-time caseload. Mr. Landis stated he thinks this is why the Commission is developing the performance and quality standards but that there needs to be an inquiry when attorneys have gotten up to eighty to ninety percent in practice, the attorneys need to be questioned whether they're overloaded or not. What happened was when the Commission started using assigned council people, the fifty percent – the Commission just considered them all fifty percent as a practice or as a convenience for the Commission. There was no standard, guideline or policy even adopted.

Judge Hanlon said it doesn't seem like they are doing something on the cheap and that there's the potential for the reverse result if they give this person a full-time contractor and have them paid less than what they're getting paid now.

Chairman Rutherford suggested that perhaps staff follow up with the Carrol County attorneys in the future to determine what is happening with their caseloads. Mr. Mason stated that this is a small county, and their problem that they don't have anyone else to appoint to things.

- **Staff Report**

Mr. Mason reported that staff attorney Kathleen Casey has resigned to go to the Texas Indigent Defense Commission which is a model for data collection and they have some amazing things they're able to do with data but are a completely different system. Mr. Mason has been working with Chairman Rutherford and Mr. Landis and the staff, and Mr. Mason has met with all of the staff about their job descriptions and expects that there will be an executive session at the June meeting where the Commission can proceed with what it would like to do with staffing. Mr. Mason will then present to the Commission at that time some different job descriptions and possibly reformulating existing ones.

It was discussed that Elkhart County is still one vote shy on the county council to officially join. Wells and Harrison Counties are also evaluating whether to join.

Representative Young stated that he's been thinking about a long term project that could be presented during the next budget cycle. He sa that the State Public Defender's Office receives its funding through the Supreme Court, and the Commission is trying to establish an appellate public defender's office. His idea is to take the State PD's office out from under the Supreme Court and combine it with the appellate office that we want to create, but we keep it separated from the PCRs because those petitions for post-conviction relief are separate and there's a conflict to have them housed together.

Rep. Young stated that since the Commission is proposing to oversee the appellate public defender's office, he doesn't see why it couldn't do both and maybe the Supreme Court could oversee PCR matters or maybe we simply establish another office that oversees both these groups. He believes both of these offices working together would have a better product and be able to be on the ground looking for good appeals challenges that may come up.

Judge Hanlon stated that there was a view that creating another agency could be problematic. Rep. Young stated that we don't need another bureaucracy necessarily, but that could be what needs to be done.

The meeting was then adjourned

INDIANA PUBLIC DEFENDER COMMISSION

Reimbursement Requests in Capital Cases

March 20, 2019

COUNTY	DEFENDANT	TOTAL
Allen	Dansby	\$24,223.58
Boone	Baumgardt	\$58,958.33
Clark	Oberhansley	\$27,987.72
St. Joseph	Kubsch	\$8,383.48
Warrick	Stephenson	\$3,343.00
TOTAL		\$122,896.11

INDIANA PUBLIC DEFENDER COMMISSION

Fourth Quarter 2018 Requests for Reimbursements in Non-Capital Cases

1

3/20/2019

COUNTY	Late Factor	2018 Period Covered	Total Expenditure	Adjustment For Non-Reimbursebl	% of Adjstmt	Eligible Expenditure	40% Reimbursed
ADAMS	0.00	10/1-12/31	\$92,788.60	\$5,150.28	6%	\$87,638.32	\$ 35,055.33
ALLEN	0.00	10/1-12/31	\$1,218,319.23	\$82,380.13	7%	\$1,135,939.10	\$ 454,375.64
BENTON	0.00	10/1-12/31	\$19,011.60	\$3,520.67	19%	\$15,490.93	\$ 6,196.37
BLACKFORD	0.00	10/1-12/31	\$68,699.11	\$22,082.50	32%	\$46,616.61	\$ 18,646.64
BROWN	0.00	10/1-12/31	\$45,281.41	\$9,056.28	20%	\$36,225.13	\$ 14,490.05
CARROLL	0.00	10/1-12/31	\$69,066.51	\$21,496.48	31%	\$47,570.03	\$ 19,028.01
CASS	0.00	10/1-12/31	\$162,057.54	\$24,539.08	15%	\$137,518.46	\$ 55,007.38
CLARK	0.00	10/1-12/31	\$316,805.93	\$9,297.35	3%	\$307,508.58	\$ 123,003.43
CLINTON	0.00	10/1-12/31	\$117,891.50	\$25,442.93	22%	\$92,448.57	\$ 36,979.43
CRAWFORD	0.00	10/1-12/31			0%		
DECATUR	0.00	10/1-12/31	\$90,368.10	\$11,788.00	13%	\$78,580.10	\$ 31,432.04
DEKALB	0.00	10/1-12/31	\$141,858.34	\$12,827.14	9%	\$129,031.20	\$ 51,612.48
DELAWARE	0.00	10/1-12/31	\$363,731.16	\$6,557.25	2%	\$357,173.91	\$ 142,869.56
FAYETTE	0.00	10/1-12/31	\$101,990.40	\$13,615.47	13%	\$88,374.93	\$ 35,349.97
FLOYD	0.00	10/1-12/31	\$180,277.03	\$7,554.84	4%	\$172,722.19	\$ 69,088.88
FOUNTAIN	0.00	10/1-12/31	\$73,785.92	\$7,613.19	10%	\$66,172.73	\$ 26,469.09
FULTON	0.00	10/1-12/31	\$99,149.08	\$28,219.35	28%	\$70,929.73	\$ 28,371.89
GRANT	0.00	10/1-12/31	\$273,617.18	\$23,041.45	8%	\$250,575.73	\$ 100,230.29
GREENE	0.00	10/1-12/31	\$130,757.08	\$15,495.60	12%	\$115,261.48	\$ 46,104.59
HANCOCK	0.00	10/1-12/31	\$155,312.02	\$11,021.50	7%	\$144,290.52	\$ 57,716.21

HENDRICKS	0.0 0	10/1- 12/31	\$436,608.69	\$70,266.11	16%	\$366,342.58	\$ 146,537.03
HENRY	0.0 0	10/1- 12/31			0%		
HOWARD	0.0 0	10/1- 12/31	\$437,900.37	\$23,996.31	5%	\$413,904.06	\$ 165,561.62
JACKSON	0.0 0	10/1- 12/31	\$177,539.42	\$9,098.21	5%	\$168,441.21	\$ 67,376.48
JASPER	0.0 0	10/1- 12/31	\$120,611.06	\$31,707.87	26%	\$88,903.19	\$ 35,561.28
JAY	0.0 0	10/1- 12/31	\$101,802.42	\$13,179.67	13%	\$88,622.75	\$ 35,449.10
JEFFERSON	0.0 0	10/1- 12/31	\$167,137.31	\$22,266.58	13%	\$144,870.73	\$ 57,948.29
JENNINGS	0.0 0	10/1- 12/31	\$110,549.70	\$14,949.66	14%	\$95,600.04	\$ 38,240.02
KNOX	0.0 0	10/1- 12/31	\$211,567.03	\$31,488.75	15%	\$180,078.28	\$ 72,031.31
KOSCIUSKO	0.0 0	10/1- 12/31	\$290,421.59	\$63,770.89	22%	\$226,650.70	\$ 90,660.28
LAGRANGE	0.0 0	10/1- 12/31	\$83,297.66	\$17,907.17	21%	\$65,390.49	\$ 26,156.20
LAKE	0.0 0	10/1- 12/31	\$1,280,082.12	\$15,099.26	1%	\$1,264,982.86	\$ 505,993.14
LAPORTE	0.0 0	10/1- 12/31	\$209,173.11	\$19,999.98	10%	\$189,173.13	\$ 75,669.25
LAWRENCE	0.0 0	10/1- 12/31	\$332,144.28	\$24,710.14	7%	\$307,434.14	\$ 122,973.66
MADISON	1.0 0	10/1- 12/31	\$541,546.60	\$48,164.32	9%	\$493,382.28	\$ -
MARION	0.0 0	10/1- 12/31	\$6,105,487.41	\$707,195.78	12%	\$5,398,291.63	\$ 2,159,316.65
MARTIN	0.0 0	10/1- 12/31	\$62,826.85	\$12,059.43	19%	\$50,767.42	\$ 20,306.97
MIAMI	0.0 0	10/1- 12/31	\$223,873.31	\$21,538.50	10%	\$202,334.81	\$ 80,933.92
MONROE	0.0 0	10/1- 12/31	\$565,190.01	\$85,296.66	15%	\$479,893.35	\$ 191,957.34
MONTGOMERY	0.0 0	10/1- 12/31			0%		
NOBLE	0.0 0	10/1- 12/31	\$197,334.60	\$24,595.75	12%	\$172,738.85	\$ 69,095.54
OHIO	0.0 0	10/1- 12/31	\$20,483.16	\$4,626.81	23%	\$15,856.35	\$ 6,342.54
ORANGE	0.0 0	10/1- 12/31	\$132,370.14	\$17,265.67	13%	\$115,104.47	\$ 46,041.79
OWEN	0.0 0	10/1- 12/31	\$61,297.02	\$9,288.44	15%	\$52,008.58	\$ 20,803.43
PARKE	0.0 0	10/1- 12/31	\$38,117.06	\$11,806.17	31%	\$26,310.89	\$ 10,524.36

PERRY	0.0 0	10/1- 12/31	\$76,953.29	\$10,576.52	14%	\$66,376.77	\$ 26,550.71
PIKE	0.0 0	10/1- 12/31	\$65,325.47	\$4,954.30	8%	\$60,371.17	\$ 24,148.47
PULASKI	0.0 0	10/1- 12/31	\$98,438.33	\$20,469.15	21%	\$77,969.18	\$ 31,187.67
RIPLEY	0.0 0	10/1- 12/31	\$75,416.00	\$6,623.79	9%	\$68,792.21	\$ 27,516.88
RUSH	0.0 0	10/1- 12/31	\$124,918.52	\$13,399.74	11%	\$111,518.78	\$ 44,607.51
SAINT JOSEPH	0.0 0	10/1- 12/31	\$679,227.07	\$72,712.66	11%	\$606,514.41	\$ 242,605.76
SCOTT	0.0 0	10/1- 12/31	\$105,228.93	\$11,050.43	11%	\$94,178.50	\$ 37,671.40
SHELBY	0.0 0	10/1- 12/31	\$154,888.71	\$19,569.71	13%	\$135,319.00	\$ 54,127.60
SPENCER	0.0 0	10/1- 12/31	\$122,411.75	\$15,695.57	13%	\$106,716.18	\$ 42,686.47
STEUBEN	0.0 0	10/1- 12/31	\$100,638.28	\$18,547.43	18%	\$82,090.85	\$ 32,836.34
SULLIVAN	0.0 0	10/1- 12/31	\$55,018.21	\$8,284.85	15%	\$46,733.36	\$ 18,693.34
SWITZERLAND	0.0 0	10/1- 12/31	\$66,287.64	\$8,733.12	13%	\$57,554.52	\$ 23,021.81
TIPPECANOE	0.0 0	10/1- 12/31	\$1,105,459.01	\$269,397.57	24%	\$836,061.44	\$ 334,424.58
UNION	0.0 0	10/1- 12/31	\$26,306.00	\$8,624.09	33%	\$17,681.91	\$ 7,072.76
VANDEBURGH	0.0 0	10/1- 12/31	\$744,203.90	\$130,543.54	18%	\$613,660.36	\$ 245,464.14
VERMILLION	0.0 0	10/1- 12/31	\$58,851.03	\$7,855.04	13%	\$50,995.99	\$ 20,398.40
VIGO	0.0 0	10/1- 12/31	\$631,981.90	\$83,808.88	13%	\$548,173.02	\$ 219,269.21
WABASH	0.0 0	10/1- 12/31	\$87,938.04	\$15,236.11	17%	\$72,701.93	\$ 29,080.77
WARREN	0.0 0	10/1- 12/31	\$18,757.30	\$4,433.54	24%	\$14,323.76	\$ 5,729.50
WASHINGTON	0.0 0	10/1- 12/31	\$161,875.38	\$13,852.96	9%	\$148,022.42	\$ 59,208.97
WELLS	0.0 0	10/1- 12/31			0%		
WHITE	0.0 0	10/1- 12/31			0%		
WHITLEY	0.0 0	10/1- 12/31			0%		
TOTAL			\$20,188,253.4 2	\$2,385,346.62		\$17,802,906.8 0	\$ 6,923,809.77

MINUTES
INDIANA PUBLIC DEFENDER COMMISSION

JUNE 12, 2019

2:30 P.M.

309 W WASHINGTON ST.

INDIANAPOLIS, IN 46204

The meeting began in executive session at approximately 2:00 p.m. The public meeting was called to order at approximately 2:30 p.m. by Chairman Mark Rutherford. Also present at the meeting were: Sen. Eric Koch, Hon. Kelsey Hanlon, Hon. Mary Ellen Diekhoff, Vice Chair Larry Landis, David Hensel, Richard Bray, Hon. Steven Meyer, and Rep. John Young. Staff in attendance include: Derrick Mason, Andrew Cullen, Jennifer Pinkston, Torrin Liddell, and Paula Diaz. Audience members included: Bernice Corley, David Shircliff, Jim Abbs, Cody Eckert, Justin Forkner, and Ray Casanova.

- **Follow-up to Executive Session**

Judge Diekhoff made a motion based upon discussion of staff performance at executive session to adjust Senior Staff Attorney Derrick Mason's salary to \$109,838.29.

- **Approval of the Minutes from March 20, 2019 Commission Meeting**

After Mr. Mason and Mr. Landis corrected NIDA to NITA and a spelling error, Judge Meyer made a motion for approval of the minutes, and Judge Hanlon seconded the motion. With the modifications, the motion passed unanimously.

- **Approval of 2020 Budget and Hiring of new Positions**

Mr. Mason explained the budget proposal for administrative costs is down to 2.67% of overall budget down from 3.14% the prior fiscal year of approximately \$808,213.47.

Mr. Mason noted Andrew Cullen moving from intermittent to full-time with benefits for a communications and public policy position to a salary of \$91,000, a base salary increase for Torrin Liddell to \$70,000, the replacement of Kathleen Casey's position with another staff attorney, and a 2.1% increase retroactive to April 1, 2019 for other staff.

Mr. Landis moved to approve the budget as presented, the motion was seconded. The motion passed unanimously.

Mr. Hensel moved to approve the staff salary changes as presented, Judge Hanlon seconded. The motion passed unanimously.

- **Legislative Update**

- SB 488 & PD Board Appointment Process

Mr. Mason explained SB 488 was signed into law and effective July 1, 2019. The bill allows regionalization of public defense services, modifies Chief PD term to at least 4 years, eliminates

more conflicts from some local PD boards, and gives the Commission one appointment to the boards in place of one of the two judicial appointments.

The expectation is that Andrew Cullen would organize receiving nominations and gathering information to make recommendations to the Commission each quarter regarding filling these board nominees. If there were to be an emergency appointment necessary that a subcommittee could be formed.

Judge Hanlon asked how staff expects to receive nominees. Mr. Mason explained that we would reach out to local PD's, local Chiefs, local legislators and judges, and other locally elected officials to get the word out regarding nominations. Mr. Mason noted that staff intends to also implement regular PD Board trainings for current and new members.

Mr. Landis made the motion to have staff present a nomination for appointment to each local public defense board as they come up each quarter and if there is an emergency or consider termination the Chairman can convene a subcommittee at the Chairman's discretion. Judge Diekhoff seconded, the motion passed unanimously.

Legislative Summer Study

Mr. Mason explained that court costs for juveniles and adults as well as indigence in general is expected to be discussed at summer study committees. He asked for permission to present on these topics and take positions – and noted that staff would be willing to coordinate with the PD Council on presentations. Judge Meyer made the motion to allow this and Judge Hanlon seconded, the motion passed unanimously.

DCS Title IV

Mr. Mason discussed that a change at the federal level allows public defense expenses to be reimbursed, in part, with Title IV federal dollars. There has to be a very low penetration rate applied and may require a lot more paperwork. Due to the high level of burden it is possible a staff position could be created down the road just to handle reimbursements for the counties and the state and have Title IV fully reimburse it. This reimbursement is different from Family First dollars which originally contemplated public defense as an early entry model but the funding from Family First appears to be going in a different direction, staff will keep an eye on whether an opportunity under Family First becomes an option.

• Allen County PD Board Letter and Meeting

Mr. Mason explained that the Allen County judges terminated their two appointments and that Chairman Rutherford and Judge Hanlon were going to meet with Allen County officials regarding the termination. Chairman Rutherford thanked Judge Hanlon for participating with him in the process. Chairman Rutherford met with the head of the Allen County PD Office and both of them met with Judge Zent at the judicial conference. Judge Hanlon explained that the judges were frustrated with the lack of movement on selecting a new Chief PD and one of the board members didn't live in Indiana. Chairman Rutherford then acknowledged that the judges also changed their letter to acknowledge that the judges don't serve at the pleasure of the judiciary but, rather, they serve a term.

- **Request for Public Comment**

Mr. Mason discussed that the Commission has raised the hourly rate to \$90/hour but did nothing with salary or contract rates. Specifically, the Commission does not compensate contractors for their overhead. Other states are completing studies showing overhead ranging from around \$58,000/yr to over \$90,000/yr excluding benefits such as health insurance for the attorney. Our average rate of pay is around \$60,000 for a full-time contractor which may not even cover an attorney's overhead. Staff are going to issue a survey to assist in determining the overhead for Indiana public defenders that have to maintain their own offices.

Further, staff is requesting permission to obtain public opinion on establishing a salary schedule comparable with state-paid prosecutors (i.e., prison deputies); the addition of a flat amount (such as \$30,000) to contracts to assist with covering overhead; limiting attorneys who are not actually full-time public defenders from handling 100% of a full-time caseload (such as limiting them to 75%); limiting Chief Public Defender caseloads to allow for administrative duties; and a possible date of change for some or all of these things to January 2021. Public comment is important because there will likely be many intended and unintended consequences with these changes. The goal is to make less decisions in a vacuum and incorporate public response as much as possible.

In response to a question from Judge Meyer, this request would be sent out to county council presidents, Chief Public Defenders, judges, local boards, etc. Judge Hanlon asked that we emphasize that the Commission has made no decisions as of yet. The reason for the \$30,000 and 75% caseload examples is because those amounts were considered by the compensation subcommittee.

Mr. Landis said that prosecutors would agree that current level of compensation is too low for them as well and that we have support from IPAC to adjust salaries higher. Staff will also be working with IPAC to determine if a joint salary schedule could be developed.

Judge Diekhoff moved to solicit public comment on the above items and Mr. Bray seconded. The motion passed unanimously.

- **Technical Assistance Grant: Quality Indicator Developed**

Mr. Mason announced that the Commission, in partnership with the Council, is the recipient of a technical assistance grant to develop quality indicators that could be reported back to Chiefs and local boards to help them determine if their staff is doing what needs to be done to improve public defense outcomes. The NLADA, our grant partner, has developed national standards for adult criminal cases and will assist a group of attorneys and the Commission and Council to develop adult criminal quality indicators for Indiana. The hope is that these indicators will be a living document and that there will be counties that will work with staff to pilot both pre- and post-implementation to determine if these indicators are the correct ones to be monitoring.

Upon a successful conclusion the Commission hopes to develop indicators for delinquency, CHINS/TPR, and appellate cases.

- **Recoupment of Funds Guideline**

At the June 2019 Commission meeting staff was requested to draft language for when expenses that were previously reimbursed should not have been due for various reasons. The proposed guideline reads as follows: “When the Commission determines that expenses already reimbursed should not have been reimbursed, the Commission may seek recoupment by lowering future reimbursements to the impacted county until the full amount has been recovered. Examples include, but are not limited to: submitted expenses are not actually public defense expenses, an audit reveals incorrect submissions to the Commission, or an error causes overpayment.”

Judge Meyer stated he believes this was his suggestion, believes this language is necessary, and moves to adopt the guideline. Senator Koch seconded and the motion passed unanimously.

- **Chief Public Defender Compensation**

Mr. Mason reported raises to elected prosecutor salaries as of 7/1/19 as follows:

<u>Position</u>	<u>2018</u>	<u>2019</u>
Prosecutor - Full-time	\$147,164.00	\$151,137.43
Prosecutor - Part-time @ .66	\$97,128.00	\$99,750.00
Prosecutor - Part-time @ .6	\$88,298.00	\$90,682.00
Chief Dep. Pros. Full-time	\$110,373.00	\$113,353.07
Chief Dep. Pros. Part-time @ .66	\$72,846.00	\$74,812.50
Chief Dep. Pros. Part-time @ .6	\$66,224.00	\$68,011.50

Mr. Mason noted that the Commission normally implements these raises for Chief Public Defenders effective January 1 of the following year for county budget cycles. Judge Meyer moves to approve the schedule effective January 1, 2020 and Mr. Bray seconds, motion passed unanimously.

- **Updated Non-Capital Reimbursement Request Forms**

Mr. Mason acknowledged that our reimbursement forms remain in Excel format and have not been significantly updated in many years. Currently these forms are completed by each county and reviewed by hand. There are 5 forms that must be completed. Form I lists all of the individualized expenses, the total amount being requested, and the total being excluded as non-reimbursable. Form II lists all of the attorney names, compensation, and full/part time status. Form III lists each attorney and the cases assigned for the last four quarters. Form IV is the form that determines the non-reimbursable amount. Form V is the auditor and local board signature.

Form IV was developed prior to Mr. Mason being hired by the Commission and has really morphed into being used, in his opinion, improperly. The original method of determining non-reimbursable expenses was to calculate total expenses and apply a ratio of total caseload to total non-reimbursable caseload for the county as a whole. A second version of Form IV was developed that allowed counties to reduce only attorney compensation by the same ratio vs. the entire county’s expenses. This second form was developed primarily for hourly and non-office counties but office counties began using the form – and were told to use whichever form they preferred. The second version of the form does not reduce many other expenses that would

otherwise be associated with misdemeanor representation. Furthermore, the ratio on both forms is completely arbitrary (2:1 reimbursable vs. non-reimbursable). Other counties actually come up with their own method of calculating their non-reimbursable expenses or use their actual non-reimbursable expenses (primarily in hourly counties).

Staff has developed a new version of the forms that they hope will be the bridge to an electronic, web-based, submission process in the future. The new form is one excel form instead of five different forms and it feeds information back and forth within itself. It reduces Commission audit time by 80% and allows us to begin doing desk audits of counties by having their supporting materials sent in instead of just auditing the request for reimbursement forms themselves. We are also requiring that the forms be submitted in Excel format via e-mail so that we can do data analysis much more easily.

We are moving away from the term of part-time vs. full-time and, instead, have them classified as the % of full time that they are – (25%, 60%, 75%, etc.). When the attorney is put in one place it carries forward and their allowable caseload is automatically converted. Scott County reported it was very hard to figure what each of their attorneys should handle every quarter because their allowable caseloads are all so different – this will make everyone uniform for compliance determination purposes.

The biggest change, however, is that Form IV and its ratio will no longer be used. The new form will use each attorney's actual caseload in the quarter and reduce non-reimbursable expenses based upon the Commission's approved case weights. This will be even more useful once the new caseload study is completed with caseloads that are based upon Indiana's legal practice.

The staff's goal is to hold its annual training in October and have every county send someone for training on the new forms. Then the hope would be to require the new, Excel forms with scanned in signature pages to be submitted for all counties in the first quarter reimbursement (reviewed at the June 2020 meeting).

Mr. Hensel asked whether or not the forms would save or cost counties money. Mr. Mason answered that more often than not the new forms save counties some money based upon current caseloads. There are counties, such as Monroe, that will see less reimbursement because they have come up with their own method to calculate non-reimbursable forms that is half of what the Form IV would otherwise require.

Staff reported that given some counties would be going from their method of calculation to this uniform system, it is anticipated that we will have requests at the December meeting (following the October training on the forms) from some counties for alternative treatment.

Mr. Mason noted that this is not a true, electronic submission system that we need to go to but this is a step in that direction. Mr. Hensel commented that this process is going to be painful but this has to happen and he moved to require the new forms, submitted in Excel format and with scanned signatures effective the first quarter's reimbursement in 2020. Judge Hanlon seconded and the motion passed unanimously.

- **Status of Public Defense Fund**

Mr. Mason reported that the Public Defense Fund had about \$9.1 million of reserves at the beginning of the fiscal year and, after the reimbursements are approved this quarter that he

expects the reserve to fall to around \$6 million. If we would have had our base budget increase already we would not have had to dip into the reserve.

- **Capital Reimbursement**

We received late claims in the amount of \$31,738.52 from Boone County. The judge did their first billing over a year ago and Judge Kincaid reached out to Judge Hanlon and he apologized for the oversight and he has addressed it. She believed that we should authorize full reimbursement as they are not familiar with this process.

Mr. Mason also noted that Allen County had a large sum of jury hotel expenses that he did not approve and he requested approval of all of the remaining amounts, including the late claims, as outlined in the chart at the end of the minutes. Mr. Bray moved to approve the reimbursement and Senator Koch seconded, the motion passed unanimously.

- **Non-Capital Reimbursement**

Mr. Mason noted that Scott County's noncompliance is a significant issue but that their Chief PD believes they can reach quarterly compliance but a 90 day letter might be appropriate. Madison County was able to get us the clarification from the previous quarter's request for reimbursement that was not reimbursed until they complied with the additional information on caseloads. The county compliance rate is the highest it has been in some time and he recommended reimbursement to all counties per the chart at the end of the minutes. Judge Diekhoff moved to reimburse as recommended and Mr. Landis seconded, the motion passed unanimously.

Mr. Landis moves for the 90 day letter to Scott County and Mr. Hensel seconds, the motion passed unanimously.

- **Chief Public Defender Job Description/Staff Update**

The Chief Public Defender Association presented the Commission staff with a potential chief public defender job description. This might be used as a form to set a guideline or standard on chief duties but, for now is informational and will be put on the website. Mr. Landis thanked the Chief Public Defender Association for producing the document and hopes it will help justify to the counties why Chiefs need to have room in caseload

- **Recognition of Larry Landis' Service on the Commission**

Chairman Rutherford acknowledged that Larry Landis has retired from the PD Council and will be leaving the Commission at the conclusion of his term, which is prior to the next Commission meeting. He stated that he has known Larry for over 20 years and the Commission is what is because of people like Larry and Norm Lefstein. He said the Commission wanted to honor him for his service and in tribute for his four decade career in the service of public defense in Indiana and the last seven-and-a-half years on the Commission as an official board member. The Commission presented him with a plaque. The Commission also hung a plaque and photo honoring Larry's service to be kept in the Commission's offices.

The meeting was then adjourned.

INDIANA PUBLIC DEFENDER COMMISSION

Reimbursement Requests in Capital Cases

June 12, 2019

COUNTY	DEFENDANT	TOTAL
Allen	Dansby	\$66,435.29
Boone	Baumgardt	\$13,916.42
Boone	Wright	\$15,828.87
Clark	Oberhansley	\$26,646.99
TOTAL		\$122,827.57

LATE CLAIMS

Boone	Wright	\$31,738.52
TOTAL		\$154,566.09

INDIANA PUBLIC DEFENDER COMMISSION

First Quarter 2019 Requests for Reimbursements in Non-Capital Cases

6/12/2019

COUNTY	Late Factor	2019 Period Covered	Total Expenditure	Adjustment For Non-Reimbrsbl	% of Adjustm t	Eligible Expenditure	40% Reimbursed
ADAMS	0.00	1/1-3/31	\$86,934.60	\$7,224.00	8%	\$79,710.60	\$ 31,884.24
ALLEN	0.00	1/1-3/31	\$1,431,476.46	\$90,531.61	6%	\$1,340,944.85	\$ 536,377.94
BENTON	0.00	1/1-3/31	\$21,308.00	\$5,013.65	24%	\$16,294.35	\$ 6,517.74
BLACKFORD	0.00	1/1-3/31	\$59,908.91	\$15,147.00	25%	\$44,761.91	\$ 17,904.76
BROWN	0.00	1/1-3/31	\$59,613.34	\$12,061.27	20%	\$47,552.07	\$ 19,020.83
CARROLL	0.00	1/1-3/31	\$81,063.44	\$19,445.43	24%	\$61,618.01	\$ 24,647.20
CASS	0.00	1/1-3/31	\$199,243.47	\$24,473.68	12%	\$174,769.79	\$ 69,907.92
CLARK	0.00	1/1-3/31	\$328,022.53	\$8,789.63	3%	\$319,232.90	\$ 127,693.16
CLINTON	0.00	1/1-3/31	\$69,801.88	\$8,417.31	12%	\$61,384.57	\$ 24,553.83
CRAWFORD	0.00	1/1-3/31			0%		
DECATUR	0.00	1/1-3/31	\$102,241.22	\$16,216.86	16%	\$86,024.36	\$ 34,409.74
DEKALB	0.00	1/1-3/31	\$181,076.08	\$16,914.13	9%	\$164,161.95	\$ 65,664.78
DELAWARE	0.00	1/1-3/31	\$330,174.01	\$11,944.56	4%	\$318,229.45	\$ 127,291.78
FAYETTE	0.00	1/1-3/31	\$96,542.49	\$12,447.64	13%	\$84,094.85	\$ 33,637.94
FLOYD	0.00	1/1-3/31	\$194,113.90	\$6,279.34	3%	\$187,834.56	\$ 75,133.82
FOUNTAIN	0.00	1/1-3/31	\$22,743.58	\$3,545.28	16%	\$19,198.30	\$ 7,679.32
FULTON	0.00	1/1-3/31	\$74,155.28	\$27,882.39	38%	\$46,272.89	\$ 18,509.16
GRANT	0.00	1/1-3/31	\$238,240.37	\$2,856.60	1%	\$235,383.77	\$ 94,153.51
GREENE	0.00	1/1-3/31	\$126,148.46	\$16,669.85	13%	\$109,478.61	\$ 43,791.44
HANCOCK	0.00	1/1-3/31	\$133,743.92	\$26,958.43	20%	\$106,785.49	\$ 42,714.20

HENDRICKS	0.0 0	1/1- 3/31	\$456,848.75	\$81,026.90	18%	\$375,821.85	\$ 150,328.74
HENRY	0.0 0	1/1- 3/31			0%		
HOWARD	0.0 0	1/1- 3/31	\$494,945.91	\$28,773.95	6%	\$466,171.96	\$ 186,468.78
JACKSON	0.0 0	1/1- 3/31	\$209,298.91	\$12,538.15	6%	\$196,760.76	\$ 78,704.30
JASPER	0.0 0	1/1- 3/31	\$56,445.93	\$17,170.84	30%	\$39,275.09	\$ 15,710.04
JAY	0.0 0	1/1- 3/31	\$113,040.59	\$13,871.34	12%	\$99,169.25	\$ 39,667.70
JEFFERSON	0.0 0	1/1- 3/31	\$163,477.02	\$21,639.06	13%	\$141,837.96	\$ 56,735.18
JENNINGS	0.0 0	1/1- 3/31	\$112,640.76	\$15,512.10	14%	\$97,128.66	\$ 38,851.46
KNOX	0.0 0	1/1- 3/31	\$218,479.65	\$33,820.56	15%	\$184,659.09	\$ 73,863.64
KOSCIUSKO	0.0 0	1/1- 3/31	\$224,296.20	\$54,117.98	24%	\$170,178.22	\$ 68,071.29
LAGRANGE	0.0 0	1/1- 3/31	\$42,526.00	\$7,015.00	16%	\$35,511.00	\$ 14,204.40
LAKE	0.0 0	1/1- 3/31	\$1,090,515.00	\$16,691.56	2%	\$1,073,823.44	\$ 429,529.38
LAPORTE	0.0 0	1/1- 3/31	\$221,440.82	\$20,735.45	9%	\$200,705.37	\$ 80,282.15
LAWRENCE	0.0 0	1/1- 3/31	\$209,672.24	\$22,193.55	11%	\$187,478.69	\$ 74,991.48
MADISON*	0.0 0	1/1- 3/31	\$465,497.60	\$16,916.92	4%	\$448,580.68	\$ 376,785.18
MARION	0.0 0	1/1- 3/31	\$5,637,721.58	\$493,102.26	9%	\$5,144,619.32	\$ 2,057,847.73
MARTIN	0.0 0	1/1- 3/31	\$76,327.94	\$13,058.50	17%	\$63,269.44	\$ 25,307.78
MIAMI	0.0 0	1/1- 3/31	\$173,329.24	\$16,153.80	9%	\$157,175.44	\$ 62,870.18
MONROE	0.0 0	1/1- 3/31	\$814,191.38	\$124,275.81	15%	\$689,915.57	\$ 275,966.23
MONTGOMERY	0.0 0	1/1- 3/31			0%		
NOBLE	0.0 0	1/1- 3/31	\$259,166.53	\$44,024.94	17%	\$215,141.59	\$ 86,056.64
OHIO	0.0 0	1/1- 3/31	\$15,379.16	\$3,511.48	23%	\$11,867.68	\$ 4,747.07
ORANGE	0.0 0	1/1- 3/31	\$157,654.36	\$21,304.64	14%	\$136,349.72	\$ 54,539.89
OWEN	0.0 0	1/1- 3/31	\$80,942.24	\$11,325.22	14%	\$69,617.02	\$ 27,846.81
PARKE	0.0 0	1/1- 3/31	\$52,298.37	\$17,207.85	33%	\$35,090.52	\$ 14,036.21
PERRY	0.0 0	1/1- 3/31	\$68,931.19	\$9,154.92	13%	\$59,776.27	\$ 23,910.51
PIKE	0.0 0	1/1- 3/31	\$89,614.18	\$7,975.40	9%	\$81,638.78	\$ 32,655.51

PULASKI	0.0 0	1/1- 3/31	\$124,194.74	\$28,447.09	23%	\$95,747.65	\$ 38,299.06
RIPLEY	0.0 0	1/1- 3/31	\$72,974.57	\$5,707.88	8%	\$67,266.69	\$ 26,906.68
RUSH	0.0 0	1/1- 3/31	\$104,497.36	\$12,575.31	12%	\$91,922.05	\$ 36,768.82
SAINT JOSEPH	0.0 0	1/1- 3/31	\$672,257.59	\$63,289.69	9%	\$608,967.90	\$ 243,587.16
SCOTT	0.0 0	1/1- 3/31	\$101,813.17	\$4,728.10	5%	\$97,085.07	\$ 38,834.03
SHELBY	0.0 0	1/1- 3/31	\$174,975.42	\$19,905.00	11%	\$155,070.42	\$ 62,028.17
SPENCER	0.0 0	1/1- 3/31	\$123,778.92	\$7,770.78	6%	\$116,008.14	\$ 46,403.26
STEBEN	0.0 0	1/1- 3/31	\$108,916.01	\$26,473.25	24%	\$82,442.76	\$ 32,977.10
SULLIVAN	0.0 0	1/1- 3/31	\$71,077.82	\$12,191.18	17%	\$58,886.64	\$ 23,554.66
SWITZERLAND	0.0 0	1/1- 3/31	\$49,685.63	\$10,413.61	21%	\$39,272.02	\$ 15,708.81
TIPPECANOE	0.0 0	1/1- 3/31	\$1,091,665.54	\$279,131.14	26%	\$812,534.40	\$ 325,013.76
UNION	0.0 0	1/1- 3/31	\$30,926.50	\$3,112.60	10%	\$27,813.90	\$ 11,125.56
VANDEBURGH	0.0 0	1/1- 3/31	\$860,329.41	\$59,927.68	7%	\$800,401.73	\$ 320,160.69
VERMILLION	0.0 0	1/1- 3/31	\$54,604.32	\$6,989.29	13%	\$47,615.03	\$ 19,046.01
VIGO	0.0 0	1/1- 3/31	\$603,003.55	\$85,390.26	14%	\$517,613.29	\$ 207,045.32
WABASH	0.0 0	1/1- 3/31	\$104,764.90	\$11,631.80	11%	\$93,133.10	\$ 37,253.24
WARREN	0.0 0	1/1- 3/31	\$23,825.10	\$2,200.50	9%	\$21,624.60	\$ 8,649.84
WASHINGTON	0.0 0	1/1- 3/31	\$239,504.80	\$19,071.38	8%	\$220,433.42	\$ 88,173.37
WELLS	0.0 0	1/1- 3/31			0%		
WHITE	0.0 0	1/1- 3/31			0%		
WHITLEY	0.0 0	1/1- 3/31			0%		
TOTAL			\$19,954,028.84	\$2,114,893.38		\$17,839,135.46	\$ 7,333,007.13

*Madison County includes 4Q2018 previously withheld pending timely 1Q submission and updated caseload information

MINUTES

INDIANA PUBLIC DEFENDER COMMISSION

September 25, 2019

2:00 PM

309 W Washington, 5th Floor, Commission Conference Room
Indianapolis, Indiana 46204

Members present:

Chairman Mark W. Rutherford
Richard Bray
Bernice Corley
Hon. Kelsey B. Hanlon
Rep. Ryan Lauer
Sen. Gregory G. Taylor

Staff present:

Derrick Mason
Andrew Cullen
Andrew Falk
Torrin Liddell
Jennifer Pinkston

Members absent:

Hon. Mary Ellen Diekhoff
Rep. Ryan Dvorak
David J. Hensel
Sen. Eric Koch
Hon. Steven P. Meyer

Audience members:

James Abbs
Ray Casanova
Gretchen Etling
Liz Gable
Bob Hill
Abe Navarro
Lewis Ostermeyer
Neil Wiseman

1. Call to Order

Chairman Rutherford called the meeting to order shortly after 2:00 p.m.

2. Approval of Minutes

The Chairman inquired whether there were any changes to the Minutes of the June 12, 2019 Meeting. Hearing none, Mr. Bray moved to approve the Minutes. Judge Hanlon seconded the motion. The motion carried unanimously.

3. Approval of Non-Capital & Death Penalty Training Courses

Mr. Mason stated that the Commission has received a request to approve the National College of Capital Voir Dire as training that would satisfy Criminal Rule 24. The training is taught by experts in capital voir dire and in cooperation with the University of Colorado School of Law and the Office of the Colorado State Public Defender. Commission staff believe that it appears to be a reputable and competent training program for capital voir dire. Commission staff recommended approval of the National College continuing legal education courses for compliance with C.R. 24 and Commission guidelines.

The Chairman inquired whether there are any comments or questions on the matter. There are none. Ms. Corley moved to approve said training; Judge Hanlon seconded the motion. All present voted in favor, and the motion carried.

Mr. Mason stated that although no request has been made, Commission staff were similarly recommending that the Kentucky Department of Advocacy's Faubush Litigation Persuasion Institute also be included in the Commission-approved training. It is a five-day trial litigation institute that covers preparation for all phases of trial and is guided by coaches from across the nation. Similar to Indiana's training, it is a group-based approach.

The Chairman inquired whether there are any comments or questions on the matter. There were none. Sen. Taylor moved to approve said training; Mr. Bray seconded the motion. All present voted in favor, and the motion carried.

4. Local Public Defender Board Appointments

Mr. Mason introduced Mr. Cullen, noting that appointment of individuals to the local Public Defender Boards is one of the tasks given to Mr. Cullen to handle.

Mr. Cullen explained his process in securing candidates for appointments to the local boards: he sent emails to state Senators, Representatives, judges, public defenders, auditors, chairs of county councils, and presidents of county commissions to ask for their input on appointments.

In a chart distributed to the Commission (Chart 1, below), certain counties have members whose terms have expired or members whose terms will expire before the next Commission meeting. Mr. Cullen explained that for the individuals in 15 counties, the candidates are consensus candidates: they were suggested or

recommended, and no one opposed them. Many of them are reappointments. All of them complied with the requirement that they must have demonstrated a high interest in indigent defense.

Sen. Taylor inquired whether there is process in which the public receive notification about the openings or this process. Mr. Cullen responded that there is not such a process, but that there could be. Sen. Taylor stated that he would like to see information regarding diversity in the candidates, and that the process should be open to lead to more diversity.

Mr. Mason observed that anticipated openings could be posted on the Commission's website. Anyone interested in applying or nominating someone could communicate with the Commission.

The Chairman commended Mr. Cullen for his work and said he did an excellent job. Mr. Cullen noted that this is a learning process that can be improved.

After this discussion, Ms. Corley moved to approve the consensus candidates; Sen. Taylor seconded the motion. All present voted in favor, and the motion carried.

Mr. Cullen explained that there are two counties with non-consensus candidates. John Minch and Adam Eguia were both recommended in Adams County. Commission staff recommends that Mr. Minch be appointed.

Judge Hanlon moved to approve Mr. Minch to the County Public Defender Board. Ms. Corley seconded the motion. All present voted in favor, and the motion carried.

Mr. Cullen stated that in Lawrence County, Chief Public Defender David Shircliff recommends that Gene McCracken be appointed. Mr. Cullen spoke with Sen. Steele, who does not object to Mr. McCracken but suggests Jack Kenworthy. Certain county judges sent an email stating that they prefer Mr. Kenworthy.

Mr. Cullen spoke with both individuals. Both demonstrated interest, and both said the other would fill the position well. Mr. McCracken has more related experience, while Mr. Kenworthy is recently retired and active in the community.

After discussion, Ms. Corley moved to approve Mr. McCracken, and Judge Hanlon seconded the motion. In further discussion, Mr. Bray stated that he does not object to Mr. McCracken but knows Sen. Steele and Mr. Kenworthy, and Mr. Bray thinks highly of Mr. Kenworthy, who is highly respected.

The Chairman calls the roll; Ms. Corley, Judge Hanlon, Rep. Lauer, and the Chairman voted to approve Mr. McCracken as the Commission’s appointment to the County PD Board. Sen. Taylor and Mr. Bray voted no. The motion carried.

Chart 1

SEPTEMBER 2019 Commission County PD Board Appointments		
		25-Sep-19
<i>ACTION REQUESTED:</i>		
Approve the following <u>consensus candidates</u> for 3-year appointments to County PD Boards		
<u>County:</u>	<u>Consensus Candidate:</u>	
Carroll	Bill Ruch	
Cass	James Austen	
Clark	Anne Pfau	
Floyd	Larry Schad	
Fountain	Cindy Mason	
Fulton	Robert Cannedy	
Grant	Joe Keith Lewis	
Hancock	Michael Adkins	
Jasper	Tim Belstra	
Jay	James Zimmerman	
Kosciusko	John Hall	
Parke	Steve Blain	
Pike	Fran Lewis	
Pulaski	Laura Bailey	
Sullivan	Jana Johnson	
<i>ACTION REQUESTED:</i>		
Approve the following <u>staff recommendations</u> for 3-year appointments to County PD Boards		
<u>County:</u>	<u>Staff Recommendation:</u>	<u>Additional Nomination:</u>
Adams	John Minch	Adam Eguia
Lawrence	Gene McCracken	Jack Kenworthy

5. Financial Status of Public Defense Fund

Mr. Mason provided the current status of the Fund. The Commission does expect Elkhart to join. Although Elkhart will be a significant expense, the Commission will not have any payments to them until June 2020.

The Chairman observed that with the financial situation, it is unlikely that the Commission will have to pro-rate reimbursements to member counties.

6. Requests for 50% Reimbursement in Capital Cases

Staff recommended reimbursement of \$108,627.21 for capital case reimbursement requests. All of the requests were reduced due to requests for impermissible funding. For example, Allen County requested reimbursement for jury expenses (per diem and hotel bills), which are court expenses, not Public Defender Commission expenses. Similarly, Boone and Clark County's requests were reduced for fees incurred after the death penalty was withdrawn and the cases were changed to life without parole (LWOP) cases.

Mr. Bray moved to reimburse the Capital Cases as recommended by Commission staff, and Rep. Lauer seconded the motion. All present voted in favor, and the motion carried.

INDIANA PUBLIC DEFENDER COMMISSION

Reimbursement Requests in Capital Cases

September 25, 2019

COUNTY	DEFENDANT	TOTAL
Allen	Dansby	\$32,054.34
Boone	Baumgardt	\$3,124.59
Boone	Wright	\$33,510.19
Clark	Oberhansley	\$39,938.09
TOTAL		\$108,627.21

7. Status of County Compliance with Non-Capital Caseloads and Requests for 40% Reimbursement in Non-Capital Cases

Mr. Mason informed the Commission that there was a dip in compliance over the previous quarter, when nearly ninety percent were in compliance. Nevertheless, most of the counties that are out of compliance have just one attorney who is non-compliant, and have plans to rectify the situation.

Decatur County, however, has been out of compliance for the last twelve quarters. The Commission sent 90-day letter. Case assignment seems to have been problem, but the county seems to have fixed it. There has been significant improvement and the county is now in substantial compliance. Mr. Mason informed the Commission that staff will continue to watch the situation.

Mr. Mason has talked to new managing PD in Madison County. This is their first quarter officially out of compliance (although if the Commission had had full data previously, there may have been prior compliance issues). The compensation for public defenders has not kept up with prosecutors. Nine of the 36 public defenders are out of compliance. The county did not approve raises for the PDs. The county is asking the Commission not to send a 90-day letter. Mr. Mason recommended that the Commission monitor the situation and evaluate based on the status in December. If no progress is made, he believes a 90-day letter will need to be sent then.

In response to a question from a Commission member, Mr. Mason explained that counties are sent 90-day letters when there are noncompliance issues and the counties have not informed the Commission how it will become compliant. The county must submit a plan to become compliant or face suspension of payments.

Judge Hanlon moved to approve the reimbursements; Sen. Taylor seconded the motion. All present voted in favor of the motion, which carried.

INDIANA PUBLIC DEFENDER COMMISSION

First Quarter 2019 Requests for Reimbursements in Non-Capital Cases

9/25/2019

COUNTY	Late Factor	2019 Period Covered	Total Expenditure	Adjustment For Non-Reimbrsbl	% of Adjstmt	Eligible Expenditure	40% Reimbursed
ADAMS	0.00	4/1-6/30	\$99,462.41	\$16,027.41	16%	\$83,435.00	\$ 33,374.00
ALLEN	0.00	4/1-6/30	\$1,221,696.22	\$92,479.31	8%	\$1,129,216.91	\$ 451,686.76
BENTON	0.00	4/1-6/30	\$17,950.50	\$6,410.89	36%	\$11,539.61	\$ 4,615.84
BLACKFORD	0.00	4/1-6/30	\$52,264.25	\$13,621.50	26%	\$38,642.75	\$ 15,457.10
BROWN	0.00	4/1-6/30	\$95,059.68	\$11,468.90	12%	\$83,590.78	\$ 33,436.31
CARROLL	0.00	4/1-6/30	\$72,683.92	\$25,014.06	34%	\$47,669.86	\$ 19,067.94
CASS	0.00	4/1-6/30	\$176,060.44	\$25,063.29	14%	\$150,997.15	\$ 60,398.86
CLARK	0.00	4/1-6/30	\$341,336.17	\$13,985.02	4%	\$327,351.15	\$ 130,940.46
CLINTON*	0.00	4/1-6/30	\$78,698.59	\$16,761.57	21%	\$61,937.02	\$ 24,525.33
DECATUR	0.00	4/1-6/30	\$111,913.32	\$32,643.91	29%	\$79,269.41	\$ 31,707.76
DEKALB	0.00	4/1-6/30	\$153,570.81	\$14,924.28	10%	\$138,646.53	\$ 55,458.61
DELAWARE	0.00	4/1-6/30	\$397,680.91	\$10,038.94	3%	\$387,641.97	\$ 155,056.79

	0						
FAYETTE	0.0 0	4/1-6/30	\$93,536.25	\$5,326.14	6%	\$88,210.11	\$ 35,284.04
FLOYD	0.0 0	4/1-6/30	\$170,459.99	\$9,166.25	5%	\$161,293.74	\$ 64,517.50
FOUNTAIN	0.0 0	4/1-6/30	\$35,444.99	\$5,713.33	16%	\$29,731.66	\$ 11,892.66
FULTON	0.0 0	4/1-6/30	\$100,320.97	\$29,882.84	30%	\$70,438.13	\$ 28,175.25
GRANT	0.0 0	4/1-6/30	\$259,833.27	\$6,245.99	2%	\$253,587.28	\$ 101,434.91
GREENE	0.0 0	4/1-6/30	\$107,589.57	\$16,035.67	15%	\$91,553.90	\$ 36,621.56
HANCOCK	0.0 0	4/1-6/30	\$147,514.01	\$16,252.57	11%	\$131,261.44	\$ 52,504.58
HENDRICKS	0.0 0	4/1-6/30	\$441,556.69	\$84,765.96	19%	\$356,790.73	\$ 142,716.29
HOWARD	0.0 0	4/1-6/30	\$450,562.78	\$24,230.76	5%	\$426,332.02	\$ 170,532.81
JACKSON	0.0 0	4/1-6/30	\$176,250.17	\$10,254.37	6%	\$165,995.80	\$ 66,398.32
JASPER	0.0 0	4/1-6/30	\$89,651.60	\$20,569.66	23%	\$69,081.94	\$ 27,632.77
JAY	0.0 0	4/1-6/30	\$112,570.81	\$16,849.30	15%	\$95,721.51	\$ 38,288.60
JEFFERSON	0.0 0	4/1-6/30	\$163,763.68	\$18,941.12	12%	\$144,822.56	\$ 57,929.02
JENNINGS	0.0 0	4/1-6/30	\$113,897.30	\$14,826.86	13%	\$99,070.44	\$ 39,628.18
KNOX	0.0 0	4/1-6/30	\$226,656.71	\$34,484.53	15%	\$192,172.18	\$ 76,868.87
KOSCIUSKO	0.0 0	4/1-6/30	\$274,111.42	\$78,157.28	29%	\$195,954.14	\$ 78,381.66
LAGRANGE	0.0 0	4/1-6/30	\$56,524.00	\$10,188.65	18%	\$46,335.35	\$ 18,534.14
LAKE	0.0 0	4/1-6/30	\$1,297,045.71	\$14,149.59	1%	\$1,282,896.12	\$ 513,158.45
LAPORTE	0.0 0	4/1-6/30	\$236,348.04	\$24,213.82	10%	\$212,134.22	\$ 84,853.69
LAWRENCE	0.0 0	4/1-6/30	\$231,577.18	\$36,578.29	16%	\$194,998.89	\$ 77,999.56
MADISON	0.0 0	4/1-6/30	\$513,108.18	\$16,407.33	3%	\$496,700.85	\$ 198,680.34
MARION	0.0 0	4/1-6/30	\$6,019,121.02	\$415,879.60	7%	\$5,603,241.42	\$ 2,241,296.57
MARTIN	0.0 0	4/1-6/30	\$56,698.98	\$20,586.41	36%	\$36,112.57	\$ 14,445.03
MIAMI	0.0 0	4/1-6/30	\$199,048.07	\$18,846.00	9%	\$180,202.07	\$ 72,080.83
MONROE	0.0 0	4/1-6/30	\$544,761.94	\$87,434.05	16%	\$457,327.89	\$ 182,931.16
NOBLE	0.0 0	4/1-6/30	\$226,984.73	\$34,996.03	15%	\$191,988.70	\$ 76,795.48
OHIO	0.0 0	4/1-6/30	\$21,500.50	\$3,975.54	18%	\$17,524.96	\$ 7,009.98
ORANGE	0.0 0	4/1-6/30	\$121,955.54	\$16,480.48	14%	\$105,475.06	\$ 42,190.02
OWEN	0.0 0	4/1-6/30	\$70,502.29	\$10,218.50	14%	\$60,283.79	\$ 24,113.52

PARKE	0.0 0	4/1-6/30	\$55,334.16	\$8,592.88	16%	\$46,741.28	\$ 18,696.51
PERRY	0.0 0	4/1-6/30	\$81,912.37	\$12,032.39	15%	\$69,879.98	\$ 27,951.99
PIKE	0.0 0	4/1-6/30	\$43,111.93	\$3,130.20	7%	\$39,981.73	\$ 15,992.69
PULASKI	0.0 0	4/1-6/30	\$121,344.57	\$26,517.40	22%	\$94,827.17	\$ 37,930.87
RIPLEY	0.0 0	4/1-6/30	\$129,166.68	\$9,652.66	7%	\$119,514.02	\$ 47,805.61
RUSH	0.0 0	4/1-6/30	\$61,618.07	\$7,773.53	13%	\$53,844.54	\$ 21,537.82
SAINT JOSEPH	0.0 0	4/1-6/30	\$677,422.43	\$73,374.40	11%	\$604,048.03	\$ 241,619.21
SCOTT	0.0 0	4/1-6/30	\$132,164.61	\$12,304.31	9%	\$119,860.30	\$ 47,944.12
SHELBY	0.0 0	4/1-6/30	\$162,953.65	\$22,503.46	14%	\$140,450.19	\$ 56,180.08
SPENCER	0.0 0	4/1-6/30	\$79,902.14	\$6,713.89	8%	\$73,188.25	\$ 29,275.30
STEUBEN	0.0 0	4/1-6/30	\$104,797.49	\$18,759.84	18%	\$86,037.65	\$ 34,415.06
SULLIVAN	0.0 0	4/1-6/30	\$75,672.61	\$18,382.47	24%	\$57,290.14	\$ 22,916.06
SWITZERLAND	0.0 0	4/1-6/30	\$60,850.84	\$12,059.82	20%	\$48,791.02	\$ 19,516.41
TIPPECANOE	0.0 0	4/1-6/30	\$1,143,448.51	\$283,700.97	25%	\$859,747.54	\$ 343,899.02
UNION	0.0 0	4/1-6/30	\$20,619.30	\$1,856.57	9%	\$18,762.73	\$ 7,505.09
VANDEBURGH	0.0 0	4/1-6/30	\$751,225.60	\$41,062.27	5%	\$710,163.33	\$ 284,065.33
VERMILLION	0.0 0	4/1-6/30	\$67,248.60	\$15,464.07	23%	\$51,784.53	\$ 20,713.81
VIGO	0.0 0	4/1-6/30	\$667,628.43	\$97,064.08	15%	\$570,564.35	\$ 228,225.74
WABASH	0.0 0	4/1-6/30	\$95,561.91	\$11,968.24	13%	\$83,593.67	\$ 33,437.47
WARREN	0.0 0	4/1-6/30	\$11,570.40	\$3,766.50	33%	\$7,803.90	\$ 3,121.56
WASHINGTON	0.0 0	4/1-6/30	\$251,664.14	\$20,845.67	8%	\$230,818.47	\$ 92,327.39
TOTAL			\$20,172,492.05	\$2,087,621.62		\$18,084,870.43	\$ 7,233,698.69

8. Legislative & DCS Update

Mr. Mason informed the Commission that at the request of the Interim Study Committee on Corrections & Criminal Code, he and Andrew Cullen gave a presentation at the August 27, 2019 meeting entitled “Indigence Findings in Indiana.” The presentation covered the factors involved in indigence determinations in Indiana.

The Committee also asked Commission staff to present at the September 18, 2019 meeting, where Mr. Mason and Mr. Cullen gave a presentation entitled “Current

Trends in Public Defense Reimbursement and Caseloads.” The presentation covered: 1. County Participation in PD Commission, 2. County Public Defense Costs, 3. Public Defender Caseloads, 4. Percentage of Defendants represented by a PD, and 5. Availability of Public Defenders.

Mr. Mason noted that on a weekly basis, people are telling him that they cannot find enough attorneys to serve as public defenders. Mr. Liddell has researched the problem and it is not an urban/rural problem. Indiana has less than half the number of attorneys as the national average. Mr. Mason is talking to the Indiana Supreme Court and Justin Forkner about ways to encourage people to go into criminal defense, to go back to small communities and do criminal defense.

Commission staff is evaluating workloads. The Commission must be careful about imposing more stringent workloads, because combined with the attorney shortage it would be a “double-whammy” that could lead to closing the shop. Indiana is behind the curve, trying to catch up.

Consistent with the Commissions prior approval, Commission staff has requested that the Study Committee consider endorsing a preliminary draft of legislation to remove the Commission’s prohibition on misdemeanor reimbursement to be effective July 1, 2021, which coincides with the next budget cycle.

Mr. Mason informed the Commission that staff continue to meet with DCS to pursue the new federal reimbursement option for federal Title IV-E funding. The State Budget Agency has now approved DCS to pursue this option, and Commission staff is working with DCS staff to explore this option. Language contained within the HEA 1001 (2019) allows (but does not require) DCS to enter into a memorandum of understanding with the Commission and Public Defender Council for the “training, recruitment, and reimbursement” of public defenders. Todd Myer was a good advocate for the Commission, but he has left DCS. Since then the conversation has not progressed. This project is ongoing and any additional progress will be reported at the December meeting.

Mr. Cullen reported that Commission staff is working with Sen. Travis Holdman, among others, in an effort to find general fund augmentations to the Public Defense Fund. One such area is administrative fees, similar to what IDEM is using. Another area would be new fees required to be paid by the Department of Child Services in CHINS and TPR cases. Finally, an option would be to grant authority to the Commission to raise certain fees or redirect revenue from new sources to the PD

Fund. Mr. Cullen said that any drafts will be presented to the Commission at the December meeting for approval prior to filing.

9. Staff Reports

Mr. Mason reported that the Commission hired Andrew Falk as a new staff attorney.

Mr. Mason said that the Commission had multiple highly qualified candidates interview for the staff attorney position and Commission staff believes that Jennifer Schlegelmilch, from Lawrence County, would be very beneficial to the Commission. This is especially true as the Commission increases its presence in the participating counties, observes city and town courts, and travels to observe local PD board meetings and provide the non-attorney Public Defender Boards with trainings. Commission staff anticipate requesting to hire Jennifer, if she is interested, as the Commission's next staff attorney in the future.

Judge Hanlon observed that training the boards would indeed be helpful. Mr. Mason agreed and stated that Commission staff can train the boards on the aspects of an effective defense system.

Mr. Mason informed the Commission that a revised budget will be presented at the December or March meeting to adjust for a higher rental rate as part of the lease Larry Landis negotiated, for additional space on the fifth floor, and for IOT charges that increased beyond expectations.

Mr. Mason stated that Commission staff received only minimal public comment on the Commission's proposed compensation and caseload standards; this will be discussed further at the October Annual Training, scheduled for October 18, 2019, and staff will update the Commission at the December meeting.

Mr. Mason said that when staff report back on salary and caseload feedback, they anticipate reporting the results of the Commission's overhead survey as well, which currently places median overhead per attorney at over \$50,000 per year. When compensation is at \$30,000 and overhead is \$50,000, it is no surprise no one wants these jobs.

Mr. Mason anticipated having a workload study report presented at the December meeting or before the March meeting. The Delphi committee report is complete; the ABA still needs to include its portion. There have been problems with the data regarding existing caseloads provided by the Supreme Court.

The Council and Commission continue to work with their technical assistance grant providers to develop quality indicators in adult criminal cases. Both staffs' hope, while perhaps ambitious, is to have something to present and issue for public comment as early as the December meeting.

The Marion County Public Defender's Office has asked Mr. Mason to compose a letter to the MPCDO notifying them that they are out of compliance with compensation standards. Entry level prosecutors were given a \$5,000 raise in August that moves up with them as they are promoted. The Commission requires pay parity to prosecutors, but a similar raise has not been implemented on the public defense side. Mr. Mason will send a letter. If it remains an issue in December, the Commission can send a 90-day letter.

10. Other Matters

Ray Casanova raised an issue with the new forms. He observed that Marion County has its own rules, and he believes most of those rules can be accommodated under the new electronic reimbursement request forms. He said that there is one issue that the Commission may have to decide. He noted that Marion County requests 100% reimbursement for supervisors regardless of caseload because the supervisors are mentoring, training, and supervising the work of other public defenders. This reimbursement should not be an issue for felony supervisors but it may be an issue for misdemeanor supervisors. It is significant to the life of the agency because it promotes from within. The Chairman thanked Mr. Casanova for his comments.

Sen. Taylor moved to adjourn, there was a second, and the motion carried. The meeting was adjourned.

INDIANA PUBLIC DEFENDER COMMISSION

December 18, 2019

2:00 PM

**309 W. Washington, 5th Floor, Commission Conference Room
Indianapolis, Indiana 46204**

Members present:

Mark W. Rutherford, Chairman
Richard Bray
Bernice Corley
Hon. Kelsey B. Hanlon (by phone)
David J. Hensel
Rep. Ryan Lauer
Hon. Steven P. Meyer
Sen. Gregory G. Taylor
Hon. Mary Ellen Diekhoff (by phone)
Rep. Ryan Dvorak (by phone)
Sen. Eric Koch (by phone)

David Shircliff
Warren Mathias
Matt Elkin

Members absent:

None

Staff present:

Derrick Mason
Andrew Cullen (by phone)
Andrew Falk
Torrin Liddell
Jennifer Pinkston

Audience members:

James Abbs
Ray Casanova
Gretchen Etling
Bob Hill
Mark Clark
Mark Olivero
Lewis Ostermeyer
Neil Weisman
Alan Marshall
Amy Hutchison

Chairman Mark Rutherford called the meeting to order at 2:00 p.m. All present introduced themselves. There were no additions to the agenda.

1. Approval of Minutes

The Chairman inquired whether there were any changes to the Minutes of the September 25, 2019 Meeting. Hearing none, Ms. Corley moved to approve the Minutes. Mr. Bray seconded the motion. The motion carried unanimously.

2. Approval of Elkhart County Comprehensive Plan

Mr. Mason informed the Commission that the Elkhart County Public Defender Board will join the Commission on January 1, 2020. They have an office and a Chief Public Defender (Pete Todd). Support staff has been hired. The County still needs to increase the Chief's salary and hire one more person. Mr. Mason recommended that the Commission approve Elkhart's plan with the provision that the County be fully in compliance by July 1, 2020.

After discussion, Judge Meyer moved to approve the Elkhart plan with the provision that the County be fully in compliance, with a fully-funded Chief, on or before July 1, 2020. Ms. Corley seconded the motion. The motion carried unanimously.

3. Proposed 2020 Commission Meeting Dates

Mr. Mason listed the following proposed 2020 Commission Meeting Dates:

4Q19: March 18, 2020

1Q20: June 17, 2020

2Q20: September 23, 2020

3Q20: December 16, 2020

After brief discussion, Mr. Hensel moved to approve the meeting dates as proposed. Rep. Lauer seconded the motion. The motion carried unanimously.

4. Local Public Defender Board Appointments

Mr. Mason reminded the Commission that it had previously discussed how to make appointments to county public defender boards, including appointing a subcommittee to research and recommend appointments, which the Commission would approve at quarterly meetings. The challenge with this process is that counties are building boards while waiting to join and that in some cases, due to resignations or new appointments, county boards are suffering hardships because of the delay in

appointments. Three or four counties will need appointments in January. To resolve this issue, Mr. Mason proposed that after staff receive nominations, the Chair make interim appointments that the Commission can then ratify at the next meeting.

Mr. Bray moved to adopt Mr. Mason's proposal in situations where there is a consensus among county leaders regarding who should be appointed, but that where the appointment is contested, the appointment would wait for the next Commission meeting. Mr. Hensel seconded the motion. The motion carried unanimously.

The Commission next considered the nominations from the following twelve counties. Mr. Mason explained that press releases were distributed in all the counties and that four newspapers ran related stories and gave positive coverage. All twelve were consensus nominees.

<u>County</u>	<u>Nominee</u>
Brown	Michael O'Neil
DeKalb	Joe Dunn
Delaware	Ted Baker
Howard	Cartwright Ellis
Jackson	Joe Theole
Madison	Rick Walker
Miami	Bob Jones
Noble	Sam Arnold
Scott	Chris Garten
Steuben	Ronald Thomas
Vigo	Becky Buse
Warrick	Chad Groves

Sen. Taylor moved to approve all twelve nominees. Mr. Bray seconded the motion. The motion carried unanimously.

5. Review of Old & New Forms; Marion County Request

Mr. Mason stated that, as discussed at the Commission's June meeting, the Commission is preparing to use new forms for reimbursement requests. The new method standardizes the process and will ultimately make the process much more efficient for both the counties and the Commission staff.

The Commission staff provided training for the counties in October, and have set up new forms for about twenty counties. Initial feedback is that the new forms seem confusing at first but once set up are much easier to use.

Because Marion County has asked for two exceptions from the new form

requirements, Mr. Mason provided the Commission with an overview of both the old and the new forms.

A. Appeal Exception

Mr. Mason explained that Marion County has created its own rules to calculate non-reimbursable expenses and that those rules were provided in the materials to the Commission for discussion. Chief PD Bob Hill from Marion County then explained the County's two requests for exceptions from the new forms. First, Marion County asked that it continue to be reimbursed for all appeals, including appeals from misdemeanors.

The Commission in 2014 indicated that appeals from misdemeanor convictions would be considered misdemeanors and not be reimbursable. Because there was no way to track and identify whether an appeal was from a misdemeanor or a felony, however, in practice the Commission has historically reimbursed counties for all appeals. Under the new forms, however, it is possible to differentiate misdemeanor appeals.

Some Commission members agreed that appeals are a special case and all should be reimbursable. Other Commission members were concerned that the Commission should not overstep into a grey area and reimburse counties for expenses not authorized by law.

After deliberation, the Commission directed its staff to follow up with legislative staff to ensure that continuing to reimburse misdemeanor appeals would not pose any significant issue. The Commission tabled this topic for further consideration.

B. Misdemeanor Supervisor Reimbursement

Marion County further requested that attorneys that it designates as supervisors, even if they directly handle or exclusively supervise attorneys on misdemeanors, continue to be reimbursed up to the full 40% rate for their expenses. Marion County believes that, due to its promote-from-within policy, it is good practice to reimburse misdemeanor supervisors, or other supervisors that may directly handle a misdemeanor.

Mr. Mason noted that since Marion County's non-reimbursable methodology was implemented, their non-reimbursable amount has dropped from 28% of total expenses in 3Q2009 to just seven percent in 3Q2019. No other county asks for or is reimbursed for misdemeanor supervisors or supervisors that directly handle

misdemeanors.

The reimbursement attributable to misdemeanor supervisors is about three percent of Marion County's reimbursement. Most counties are seeing a 2-5% fluctuation in reimbursement with the more precise methodology in the new forms and the elimination of county's abilities to generate their own non-reimbursable rules.

The Commission staff recommended that 1) misdemeanor supervisors not be reimbursed one-hundred percent but instead be reimbursed based on the level of their misdemeanor to felony caseload ratio, the same as other attorneys and 2) that supervisors with no caseload account for how much of their work is dedicated to supervising non-reimbursable cases (just as Chief PDs have historically accounted for the amount of time spent supervising non-reimbursable cases).

Sen. Taylor stated that he wanted time to discuss and reflect on the matter. It was noted that a decision would not be required before March. This topic also was tabled.

6. Financial Status of Public Defense Fund

Mr. Mason provided the current status of the Fund, which is sufficient to pay the 3Q2019 reimbursement requests.

7. Requests for 50% Reimbursement in Capital Cases

Staff recommended reimbursement of \$74,576.16 for capital case reimbursement requests from three counties: Allen, Clark, and Marion.

INDIANA PUBLIC DEFENDER COMMISSION		
Reimbursement Requests in Capital Cases		
December 18, 2019		
COUNTY	DEFENDANT	TOTAL
Allen	Dansby	\$25,161.97
Clark	Oberhansley	\$39,103.48
Marion	Adams	\$227.50
Marion	Brown	\$10,083.21
TOTAL		\$74,576.16

Judge Meyer moved to approve the reimbursement, and Mr. Hensel seconded the motion. The motion carried unanimously.

8. Status of County Compliance with Non-Capital Caseloads

Mr. Mason noted that compliance has risen from 85% to 87%. Decatur County, after twelve quarters of noncompliance, is finally compliant. Six counties are out of

compliance but all are taking active steps to become fully compliant. In Madison County, after a pay parity analysis was completed last quarter, it was discovered the County had multiple attorneys out of compliance. The County is hiring new attorneys and reorganizing, decreasing their noncompliant attorneys from nine to four. While significant progress is being made, only time will reveal whether the County's plan is sufficient.

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

Chairman Rutherford stated that Madison was his only concern but that Mr. Mason explained that situation to his satisfaction. Mr. Mason noted that one reimbursement requested was slightly edited: Jefferson County's request was reduced by \$18,000 because one of their attorney's work was covered by a one-hundred percent grant and should not have been charged to the Commission.

INDIANA PUBLIC DEFENDER COMMISSION

Third Quarter 2019 Requests for Reimbursements in Non-Capital Cases 12/18/2019

COUNTY	Late Factor	2019 Period Covered	Total Expenditure	Adjustment For Non-Reimbrsbl	% of Adjstmt	Eligible Expenditure	40% Reimbursed
ADAMS	0.00	4/1-6/30	\$92,452.48	\$12,961.39	14%	\$79,491.09	\$ 31,796.44
ALLEN	0.00	4/1-6/30	\$1,332,748.77	\$96,934.46	7%	\$1,235,814.31	\$ 494,325.72
BENTON	0.00	4/1-6/30	\$22,094.60	\$3,899.05	18%	\$18,195.55	\$ 7,278.22
BLACKFORD	0.00	4/1-6/30	\$47,513.01	\$14,033.73	30%	\$33,479.28	\$ 13,391.71
BROWN	0.00	4/1-6/30	\$64,001.89	\$13,458.04	21%	\$50,543.85	\$ 20,217.54
CARROLL	0.00	4/1-6/30	\$69,786.90	\$19,636.59	28%	\$50,150.31	\$ 20,060.12
CASS	0.00	4/1-6/30	\$181,313.07	\$24,545.45	14%	\$156,767.62	\$ 62,707.05
CLARK	0.00	4/1-6/30	\$400,848.02	\$5,713.34	1%	\$395,134.68	\$ 158,053.87
CLINTON	0.00	4/1-6/30	\$106,599.88	\$24,227.65	23%	\$82,372.23	\$ 32,948.89
CRAWFORD	0.00	4/1-6/30			0%		
DECATUR	0.00	4/1-6/30	\$95,803.94	\$14,312.96	15%	\$81,490.98	\$ 32,596.39
DEKALB	0.00	4/1-6/30	\$185,095.67	\$16,214.84	9%	\$168,880.83	\$ 67,552.33
DELAWARE	0.00	4/1-6/30	\$346,044.10	\$12,782.39	4%	\$333,261.71	\$ 133,304.68
FAYETTE	0.00	4/1-6/30	\$97,785.77	\$10,274.10	11%	\$87,511.67	\$ 35,004.67
FLOYD	0.00	4/1-6/30	\$199,989.58	\$8,612.99	4%	\$191,376.59	\$ 76,550.64
FOUNTAIN	0.00	4/1-6/30	\$36,194.85	\$3,462.39	10%	\$32,732.46	\$ 13,092.98
FULTON	0.00	4/1-6/30	\$75,405.52	\$33,943.19	45%	\$41,462.33	\$ 16,584.93
GRANT	0.00	4/1-6/30	\$229,973.79	\$6,172.51	3%	\$223,801.28	\$ 89,520.51
GREENE	0.00	4/1-6/30	\$129,227.02	\$22,307.97	17%	\$106,919.05	\$ 42,767.62
HANCOCK	0.00	4/1-6/30	\$171,681.14	\$21,983.30	13%	\$149,697.84	\$ 59,879.14

HENDRICKS	0.00	4/1-6/30	\$457,276.31	\$88,707.51	19%	\$368,568.80	\$ 147,427.52
HENRY	0.00	4/1-6/30			0%		
HOWARD*	0.00	4/1-6/30	\$479,580.04	\$28,269.22	6%	\$451,310.82	\$ 180,445.01
JACKSON	0.00	4/1-6/30	\$206,517.93	\$11,062.95	5%	\$195,454.98	\$ 78,181.99
JASPER	0.00	4/1-6/30	\$94,337.91	\$23,467.23	25%	\$70,870.68	\$ 28,348.27
JAY	0.00	4/1-6/30	\$115,224.86	\$8,979.16	8%	\$106,245.70	\$ 42,498.28
JEFFERSON**	0.00	4/1-6/30	\$172,982.88	\$39,686.35	23%	\$133,296.53	\$ 35,318.61
JENNINGS	0.00	4/1-6/30	\$115,489.43	\$15,176.77	13%	\$100,312.66	\$ 40,125.06
KNOX	0.00	4/1-6/30	\$223,834.40	\$40,560.94	18%	\$183,273.46	\$ 73,309.38
KOSCIUSKO	0.00	4/1-6/30	\$190,708.26	\$16,874.02	9%	\$173,834.24	\$ 69,533.70
LAGRANGE	0.00	4/1-6/30	\$59,557.00	\$11,580.43	19%	\$47,976.57	\$ 19,190.63
LAKE	0.00	4/1-6/30	\$1,288,601.98	\$24,721.38	2%	\$1,263,880.60	\$ 505,552.24
LAPORTE	0.00	4/1-6/30	\$258,403.83	\$23,421.59	9%	\$234,982.24	\$ 93,992.90
LAWRENCE	0.00	4/1-6/30	\$210,673.14	\$17,716.62	8%	\$192,956.52	\$ 77,182.61
MADISON	0.00	4/1-6/30	\$461,801.32	\$13,015.70	3%	\$448,785.62	\$ 179,514.25
MARION	0.00	4/1-6/30	\$5,203,781.31	\$350,118.47	7%	\$4,853,662.84	\$ 1,941,465.14
MARTIN	0.00	4/1-6/30	\$65,760.64	\$21,828.31	33%	\$43,932.33	\$ 17,572.93
MIAMI	0.00	4/1-6/30	\$206,711.72	\$18,846.10	9%	\$187,865.62	\$ 75,146.25
MONROE	0.00	4/1-6/30	\$612,458.25	\$101,501.84	17%	\$510,956.41	\$ 204,382.56
MONTGOMERY	0.00	4/1-6/30			0%		
NOBLE	0.00	4/1-6/30	\$239,627.74	\$41,632.73	17%	\$197,995.01	\$ 79,198.00
OHIO	0.00	4/1-6/30	\$33,087.75	\$5,631.47	17%	\$27,456.28	\$ 10,982.51
ORANGE	0.00	4/1-6/30	\$133,286.75	\$11,465.53	9%	\$121,821.22	\$ 48,728.49
OWEN	0.00	4/1-6/30	\$72,076.55	\$13,264.90	18%	\$58,811.65	\$ 23,524.66
PARKE	0.00	4/1-6/30	\$45,932.66	\$12,478.82	27%	\$33,453.84	\$ 13,381.54
PERRY	0.00	4/1-6/30	\$98,928.70	\$16,819.23	17%	\$82,109.47	\$ 32,843.79
PIKE	0.00	4/1-6/30	\$61,729.90	\$2,266.80	4%	\$59,463.10	\$ 23,785.24
PULASKI	0.00	4/1-6/30	\$108,951.83	\$27,733.40	25%	\$81,218.43	\$ 32,487.37
RIPLEY	0.00	4/1-6/30	\$67,240.28	\$8,853.02	13%	\$58,387.26	\$ 23,354.91
RUSH	0.00	4/1-6/30	\$139,357.14	\$19,020.78	14%	\$120,336.36	\$ 48,134.54
SAINT JOSEPH	0.00	4/1-6/30	\$611,923.23	\$63,289.69	10%	\$548,633.54	\$ 219,453.42
SCOTT	0.00	4/1-6/30	\$138,006.71	\$13,966.47	10%	\$124,040.24	\$ 49,616.09
SHELBY	0.00	4/1-6/30	\$150,311.07	\$24,292.64	16%	\$126,018.43	\$ 50,407.37
SPENCER	0.00	4/1-6/30	\$78,210.47	\$8,212.08	10%	\$69,998.39	\$ 27,999.36
STEUBEN	0.00	4/1-6/30	\$121,973.00	\$22,431.68	18%	\$99,541.32	\$ 39,816.53
SULLIVAN	0.00	4/1-6/30			#DIV/0!	\$0.00	\$ -
SWITZERLAND	0.00	4/1-6/30	\$49,078.06	\$5,608.34	11%	\$43,469.72	\$ 17,387.89
TIPPECANOE	0.00	4/1-6/30	\$989,365.01	\$237,964.92	24%	\$751,400.09	\$ 300,560.04
UNION	0.00	4/1-6/30	\$21,510.39	\$2,977.78	14%	\$18,532.61	\$ 7,413.04

VANDERBURGH	0.00	4/1-6/30	\$828,412.71	\$49,129.88	6%	\$779,282.83	\$ 311,713.13
VERMILLION	0.00	4/1-6/30	\$54,682.05	\$16,353.18	30%	\$38,328.87	\$ 15,331.55
VIGO	0.00	4/1-6/30	\$629,876.24	\$76,990.19	12%	\$552,886.05	\$ 221,154.42
WABASH	0.00	4/1-6/30	\$90,212.40	\$12,289.91	14%	\$77,922.49	\$ 31,169.00
WARREN	0.00	4/1-6/30	\$13,487.70	\$1,813.50	13%	\$11,674.20	\$ 4,669.68
WASHINGTON	0.00	4/1-6/30	\$176,852.24	\$10,207.14	6%	\$166,645.10	\$ 66,658.04
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			\$19,262,381.79	\$1,925,705.01		\$17,336,676.78	\$ 6,916,591.39

*\$79.32 withheld from Howard County for overpayment in Q2; **\$18,000 withheld from Jefferson for overpayment of grant-funded salary 1Q18 - 2Q19

Mr. Hensel moved to approve the reimbursement as recommended by the Commission staff. Ms. Corley seconded the motion. The motion carried unanimously.

10. Legislative Update

Mr. Mason reported that Vigo County Chief PD Gretchen Etling has talked with Sen. Jon Ford, who has agreed to sponsor the misdemeanor reimbursement bill. While this legislation is unlikely to pass this session, having it filed offers Commission staff the opportunity to discuss it with legislators.

Also of note, it is anticipated that legislation will be introduced to merge the functions of the Justice Reinvestment Advisory Committee with the Evidence-Based Decision Making Policy Team during the upcoming session. Rep. Greg Steuerwald has agreed to include “The Commission Chair or the Chair’s Designee” as a member of the new governing board.

Judge Meyer moved to approve the legislative agenda, and Sen. Taylor seconded the motion. The motion carried unanimously.

Mr. Mason further informed the Commission that Commission staff continue to work with DCS to explore the relatively-new option to seek reimbursement for expenses related to certain CHINS/TPR defense costs. Although progress has been slow, a meeting was held on 12/11 with the DCS Director, Chairman Rutherford, and various staff members. The Commission staff are hopeful that the process of

receiving this reimbursement will occur soon.

11. Public Defense Overhead Survey Cost: Update

Mr. Liddell provided highlights of the Overhead Survey report that he prepared (contained at Tab 11 of the prepared materials). The Chair commended Mr. Liddell and the Commission staff for their good work on the Overhead Survey. Mr. Mason added that the Commission staff is working on a publishable article to be presented to the Commission in the future.

It was moved and seconded that the meeting be adjourned. The motion carried unanimously.