

INDIANA PUBLIC DEFENDER COMMISSION

March 23, 2022

2:00 PM

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

Members in attendance:

Mark W. Rutherford, Chair (in person)
Ms. Bernice Corley (remote)
Ms. Samantha DeWester (in person)
Hon. Mary Ellen Diekhoff (remote)
Hon. Kelsey B. Hanlon (remote)
Rep. Ragen Hatcher (remote)¹
Sen. Eric Koch (remote)
Rep. Ryan Lauer (in person)
Hon. Steven P. Meyer (in person)
Sen. Gregory G. Taylor (remote)

Audience members (all remote):

Jim Abbs, Noble County Chief Public
Defender and President, Chiefs
Association
Valerie Boots, Supervisor, Appellate
Division, Marion County
Ray Casanova, Marion County Public
Defender Agency
Gretchen Etling, Vigo County Chief
Public Defender

Members absent:

Mr. David J. Hensel

Staff in attendance:

Derrick Mason (in person)
Andrew Cullen (in person)
Paula Diaz (in person)
Andrew Falk (remote)
Stephanie Lalani (remote)
Torrin Liddell (remote)
Jennifer Pinkston (remote)
Jennifer Shircliff (remote)

¹ Rep. Hatcher was in attendance for the executive session but not the general meeting.

At two o'clock, Chair Mark Rutherford called the meeting to order and introduced new Commission member Samantha DeWester. The Commission members then went directly into executive session.

At 3:08, the Chair called the public portion of the meeting to order. The Chair announced that regarding Agenda Item No. 1, "Executive Session: Take any Formal Action," the Commission would defer any action as a result of the Executive Session until Agenda Item No. 6.

The Chair asked the Commission members and the public to introduce themselves. Due to a momentary lack of quorum, the Chair elected to take certain agenda items out of order.

5. Financial Status of Public Defense Fund

Mr. Mason provided the status of the Public Defense Fund, which was sufficient to pay all requests from 4Q2021.

11. Local Public Defender Board Appointments

Mr. Cullen informed the Commission that there were no appointments to be made this quarter. The Commission has made appointments to every eligible board. An interim appointment may need to be made to a multi-county board.

12. Legislative & Policy Updates

Mr. Cullen reminded the Commission that Sen. Sue Glick authored a bill that would, in this non-budget year, have authorized the Commission to reimburse counties for misdemeanor cases during the next budget cycle. The House Committee on Courts and Criminal Code has twice approved similar language. This year, the bill passed out of the Senate Corrections and Criminal Law Committee on a 5-4 vote. Although Commission staff had hoped the bill would be considered fiscally neutral, it was not. The bill did not receive a hearing in the Senate Appropriations Committee, due to a general stance not to approve any bills that would could impact the state budget.

Mr. Cullen further noted two other issues of interest that may have an impact on the Public Defense Fund going forward: (1) proposed legislation that would allow the appointment of counsel for children in CHINS and TPR cases, and (2) a bill that would allow appointment of counsel for kinship care providers in some cases. Commission staff have not taken a position on these bills but have monitored and talked to the advocates for these bills. The biggest concern expressed by some stakeholders was that this legislation could increase the attorney shortage the state is already facing.

In the materials presented to Commission members (and copied below), Mr. Cullen listed several areas that the Commission could choose to advance in the 2023 legislative session, including some recommended in the 2018 report by the Indiana Task Force on Public Defense. He asked Commission members for feedback between this meeting and the June meeting regarding which the Commission should prioritize.

Possible 2023 Legislative Goals:

- The 3 issues that were included in SB 308 (Staff has begun the process of putting together a working group of all the lawyers in the legislature to educate them on this issue prior to the 2023 session)
- Request a name change for the Commission to better reflect its duties and to separate it from the other two state PD agencies (Public Defender Council & State Public Defender)
- Increasing the reimbursement percentage for non-capital cases higher than 40%
- The creation of a centralized state appellate office
- Statewide mandatory Commission participation (we currently have 67 of 92 counties)
- State paid salaries for Chief PDs and Chief Deputies (similar to prosecutors)
- Supporting a state-run Public Defender Retirement Fund (similar to HB 1078)
- Supporting the expansion of the right to counsel for children in CHINS/TPR cases
- Strategies to impact the lawyer shortage
 - Student loan reimbursement for public sector legal service
 - Tuition assistance

Judge Meyer inquired about the reason for the opposition to the Commission's proposed misdemeanor legislation. Mr. Cullen answered that one of the articulated concerns was that it was "the largest expansion of the state government in this legislative session" and that it would "kill the private defense bar." The Task Force on Public Defense had suggested involving more private defense bar attorneys, but particularly in places such as Marion County, the trend is to become more centralized. Commission staff recognize that the attorneys in the Senate need to be better educated on these issues, so Mr. Cullen plans to schedule meetings with the attorneys in the Senate over the summer. Mr. Cullen anticipates discussing the nature and benefits of participation in the Public Defender Commission and the fiscal benefits of misdemeanor funding. Commission staff will also work to help legislators understand that as a constitutional issue, the state is ultimately responsible to provide for public defense. Senator Taylor recommended that county officials, who have strong relationships with members of the General Assembly, be recruited to approach their legislators to ask for misdemeanor funding. Judge Hanlon and Ms. Corley agreed that local officials need to become more involved in requesting that the General Assembly reimburse misdemeanor expenses.

2. Approval of Minutes of the December 15, 2022, Meeting

The Chair inquired whether there were any corrections or changes to the meeting minutes from December 15, 2021. There were none. Ms. Corley moved to approve the minutes. Rep. Lauer seconded the motion. The roll was called and the motion was approved unanimously.

3. Approval of Amended Comprehensive Plan: Hancock County

Mr. Mason noted that the Hancock County amended comprehensive plan incorporated the changes to Standard E with regard to the Juvenile Delinquency education and training requirements. It also established an office. The amended plan provided for a transition from solely hourly pay to the hiring of a full-time chief public defender and at least one salary public defender, with such other contract and

hourly attorneys as necessary. Mr. Mason recommended approval of the amended plan. Judge Meyer moved to approve the amended comprehensive plan. Judge Diekhoff seconded the motion. The roll was called, and the motion was approved unanimously.

4. Approval of Amended Comprehensive Plan: Washington County

Mr. Mason noted that Washington County was transitioning from contract attorneys to salaried attorneys. They also updated their JD education standards. There were no questions, concerns, or discussion. Judge Hanlon moved to approve the plan. Judge Meyer seconded the motion. The roll was called, and the motion was approved unanimously.

6. Adjustment of FY 22 Internal Budget for Employee Salary Adjustments

Judge Diekhoff moved to change Mr. Mason’s title from “Director and Chief Counsel” to “Executive Director.” Judge Hanlon seconded the motion. There was no discussion. The roll was called:

Judge Hanlon – yes

Judge Meyer – yes

Judge Diekhoff – yes

Sen. Taylor – yes

Rep. Lauer – yes

Ms. Corley – no

Ms. DeWester – yes

Sen. Koch – “with the understanding that that won’t require statutory approval, yes”

The motion carried, 7-1.

Judge Diekhoff moved to adjust Mr. Mason’s salary to \$159,950.18 such that it would be commensurate with the executive director of IPAC and other agencies, and that going forward it would be in parity with full time chief public defenders in Commission counties. Judge Meyer seconded the motion. There was no discussion.

The roll was called:

Judge Hanlon – yes

Judge Meyer – yes

Judge Diekhoff – yes

Sen. Taylor – yes

Rep. Lauer – yes

Ms. Corley – yes

Ms. DeWester – yes

Sen. Koch – “with the understanding that this brings parity to similar positions of agencies with similar size, scope, and responsibility, yes”

The motion carried, 8-0.

Judge Meyer moved to increase staff salaries by a flat increase of \$1,300 to the base salary, plus 2.5%, effective January 19, 2022, which was the same salary adjustment as every other executive branch employee. Judge Hanlon seconded the motion. The roll was called, and the motion was approved unanimously.

7. Status of County Compliance

Mr. Mason informed the Commission that county caseload compliance was good (at a rate of 93%). He brought the following issues to the Commission’s attention. Blackford and Grant have a multicounty attorney out of compliance. This was the first quarter out of compliance. The attorney has notified Blackford County that he can no longer accept cases from them, so the issue should resolve soon.

Cass County had an attorney out of compliance; Mr. Mason was attempting to obtain additional information, as preliminary statements suggest the problem could be resolved in 1Q2022.

Clark and Washington also had a multicounty attorney compliance issue. This is the first quarter this issue has arisen. The attorney will likely be in compliance in 1Q2022.

Jackson County was out of compliance for the third quarter in a row. This quarter, the attorney out of compliance was further out of compliance, and a second attorney was also out of compliance. The Jackson County chief thinks that raising the compensation and the FTE of the attorneys would be helpful and was requesting a 90-day letter to assist with that request.

Scott County looked similar, with an increase in out of compliance attorneys, but they had a plan in place commencing January 1, 2022, so hopefully that plan will resolve their issues.

In Warrick and Washington counties, all the attorneys were in quarterly compliance, and the counties expect to come into compliance moving forward, particularly with the amended comprehensive plan the Commission just approved for Washington County.

Mr. Mason stated that he would recommend approval for all the counties' reimbursement requests and that a 90-day letter be sent to Jackson County for the reasons stated above.

8. Requests for Reimbursement:

a. 50% Reimbursement in Death Penalty Cases

Mr. Mason noted that for about one year, there had been no death penalty cases. Commission staff were beginning to see them again, and one was just filed in Perry County. Marion County requested reimbursement for one case, for which staff recommend approval. Clinton County also requested reimbursement for a case, for which Mr. Mason recommended partial approval, conditioned on a reduction for expenses incurred before a second attorney was appointed, as required by Commission rules. There was no discussion or questions. Judge Meyer moved to approve the death penalty reimbursements in the amount of \$31,856.67. Judge Hanlon seconded the motion. The roll was called, and the motion was approved unanimously.

**Reimbursement Requests in Capital Cases
March 23, 2022**

COUNTY	DEFENDANT	TOTAL
Clinton	Ferrell	\$25,917.75
Marion	Dorsey	\$5,938.92
TOTAL		\$31,856.67

b. 40% Reimbursement in Non-Capital Cases

Mr. Mason informed the Commission that the recommended reimbursement was the largest ever made: \$8,247,288.57. The recommended reimbursement includes three adjustments:

- Hancock County requested \$8,521.59 because the county had failed to request supplemental funds for which they were eligible for the last four quarters;
- Howard County's request was reduced by \$65,424.79 because, for the first two quarters of 2021, the county incorrectly included employee (not the county's) withholdings in their requests; and
- Steuben County's request was reduced by \$858.02, also due to benefit issues (see table at end of these Minutes).

Judge Meyer asked if Mr. Mason thought the higher total amount would be a trend going forward. Mr. Mason said he expected it would, particularly as county budgets rise in the first quarter of 2022 and as the Commission and counties continue to feel the effect of inflation, the ongoing attorney shortage, and pay parity requirements. The Commission will need to discuss its budget request for 2023 at its June meeting, and it will likely need to increase its request, but the Commission will not likely need to pro-rate this or the next fiscal year.

Judge Diekhoff moved to approve the reimbursement requests and a 90-day letter to Jackson County. Ms. Corley seconded the motion. The roll was called, and the motion was approved unanimously.

9. Reimbursement Request Form Update & Approve Roll-Out Timeline

Mr. Mason noted that the Commission is always asked to approved changes staff have recommended to the reimbursement request forms. When the Commission approved caseload changes in December, the Commission urged staff to help prepare the counties for the changes. Thus, this year the staff made changes to the forms and were planning training in May. The significant changes include: adding attorney numbers to make it easier to check attorney compliance; including full yearly salary; and gathering data pursuant to the 2024 standards. New columns will also show each attorney's caseload compliance under 2024 standards so counties can plan for

caseload compliance. Mr. Mason requested that the Commission approve the use of the new forms to be mandatory January 1, 2023, and that the forms would be rolled out over the next three quarters.

Sen. Taylor moved to approve the forms, the three-quarter rollout, and the January 1, 2023, deadline to begin using them for submission of reimbursement request. Judge Hanlon seconded the motion. Judge Meyer commended Mr. Mason and the staff for their work on the new forms. The roll was called, and the motion was approved unanimously.

10. Guideline to Standard F: Judicial Clerkships & “Criminal Litigation Experience”

Mr. Mason stated that historically some roles (such as certified interns or judicial officers) do not qualify as experience to handle certain levels of felonies. Presently, Marion County has attorneys with clerkship experience who want to count their judicial clerkship experience as “criminal litigation” experience for purposes of Guideline F. Having considered the issue, staff recommended that appellate clerkships be given credit for criminal experience in Guideline F.

Some Commission members expressed concern that the skills are different and wondered whether the appellate training would still be required. Mr. Mason affirmed that the six-hour appellate course would still be mandatory. Judge Meyer and Judge Hanlon suggested that the word “relevant” be added to the proposed language of Guideline F. Ms. Corley moved to accept the staff recommendation to amend the Guidelines for Standard F to provide that appellate-level judicial clerkship experience does count toward the years of required criminal litigation experience in criminal litigation. Judge Hanlon seconded the motion. Adding the word “relevant” was accepted as a friendly amendment. The roll was called, and the motion was approved unanimously.

Before moving to the next agenda item, the Chair expressed his own and the condolences of the whole Commission for the passing of Sen. Taylor’s father.

The Chair further recognized the former Senator Richard Bray's invaluable service to the Commission in creating it as a legislator and his subsequent long service as a member. He has now retired. The Chair stated that he and the Commission staff had requested that the Governor award Mr. Bray a Sagamore of the Wabash for his service to the Commission, among other things. Mr. Cullen noted that he had put in a request to the Governor's Deputy Chief of Staff requesting that Mr. Bray receive the Sagamore of the Wabash, but that Mr. Cullen had not heard back. He said he would welcome any Commission members who wanted to add their names to that request.

13. At-Risk Youth and Family Update

Mr. Mason noted that this topic was covered in the meeting materials, and he had nothing to add.

14. Staff Update

Mr. Mason reported that Commission staff are working with the Public Defender Council to review the Standards and are working internally to review the Commentary. At the June meeting, staff will present suggested legislative priorities. Mr. Mason will work with the Chair to draft a proposed budget over the summer. Now that staff have completed trainings for nearly all the county PD boards, staff will begin doing court observations for initial hearings and considering how they are working, what barriers there are, how they could be better, and what changes, if any, staff would recommend. The Commission wants to make sure that counsel is being neither under-appointed nor over-appointed. Finally, if any of the Commission judges or other members have any recommendations for Bench Book recommendations, Mr. Mason would appreciate receiving those.

15. Other Matters

Judge Meyer moved to adjourn. There were no objections. The meeting was adjourned at approximately 4:18 p.m.

INDIANA PUBLIC DEFENDER COMMISSION

June 15, 2022

2:00 PM

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

Members in attendance:

Mark W. Rutherford, Chair (in person)
Ms. Bernice Corley (in person)
Ms. Samantha DeWester (in person)
Hon. Kelsey B. Hanlon (remote)
Mr. David J. Hensel (remote)
Sen. Eric Koch (remote)
Rep. Ryan Lauer (in person)

Members absent:

Hon. Mary Ellen Diekhoff
Rep. Ragen Hatcher
Hon. Steven P. Meyer
Sen. Gregory G. Taylor

Staff in attendance:

Derrick Mason (in person)
Andrew Cullen (in person)
Paula Diaz (remote)
Andrew Falk (remote)
Stephanie Lalani (remote)
Torrin Liddell (remote)
Jennifer Pinkston (remote)

Audience members (all remotely):

Jim Abbs, Noble County Chief Public
Defender and President, Chiefs
Association
Ray Casanova, Marion County Public
Defender Agency
Gretchen Etling, Vigo County Chief
Public Defender
Amy Karazos, State Public Defender
Alan Marshall, Jackson County Chief
Public Defender
Michael Slagle, Chief, West Central
Indiana Public Defender Office

At 2:12 p.m., Chair Mark Rutherford called the meeting to order. Due to quorum issues, the Chair elected to address items in an order different from the posted agenda.

1. 90-Day Letter Response: Jackson County

Mr. Mason reminded the Commission that at the March meeting, the Commission authorized a 90-day letter to Jackson County, at the request of the Chief. Since receiving the letter, the County Council has authorized converting four .25 FTE contractors to .5 FTE beginning July 1, 2022, through the end of the year. Mr. Mason recommended full reimbursement with continued monitoring of the status of the county's 2023 budget.

There were no objections to this recommendation.

2. Status of County Compliance

Mr. Mason provided an overview of counties with compliance issues. Commission staff are reviewing assignments to attorneys who have received assignments in multiple counties. Many of the appointments are through the State Public Defender office, but Commission staff are not certain that they have received notice of all the appointments. Staff is working with all parties to remedy this matter.

Another compliance issue, not included in the materials, arose in Steuben County, which for about the last year has been assigning major felony cases to an attorney who is not qualified to receive these types of cases. Commission staff have repeatedly notified the county of the problem, and it has hurt the county's reimbursement (i.e., the county is not reimbursed for the major felonies assigned to the attorney). Mr. Mason recommended sending a 90-day letter to Steuben County requesting the county provide an explanation of the plan to remedy this compliance issue.

Rep. Lauer inquired what it meant that the attorney was not qualified to receive this type of case assignment. Mr. Mason responded that the attorney lacks the qualification due to length of experience and/or the number of jury trials in which the attorney has participated. Ms. DeWester pointed out that unqualified attorneys on cases often lead to appeals based on claims of ineffective assistance of counsel, which ultimately costs the county and state more to manage the case.

There were no objections to sending a 90-day letter to Steuben County regarding this attorney noncompliance issue. The recommendation to send the letter was approved.

3. Requests for Reimbursement:

a. 50% Reimbursement in Death Penalty Cases

Marion and Clinton Counties requested reimbursement for capital cases (see table below). Both counties were in full compliance, so Mr. Mason recommended reimbursement for both counties without reductions. There were no questions, comments, or objections. The reimbursement requests were approved.

Reimbursement Requests in Capital Cases June 15, 2022		
COUNTY	DEFENDANT	TOTAL
Clinton	Ferrell	\$30,281.35
Marion	Dorsey	\$1,019.18
TOTAL		\$31,300.53

b. 40% Reimbursement in Non-Capital Cases

Mr. Mason reported that the total reimbursement request for the first quarter of 2022 is \$7,732,474.96 (see table below). All Commission counties are receiving reimbursements. The reimbursement is reduced by \$2,196.40 due to a desk audit of Elkhart County, which double-billed for one attorney. Mr. Mason recommended reimbursement. There were no questions, comments, or objections. The reimbursement requests were approved.

First Quarter 2022 Requests for Reimbursements in Non-Capital Cases

6/15/2022

County	Total Expenditure	Non-reimbursable Adjustment	% Adjusted	Eligible Expenditure	Adjustments	40% Reimbursed
Adams	\$110,872.18	\$22,431.49	20.23%	\$88,440.69		\$35,376.28
Allen	\$1,193,001.09	\$86,539.15	7.25%	\$1,106,461.94		\$442,584.78
Benton	\$33,148.60	\$7,170.13	21.63%	\$25,978.47		\$10,391.39
Blackford	\$51,743.75	\$4,316.42	8.34%	\$47,427.33		\$18,970.93
Brown	\$38,504.08	\$12,585.78	32.69%	\$25,918.30		\$10,367.32
Carroll	\$78,142.78	\$9,332.40	11.94%	\$68,810.38		\$27,524.15
Cass	\$194,088.50	\$25,867.69	13.33%	\$168,220.81		\$67,288.32
Clark	\$437,345.15	\$30,106.09	6.88%	\$407,239.06		\$162,895.62
Clinton	\$64,813.99	\$14,384.64	22.19%	\$50,429.35		\$20,171.74
Crawford	\$46,772.06	\$7,746.33	16.56%	\$39,025.73		\$15,610.29
Decatur	\$114,057.75	\$24,082.41	21.11%	\$89,975.34		\$35,990.14
DeKalb	\$205,193.21	\$18,893.02	9.21%	\$186,300.19		\$74,520.08
Delaware	\$367,465.33	\$580.37	0.16%	\$366,884.96		\$146,753.99
Elkhart	\$819,574.96	\$107,252.32	13.09%	\$712,322.64	-\$2,196.40	\$282,732.66
Fayette	\$89,661.87	\$12,202.03	13.61%	\$77,459.84		\$30,983.94
Floyd	\$231,726.69	\$10,913.47	4.71%	\$220,813.22		\$88,325.29
Fountain	\$32,609.97	\$5,499.55	16.86%	\$27,110.42		\$10,844.17
Fulton	\$97,521.50	\$28,897.40	29.63%	\$68,624.10		\$27,449.64
Gibson	\$157,546.79	\$23,120.39	14.68%	\$134,426.40		\$53,770.56
Grant	\$296,398.04	\$1,694.25	0.57%	\$294,703.79		\$117,881.52
Greene	\$141,846.02	\$25,414.30	17.92%	\$116,431.72		\$46,572.69
Hancock	\$170,312.47	\$7,356.05	4.32%	\$162,956.42		\$65,182.57
Harrison	\$166,654.39	\$17,198.36	10.32%	\$149,456.03		\$59,782.41
Hendricks	\$485,095.14	\$95,012.73	19.59%	\$390,082.41		\$156,032.96
Howard	\$481,507.75	\$40,496.71	8.41%	\$441,011.04		\$176,404.42
Jackson	\$206,718.51	\$5,543.97	2.68%	\$201,174.54		\$80,469.82
Jasper	\$99,057.54	\$32,043.74	32.35%	\$67,013.80		\$26,805.52
Jay	\$107,559.52	\$26,760.17	24.88%	\$80,799.35		\$32,319.74
Jefferson	\$206,618.70	\$23,022.78	11.14%	\$183,595.92		\$73,438.37
Jennings	\$124,753.19	\$12,542.98	10.05%	\$112,210.21		\$44,884.08
Knox	\$215,551.86	\$30,146.94	13.99%	\$185,404.92		\$74,161.97
Kosciusko	\$249,307.16	\$77,675.52	31.16%	\$171,631.64		\$68,652.66
LaGrange	\$59,206.57	\$10,107.18	17.07%	\$49,099.39		\$19,639.76
Lake	\$1,494,693.71	\$9,544.15	0.64%	\$1,485,149.56		\$594,059.82

LaPorte	\$272,700.79	\$20,469.75	7.51%	\$252,231.04	\$100,892.42
Lawrence	\$254,341.39	\$39,745.22	15.63%	\$214,596.17	\$85,838.47
Madison	\$510,476.10	\$9,202.92	1.80%	\$501,273.18	\$200,509.27
Marion	\$5,850,010.23	\$597,073.89	10.21%	\$5,252,936.34	\$2,101,174.54
Martin	\$58,081.14	\$17,157.89	29.54%	\$40,923.25	\$16,369.30
Miami	\$195,564.05	\$36,760.49	18.80%	\$158,803.56	\$63,521.42
Monroe	\$595,662.04	\$114,099.33	19.16%	\$481,562.71	\$192,625.09
Noble	\$249,472.30	\$48,957.11	19.62%	\$200,515.19	\$80,206.07
Ohio	\$19,572.99	\$2,708.20	13.84%	\$16,864.79	\$6,745.91
Orange	\$80,848.46	\$13,783.52	17.05%	\$67,064.94	\$26,825.98
Owen	\$86,948.38	\$20,767.44	23.88%	\$66,180.94	\$26,472.38
Parke	\$58,021.62	\$13,267.02	22.87%	\$44,754.60	\$17,901.84
Perry	\$37,045.71	\$3,690.11	9.96%	\$33,355.60	\$13,342.24
Pike	\$36,299.26	\$256.79	0.71%	\$36,042.47	\$14,416.99
Pulaski	\$77,825.70	\$19,440.09	24.98%	\$58,385.61	\$23,354.24
Ripley	\$56,655.56	\$7,514.54	13.26%	\$49,141.02	\$19,656.41
Rush	\$93,956.08	\$10,759.58	11.45%	\$33,278.60	\$33,278.60
Scott	\$106,901.17	\$9,586.58	8.97%	\$97,314.59	\$38,925.84
Shelby	\$130,642.15	\$14,496.42	11.10%	\$116,145.73	\$46,458.29
Spencer	\$108,813.45	\$13,706.80	12.60%	\$95,106.65	\$38,042.66
Steuben	\$110,975.05	\$37,369.10	33.67%	\$73,605.95	\$29,442.38
St. Joseph	\$673,428.05	\$69,935.70	10.39%	\$603,492.35	\$241,396.94
Sullivan	\$64,852.85	\$16,963.70	26.16%	\$47,889.15	\$19,155.66
Switzerland	\$47,074.05	\$4,330.83	9.20%	\$42,743.22	\$17,097.29
Tippecanoe	\$1,001,322.78	\$134,064.07	13.39%	\$346,903.48	\$346,903.48
Union	\$28,021.50	\$9,555.00	34.10%	\$18,466.50	\$7,386.60
Vanderburgh	\$787,385.80	\$54,414.29	6.91%	\$732,971.52	\$293,188.61
Vermillion	\$65,256.25	\$21,005.81	32.19%	\$17,700.17	\$17,700.17
Vigo	\$788,390.77	\$133,614.05	16.95%	\$654,776.72	\$261,910.69
Wabash	\$127,919.80	\$19,312.13	15.10%	\$108,607.67	\$43,443.07
Warren	\$6,754.00	\$2,236.00	33.11%	\$4,518.00	\$1,807.20
Warrick	\$139,126.24	\$10,446.42	7.51%	\$128,679.82	\$51,471.93
Washington	\$165,676.17	\$25,242.72	15.24%	\$140,433.45	\$56,173.38
Totals	\$21,755,092.70	\$2,418,414.42	\$10.36	\$18,739,854.89	-\$2,196.40 \$7,732,474.96

4. Approval of Amended Comprehensive Plan: Madison County

Mr. Mason introduced the Madison County Amended Comprehensive Plan, which makes two primary changes: (a) it ties its hourly rate to the Commission's hourly rate automatically and (b) it amends the amount of expenses the Chief Public Defender can approve. In reviewing the plan, Commission staff found scriveners'

errors that need to be corrected as well as updated language that needs to be added to comply with the Commission's Standard E juvenile delinquency qualifications. Mr. Mason requested approval of the plan, assuming the county accepts the Commission's changes.

Ms. Corley inquired whether the Commission needed to adopt the plan immediately. Mr. Mason explained that normally, the answer would be no. The county has adopted this plan, however, and technically the revised plan must be approved by the Commission prior to reimbursement. Ms. Corley asked whether Mr. Mason anticipated any objections from the county to the requested Commission staff changes to the plan. He responded that he does not expect any pushback, but if there were, he would indicate that approval is based on addressing the scrivener's errors and updating the juvenile standard language.

Judge Hanlon moved to approve the amended Madison County Comprehensive Plan, subject to addition of the juvenile delinquency qualification language and correction of the scrivener's errors. Ms. DeWester seconded the motion. There were no questions, comments, or objections. The motion carried and the plan was approved.

5. Standard G Guideline Amendment

Mr. Mason informed the Commission that every year, after elected prosecutor and deputy prosecutor salaries are adjusted, the Commission votes to give the counties until January 1 of the following year to adopt an identical adjustment. He recommended that the Commission approve an amendment to the non-capital Guideline to Standard G providing that the counties must adjust the salaries of their chief and chief deputy public defender every year by January 1 of the following year.

The following language was proposed:

To better align with county budget cycles, when salaries are adjusted for county elected prosecutors and chief deputy prosecutors, the identical adjustments required by Standard G for Chief and Chief Deputy Public

Defenders must be implemented no later than January 1 of the following year.

Ms. Corley moved to adopt the proposed amendment. Ms. DeWester seconded the motion. There were no questions, comments, or objections. The motion carried.

The Chair requested that Mr. Mason send the language of the new guideline to the full Commission.

6. Standard H: Hourly Rate

Commission staff have been participating in an ad hoc group with the Public Defender Council considering revisions to the Commission's standards. One of the changes discussed has been an adjustment to the Commission's rate for hourly attorneys. Jim Abbs, as President of the Chiefs Association, wrote a letter to the Commission requesting that the hourly rate be increased to 85% of the capital rate. Mr. Mason noted that until 2012, the hourly rate was set at \$60 per hour, at which time it was raised to \$70 per hour. In 2016, it was increased to \$90 per hour, which is still the current rate.

Mr. Mason observed that there has been little pushback from these increases, but there is a fiscal impact on PD systems and the Commission. He indicated that one of the suggestions from the ad hoc group is tying the hourly rate to the Criminal Rule 24 capital rate (set by the Supreme Court), which will rise to \$136 on January 1, 2023.

He raised two concerns, however, with an hourly rate that is 85% of the capital rate (85% of the current capital rate is \$110, and it is \$115 under the new rate as of January 1, 2023). First, the 85% rate would be a \$25 per hour increase under the new \$136 rate (from \$90 to \$115). Second, Mr. Mason noted that the most skilled attorneys working on capital cases would only be paid \$21 an hour more than hourly attorneys working on everything from major felonies to misdemeanors (\$136 vs. \$115). For these two reasons, he believed an 85% rate would be a hard sell to the Commission counties. He thus recommended that the hourly rate be tied to the capital rate under Criminal Rule 24, but at 75%, rounded to the nearest \$10.

The Chair observed that the current market instability requires some flexibility on this, because we are in a very interesting economic time.

Jim Abbs stated for the Chiefs Association that he agreed with tying the hourly rate to the capital rate. He noted that in the Chiefs Association meeting, the Lake County chief moved to make the rate 85% of the capital rate, and the motion was seconded by Marion County, which Mr. Abbs believes shows the larger counties are trying to make the hourly rate more competitive and help them find and recruit hourly attorneys. He indicated that the Chiefs wished to see the rate hit \$100/hour.

Ms. DeWester moved to adopt the staff recommendation to tie the hourly rate to the capital rate, at 75%, rounded to the nearest \$10. Ms. Corley seconded the motion. There were no questions, comments, or objections. The motion carried.

Standard H will thus be amended to read, in relevant part:

Hourly Rate. Counsel shall be compensated for time actually expended at the hourly rate of not less than 75% of the capital rate required under Criminal Rule 24, rounded, up or down, to the nearest \$10/hour. The effective date of any increases shall tier with the capital rate increases (January 1 of odd-numbered years).

7. Local Public Defender Board Appointments

Mr. Cullen asked the Commission to approve the Chair's interim appointment of local attorney Mark Christoff to the board of the recently formed West Central Indiana Public Defender Office (WCIPDO) for a term of three years. Mr. Christoff has served on the Fountain County board and is the consensus candidate for all three counties in the WCIPDO. Judge Hanlon moved to approve the Chair's interim appointment. Ms. DeWester seconded the motion. There were no questions, comments, or objection. The motion carried.

8. Legislative & Policy Updates

A. Base Budget/Misdemeanor Funding

Mr. Cullen stated there were two issues Commission staff were asking the Commission to approve. First, he provided an update on the budget and

misdemeanor funding. Commission staff is working with the State Budget Agency in an attempt to include both the Commission's base budget increase and misdemeanor funding in the Governor's budget. This was done in 2021 and significantly eased the process. In addition, Rep. Greg Steuerwald has agreed to support and shepherd the Commission request through the House, and Sen. Liz Brown will support and help move both the Commission's base budget increase and misdemeanor funding through the Senate.

Thus, Mr. Cullen asked the Commission to affirm that a base budget increase and securing misdemeanor funding are the top priorities for the 2023 legislative session and authorize the Executive Director (in consultation with the Commission Chair) to take all necessary steps to pursue those priorities.

There were no questions or concerns. Ms. DeWester moved to adopt the staff recommendation. Ms. Corley seconded the motion. There were no objections. Sen. Koch and Rep. Lauer abstained. The motion carried.

B. Public Defender Retirement System

The second legislative issue, Mr. Cullen said, is the goal of establishing a retirement fund for chief and chief deputy public defenders, as well as the number one and two people at that Public Defender Council, Commission, and State Public Defender. The fiscal impact would be about two to three million dollars per year. The goal is to have INPRS include the account as a line item in their budget. The staff recommendation was to authorize staff to work with all parties to advance this concept, with the understanding that a final Commission approval would be considered at the September meeting once a bill and fiscal impact statement was finalized.

Mr. Cullen explained the legislative process through which this proposal will still need to go. Rep. Lauer asked what chiefs do for retirement now. Mr. Cullen responded that some chiefs have access to PERF, while others do not. Some are county employees, while others are independent contractors, and others are neither.

This proposal would allow employees to stay in PERF or allow them to buy into this program; those details need to be worked out.

Sen. Koch indicated that he believes this will help with recruitment and retention and it appears to have some good support. He asked to abstain from the vote, however, due to his dual role on the Commission and as a legislator.

The Chair reiterated that the staff recommendation is to approve Commission staff to work with all the parties involved to advance this concept, with the understanding that final Commission approval of the matter will be considered in September once a proposed bill has been finalized.

Ms. DeWester moved to approve the staff recommendation. Judge Hanlon seconded the motion. There were no further questions, comments, or objections. Sen. Koch and Rep. Lauer abstained. The motion carried.

9. Approval of Internal Budget for FY 23

Mr. Mason requested that the Commission approve \$50,000 for contractual lobbying assistance.

Ms. Corley asked what advantage a contract lobbyist would provide, since the Commission has experienced staff with relationships in the legislature. Mr. Mason stated that the advantage would be hiring someone to focus on misdemeanor reimbursement and other key priorities, whereas staff deal with many different areas. Mr. Cullen reiterated that if misdemeanor reimbursement does not get on the Governor's budget, this is the year the Commission needs to pull out all the stops and give our very best effort to secure this goal. Ms. Corley asked what the Commission would be looking for in an advocate for criminal defense. Mr. Cullen said he does not have anyone in mind, but he would want someone who understands the legislative process, not a subject matter expert.

On other internal budget issues, Mr. Mason noted that Jennifer Shircliff moved to the Indiana Supreme Court and the Commission is hiring an operations 11 administrator, which will save the Commission some money. The biggest change to the internal budget, however, is the contractual funding.

The Chair noted that there is no requirement that the Commission approve this internal budget, but it is a good practice. Ms. DeWester moved to approve the FY 2023 internal budget (see table below). Judge Hanlon seconded the motion. Rep. Lauer stated that he would abstain from the vote, but also signaled his opposition to the motion based on his belief that current staffing is sufficient to do the legislative work. Mr. Mason noted that in the past, when the Commission had fewer staff, Commission members were crucial as they volunteered to adopt issues and move them through the General Assembly. Ms. Corley stated that the Council always supports the Commission’s fiscal agenda. Sen. Koch abstained. There were no objections, and the motion carried.

FY 2021-2022 Budget		Budget Amount	
Payroll		\$ 878,870.69	
Travel		\$ 16,000.00	
Interagency Charges (IOT, etc)		\$ 20,000.00	
Rentals		\$ 39,000.00	
Admin Ops/Supplies/Misc		\$ 15,000.00	
Contractual		\$ -	
Subtotal		\$ 968,870.69	2.93%
Remaining for Reimbursements		\$32,151,129.31	97.07%
FY 2022-2023 Budget		Budget Amount	
Payroll		\$ 910,000.00	
Travel		\$ 18,000.00	
Interagency Charges (IOT, etc)		\$ 20,000.00	
Rentals		\$ 39,000.00	
Admin Ops/Supplies/Misc		\$ 15,000.00	
Contractual		\$ 50,000.00	
Subtotal		\$ 1,052,000.00	3.18%
Remaining for Reimbursements		\$32,068,000.00	96.82%

Sen. Koch recognized and congratulated Bernice Corley for being selected as a 2022 Distinguished Barrister by the Indiana Lawyer.

12. Other Matters

There were no objections to adjournment. The meeting was adjourned at 3:02 p.m.

INDIANA PUBLIC DEFENDER COMMISSION

October 5, 2022

2:00 PM

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

Members in attendance:

Mark W. Rutherford, Chair (in person)
Ms. Bernice Corley (remote)
Hon. Mary Ellen Diekhoff (in person)
Ms. Samantha DeWester (in person)
Hon. Kelsey B. Hanlon (in person)
Mr. David J. Hensel (in person)
Sen. Eric Koch (in person)
Sen. Gregory G. Taylor (in person)

Members absent:

Rep. Ragen Hatcher
Rep. Ryan Lauer
Hon. Steven P. Meyer

Staff in attendance:

Derrick Mason (in person)
Andrew Cullen (in person)
Paula Diaz (remote)
Andrew Falk (remote)
Linda Hunter (remote)
Stephanie Lalani (remote)
Torrin Liddell (remote)
Jennifer Pinkston (remote)

Audience members:

Jim Abbs, Noble County Chief Public
Defender and President, Chiefs
Association (remote)
Analiza Brockmeier, West Central
Indiana Public Defender Office
(WCIPDO) (remote)
Ray Casanova, Marion County Public
Defender Agency (in person)
Matthew Gerber, Marion County
Public Defender Agency (in person)
Amy Karozos, State Public Defender
(remote)
Michael Moore, Public Defender
Counsel (remote)
Michael Slagle, WCIPDO Chief Public
Defender (remote)

At 2:00 p.m., Chair Mark Rutherford called the meeting to order and noted that the Commission had an in-person quorum for the first time in some time.

1. Approval of Minutes of the June 15, 2022 Meeting

A correction to the June minutes was made, which should have read “INPRS” instead of “INPERS” on page 9. Mr. Hensel moved to approve the minutes as corrected. Sen. Taylor seconded the motion. There were no objections and the motion carried.

2. Approval of Amended Comprehensive Plan: Warren County

Mr. Mason reported that Warren County is working to amend its comprehensive plan. It does not have a county board. The proposed changes were made and redlined by the county court and redlined in the proposed plan in the Commission materials. The primary change was to add a part-time salaried position with benefits in a county that otherwise only provides hourly compensation. Mr. Mason noted that the amended plan is a unique system in that the public defenders are hired by the court but they report to the county commissioners, who alone may remove them at will. The remaining changes are general updates to the plan. He recommended approval of the plan.

Judge Diekhoff expressed a concern about the commissioners’ sole ability to fire public defenders. The Chair agreed, noting that everything could be good between the judge and the commissioners now but that it might not be as good in twenty years.

Ms. Corley appreciated the independence from the courts that the plan provided but expressed a desire to see “for cause only” language included in the provision. She also recommended that Commission staff meet with the county commissioners so they are prepared for their role.

Judge Hanlon suggested that Commission staff discuss these concerns with the Warren County judge before the Commission voted on approving the plan. Mr. Mason stated that would be possible and that the plan need not be approved at this

meeting. The Chair reiterated that he liked aspects of the plan but wondered what some of the unintended consequences of the plan might be.

Mr. Abbs was allowed to speak and voiced his agreement with Ms. Corley and his concern that politics could play into removal decisions. He stated that some kind of restrictive language was needed.

Mr. Corley inquired about the “upon timely request” language on page 3, Section C. (Eligibility for Appointment of Counsel) of the amended plan. Mr. Mason responded that Commission staff had flagged this language in its review of the amended plan, but it concluded that it would not have an operational impact. Commission staff did not receive an answer from the county court as to why this language was included. Ms. Corley requested that staff pursue an answer to that question. Judge Hanlon recognized that a request for counsel, while not necessarily “untimely,” could cause challenges in situations such as a CHINS case where factual findings must occur within strict timetables. The Chair tabled the issue until the December meeting to allow further reflection and investigation.

3. Approval of Comprehensive Plan: West Central Indiana Public Defender Office

Mr. Mason reported that the West Central Indiana Public Defender Office (WCIPDO) proposed a relatively standard comprehensive plan which covered the requisite standards and provided for hourly and contract compensation. It is, of course, the first interlocal multicounty public defense agreement.

Ms. Corley praised everyone involved with the drafting and organization of the multicounty arrangement and congratulated Chief Slagle. She expressed her concern about the part-time chief role and wondered when it might be reconsidered for a full-time role. Mr. Mason stated that originally the counties wanted no chief at all, but they agreed to employ a part-time chief, as required by law. He affirmed that the counties’ intent was to keep the arrangements as similar to what the counties had before as possible. The WCIPDO met the requirements to have a part-time chief. Judge

Hanlon encouraged the Commission to make a note to review next year how the multicounty arrangement is working.

Ms. Corley moved to approve the WCIPDO Comprehensive Plan. Sen. Koch seconded the motion. The motion carried.

4. Financial Status of Public Defense Fund

Mr. Mason provided the status of the Fund, which is sufficient to pay the 3Q2022 reimbursement requests. He also noted that Commission staff will be providing more information regarding the budget through the year.

2022-2023 Public Defender Commission Budget		
Encumbered Funds	\$8,000,000.00	
Balance carried forward	\$8,119,620.55	
Total carry forward	\$16,119,620.55	
General Fund (Budget Bill) FY22	\$25,720,000.00	
Dedicated Funds Transfer (Budget Bill)	\$7,400,000.00	
Court Fees (IC 33-37-7-9(c)) FY 23	\$7,400,000.00	
Subtotal FY23 Regular Budget	\$40,520,000.00	
Total Available (Includes prior year funds)		\$56,639,620.55

5. 90-Day Letter Response: Steuben County

Mr. Mason recalled that the Commission had sent a 90-day letter to Steuben County because the county had been repeatedly assigning major felonies to an attorney who was not qualified to receive them. The county responded in writing with a plan promising not to assign the attorney more major felonies until he was qualified to receive such appointments. They also described their efforts to achieve qualification for the attorney by assigning him to major felony trials as second chair,

but all those trials have been canceled. The county will assign qualified co-counsel for any major felony trials on the attorney's schedule. The attorney is also willing to attend a trial course, but none are available soon.

Mr. Mason emphasized that obtaining trial experience is the major step for receiving qualification. He asked the Commission whether it would accept the county's plan to assign co-counsel for any of the attorney's current cases that went to trial or if co-counsel must be assigned in every case.

Judge Diekhoff stated her belief that the county's plan was appropriate. She recognized that much of trial practice is preparation for trial, which often happens even if the trial is ultimately canceled. Ms. Corley said that the county made a good point that reassigning cases would be detrimental to the attorney's clients; she just hopes the attorney is receiving assistance with discovery and pre-trial preparation. Judge Hanlon asked if this would set a bad precedent if the Commission piecemealed together the attorney's qualifications.

Mr. Mason responded that it was not really piecemealing the attorney's qualifications; the attorney has one trial experience and just needs another to be major felony qualified. Participating in a trial will give him the experience he needs to be major felony qualified.

Judge Hanlon recommended that the Commission give Steuben a timeline for the attorney to come into compliance. The Chair agreed. Ms. Corley noted that a trial practice course would not be offered until next year, and that participation in a trial would be better.

Judge Diekhoff stated that she wants the county to be able to move forward. Mr. Mason reiterated that he believes the attorney and the county are making a good faith effort. He recommended that the attorney participate in a trial by December 14, 2022, complete a trial practice course, or have co-counsel assigned in major felony cases. Judge Diekhoff moved to adopt this recommendation. Judge Hanlon seconded the motion. The motion carried.

6. Status of County Compliance

Mr. Mason reported that county compliance is very high. Cass County was very close to substantial compliance—it was a difference of one or two cases for the attorneys out of compliance, and they expect 4Q to be in compliance. Clark County is struggling to hire a contractor position, but once that position is filled, it should resolve their issues. Jackson County looks bad, but the county council approved a new budget increasing compensation for their public defenders, which will allow them to come into compliance. Warrick County needs to be watched closely in the fourth quarter; the attorneys out of compliance there have not been out of compliance before, but the ones who were previously out are in compliance now.

With regard to attorneys practicing in multiple counties, Mr. Leeman’s issues should be resolved soon. The biggest issue is appeals, but due to the caseload standards changing soon, this issue will be rectified.

Mr. Mason did not recommend any 90-day letters for compliance issues.

7. Requests for Reimbursement:

a. 50% Reimbursement in Death Penalty Cases

Clinton County requested reimbursement for a capital case (Ferrell; see table below). The county was in full compliance, so Mr. Mason recommended reimbursement without revisions. Mr. Hensel moved to grant the reimbursement. Sen. Taylor seconded the motion. The motion carried.

**Reimbursement Requests in Capital Cases
October 5, 2022**

COUNTY	DEFENDANT	TOTAL
Clinton	Ferrell	\$38,231.65
TOTAL		\$38,231.65

b. 40% Reimbursement in Non-Capital Cases

Mr. Mason reported that the total reimbursement request for the second quarter of 2022 is \$8,391,877.66 (see table below). All Commission counties are receiving reimbursements. The reimbursement is revised due to

- desk audits of Brown, Floyd, Greene, and Knox counties
- Delaware forgot to request PERF costs for three quarters
- Tippecanoe made a scrivener’s error in 1Q2022

Mr. Mason recommended reimbursement as revised. Judge Hanlon moved to reimburse the counties accordingly. Judge Diekhoff seconded the motion. The motion carried.

INDIANA PUBLIC DEFENDER COMMISSION

Second Quarter 2022 Requests for Reimbursements in Non-Capital Cases

10/5/2022

County	Total Expenditure	Non-reimbursable Adjustment	% Adjusted	Eligible Expenditure	Adjustments	Total Payment
Adams	\$133,617.90	\$24,744.92	18.52%	\$108,872.98		\$43,549.19
Allen	\$1,215,731.43	\$100,177.46	8.24%	\$1,115,553.97		\$446,221.59
Benton	\$15,561.00	\$4,701.30	30.21%	\$10,859.70		\$4,343.88
Blackford	\$60,854.00	\$10,920.94	17.95%	\$49,933.06		\$19,973.23
Brown	\$53,553.66	\$10,274.76	19.19%	\$43,278.90	-\$2,191.12	\$15,120.44
Carroll	\$69,559.50	\$15,889.38	22.84%	\$53,670.12		\$21,468.05
Cass	\$194,593.38	\$24,391.06	12.53%	\$170,202.32		\$68,080.93
Clark	\$457,255.74	\$31,792.29	6.95%	\$425,463.45		\$170,185.38
Clinton	\$70,189.93	\$17,707.94	25.23%	\$52,481.99		\$20,992.80
Crawford	\$49,670.85	\$13,626.34	27.43%	\$36,044.51		\$14,417.80
Decatur	\$119,445.68	\$22,490.79	18.83%	\$96,954.89		\$38,781.96
Dekalb	\$208,247.50	\$18,122.99	8.70%	\$190,124.51		\$76,049.80
Delaware	\$332,272.40	\$14,800.05	4.45%	\$317,472.35	\$24,198.96	\$151,187.90
Elkhart	\$784,026.21	\$128,037.73	16.33%	\$655,988.48		\$262,395.39
Fayette	\$97,543.31	\$15,551.51	15.94%	\$81,991.80		\$32,796.72
Floyd	\$260,056.69	\$15,688.00	6.03%	\$244,368.69	-\$23.36	\$97,724.11
Fountain	\$33,301.00	\$7,778.52	23.36%	\$25,522.48		\$10,208.99

Fulton	\$85,584.58	\$23,050.11	26.93%	\$62,534.47		\$25,013.79
Gibson	\$159,207.60	\$17,952.77	11.28%	\$141,254.83		\$56,501.93
Grant	\$312,133.98	\$4,209.36	1.35%	\$307,924.62		\$123,169.85
Greene	\$171,109.75	\$24,042.22	14.05%	\$147,067.53	\$1,400.00	\$60,227.01
Hancock	\$408,408.96	\$30,559.20	7.48%	\$377,849.76		\$151,139.90
Harrison	\$174,698.51	\$17,380.14	9.95%	\$157,318.37		\$62,927.35
Hendricks	\$498,861.94	\$95,730.98	19.19%	\$403,130.96		\$161,252.38
Howard	\$490,810.78	\$38,930.22	7.93%	\$451,880.56		\$180,752.22
Jackson	\$220,235.62	\$9,124.39	4.14%	\$211,111.23		\$84,444.49
Jasper	\$96,715.64	\$30,115.05	31.14%	\$66,600.59		\$26,640.24
Jay	\$136,021.20	\$39,014.79	28.68%	\$97,006.41		\$38,802.56
Jefferson	\$207,866.97	\$31,169.35	14.99%	\$176,697.62		\$70,679.05
Jennings	\$118,005.91	\$13,380.76	11.34%	\$104,625.15		\$41,850.06
Knox	\$238,815.63	\$39,057.26	16.35%	\$199,758.37	-\$793.19	\$79,110.16
Kosciusko	\$191,279.20	\$44,723.33	23.38%	\$146,555.87		\$58,622.35
LaGrange	\$95,915.95	\$10,545.58	10.99%	\$85,370.37		\$34,148.15
Lake	\$1,379,027.01	\$5,959.93	0.43%	\$1,373,067.08		\$549,226.83
LaPorte	\$271,071.99	\$20,270.25	7.48%	\$250,801.74		\$100,320.70
Lawrence	\$280,007.67	\$34,064.12	12.17%	\$245,943.55		\$98,377.42
Madison	\$611,944.73	\$46,146.54	7.54%	\$565,798.19		\$226,319.28
Marion	\$6,399,193.97	\$514,972.84	8.05%	\$5,884,221.13		\$2,353,688.45
Martin	\$64,567.10	\$15,669.55	24.27%	\$48,897.55		\$19,559.02
Miami	\$170,397.99	\$23,076.96	13.54%	\$147,321.03		\$58,928.41
Monroe	\$603,554.07	\$85,188.81	14.11%	\$518,365.26		\$207,346.10
Noble	\$332,395.01	\$93,344.75	28.08%	\$239,050.26		\$95,620.10
Ohio	\$38,453.52	\$7,950.69	20.68%	\$30,502.83		\$12,201.13
Orange	\$155,968.53	\$17,195.98	11.03%	\$138,772.55		\$55,509.02
Owen	\$83,538.15	\$14,921.28	17.86%	\$68,616.87		\$27,446.75
Parke	\$42,416.28	\$8,457.53	19.94%	\$33,958.75		\$13,583.50
Perry	\$89,952.66	\$7,212.39	8.02%	\$82,740.27		\$33,096.11
Pike	\$58,818.18	\$1,204.93	2.05%	\$57,613.25		\$23,045.30
Pulaski	\$105,132.76	\$24,557.46	23.36%	\$80,575.30		\$32,230.12
Ripley	\$59,166.87	\$6,675.00	11.28%	\$52,491.87		\$20,996.75
Rush	\$96,585.13	\$11,793.98	12.21%	\$84,791.15		\$33,916.46
Scott	\$151,998.68	\$16,105.81	10.60%	\$135,892.87		\$54,357.15
Shelby	\$168,401.60	\$14,663.98	8.71%	\$153,737.62		\$61,495.05
Spencer	\$119,013.61	\$21,837.17	18.35%	\$97,176.44		\$38,870.58
Steuben	\$104,318.42	\$26,186.14	25.10%	\$78,132.28		\$31,252.91
St Joseph	\$770,165.86	\$95,762.42	12.43%	\$674,403.44		\$269,761.38
Sullivan	\$68,208.80	\$27,118.14	39.76%	\$41,090.66		\$16,436.26
Switzerland	\$89,854.16	\$14,585.02	16.23%	\$75,269.14		\$30,107.65
Tippecanoe	\$1,115,007.59	\$163,986.52	14.71%	\$951,021.07	-\$21,822.10	\$358,586.33
Union	\$19,641.45	\$2,431.48	12.38%	\$17,209.97		\$6,883.99
Vanderburgh	\$814,522.92	\$56,165.17	6.90%	\$758,357.75		\$303,343.10

Vermillion	\$103,175.58	\$22,171.53	21.49%	\$81,004.05	\$32,401.62
Vigo	\$943,814.13	\$142,671.69	15.12%	\$801,142.44	\$320,456.98
Wabash	\$144,511.28	\$35,143.94	24.32%	\$109,367.34	\$43,746.94
Warren	\$18,339.00	\$6,689.00	36.47%	\$11,650.00	\$4,660.00
Warrick	\$142,922.78	\$24,915.61	17.43%	\$118,007.17	\$47,202.87
Washington	\$190,870.40	\$35,561.03	18.63%	\$155,309.37	\$62,123.75
TOTAL					\$8,391,877.66

8. At-Risk Youth & Family Proposals: Amended Vigo County & Title IV-E Incentive

Mr. Mason reminded the Commission that it had generally approved awarding funds for the operation of system navigator pilots in CHINS cases. Vigo County requested an amendment to its current navigator pilot project in the amount of \$171,541 that, due to the high volume of CHINS cases, would allow the county to hire a third system navigator. Ms. Corley moved to approve the amendment and fund the third position. Mr. Hensel seconded the motion. The motion carried.

Mr. Mason also requested that the Commission generally approve what Commission staff are calling “Title IV-E Incentive Payments.” Non-participating counties may sign up to receive Title IV-E funds, but they must complete a full reimbursement request to do so. Some non-Commission counties, such as Hamilton County, believe that the work necessary to complete the full request is not worth the effort to receive the relatively small amount of Title IV-E funds. Because the public defense data from non-participating counties is so helpful to the Commission, particularly with a statistician now on staff, Commission staff believe it is worth it to provide non-participating counties with “incentive payments” to cover the costs of submitting these forms (along with a signed agreement and ongoing submission of the data) to receive the Title IV-E funds.

In response to a question about estimated costs, Mr. Mason said it might be \$10-20,000 per year for some of the larger counties. Smaller counties would be much less. It would be paid from state funds from the At-Risk Youth and Family fund. Judge Diekhoff moved to allow Commission staff to provide Title IV-E incentive payments. Judge Hanlon seconded the motion. The motion carried.

9. Guideline for Standard E: PD Council Request to Approve New Trial Substitution

Mr. Mason reported that the Public Defender Council's Diane Black has requested that a new 16-hour CLE program she is offering be approved as a trial practice course. The course is a one-on-one coaching program for public defenders that culminates in an actual trial. Mr. Mason stated his belief that the full course should be attended for it to count as a trial substitute. Ms. Corley agreed that participants would need to complete the whole course for credit and provided additional details about the course.

Judge Hanlon wondered what would happen if a defendant settled short of trial. Ms. Corley answered that two cases would be used, but she recognized that they had not decided what would happen if both cases settled. Judge Hanlon stated she thinks it sounds like a valuable program and that the Commission should be doing everything it can to help attorneys become better qualified.

Ms. Corley reported that the Council has received its first group of applicants (and has had to turn some away); they are from all over the state and include individuals with both limited and significant experience.

Mr. Abbs was allowed to speak and stated that one of his deputies wants to participate in the program. Mr. Abbs thinks it is a phenomenal program.

Judge Hanlon moved to approve the program to qualify for the Commission's trial training, assuming participants complete the full 16 hours and are verified by the Council as having completed the course. Judge Diekhoff seconded the motion. The motion carried.

10. Local Public Defender Board Appointments

Mr. Cullen informed the Commission that the first round of Commission appointments to the county public defender boards are completing their terms. He spoke with the chief, board chair, and member in each county. He is recommending,

based on these informal interviews, that of the twelve openings this quarter, the Commission reappoint nine of them (see table below). He is looking at the three remaining openings to possibly appoint new individuals in those counties, which will occur at a future meeting.

3Q2022: County Public Defender Board Appointments	
County	Consensus Candidate for Re-Appointment
Carroll	Ed Selvidge (appointment to a full term after fulfilling a term of a resigned member)
Clark	Anne Pfau
Cass	James Austen
Floyd	Matthew Schad
Fulton	Robert Cannedy
Grant	Joe Lewis
Jasper	Tim Belstra
Jay	James Zimmerman
Kosciusko	John Hall

There were no comments or concerns. Ms. Corley moved to approve the nine reappointments. Sen. Koch seconded the motion. The motion carried.

11. Legislative & Policy Updates

Mr. Cullen reminded the Commission that its top legislative priority was a base budget increase, which is included in the Governor’s proposed budget in the amount of \$27,720,000 in both fiscal years 2023-24 and 2024-25. This is a \$2 million increase from the FY 21-22/22-23 Budget Bill. Commission staff are also asking the Budget Agency to include language that “the public defender commission is authorized to spend up to \$6.3 million per year for misdemeanor reimbursement.”

Mr. Cullen also updated the Commission on legislative efforts to create an improved retirement fund for public defender chiefs and agency leaders. The proposal

continues to make progress in the legislative interim committees. Mr. Cullen continues to work with Ms. Corley and Mr. Abbs and legislative leaders to work out various details. A final draft bill and fiscal will be provided to the Commission at the December meeting for final endorsement.

Mr. Cullen suggested that the Commission consider a name change. He recommended not pushing a stand-alone bill, but if a bill arises which would allow a friendly amendment that would include a name change, the Commission would seek the change. The Commission discussed possible names and stated preferences for the name not to contain the words “Council” or “Authority” but include words such as “Reimbursement” or “Standards.”

Finally, Mr. Cullen noted that Sen. Jon Ford has continued to consider a plan that would provide a right to counsel for all children in CHINS and TPR cases. Mr. Cullen let the Commission know that he might be raising the issue at the December meeting to discuss whether the Commission would support or possibly oppose such a bill. He also described another bill that could require counsel for kinship care providers in CHINS cases, which would be a much smaller program.

12. New Standard Request: Marion County Support Staff Pay Parity Request

Mr. Mason informed the Commission that the Marion County Public Defender Agency had submitted a request for a new standard that would require pay parity for support staff positions, in addition to attorney pay parity. He provided the Commission with the Marion County proposed standard, the current Commission standard for attorneys, some written comments on the differences, and a proposed revision of the Marion County proposal if the Commission were to adopt it (see below). He further recommended that if the Commission were inclined to adopt a staff pay parity standard, that it be submitted for public comment before the next meeting.

The Marion County proposed standard reads as follows:

Compensation for Salaried or Contractual Public Defender Support Staff

The comprehensive plan shall provide that the salaries and compensation of the full time salaried public defender support staff shall be the same as the salaries and compensation provided to the support staff in similar positions with similar experience in the office of the prosecuting attorney.

The compensation of contractual public defender support staff shall be the same as the compensation provided to the support staff in similar positions with similar experience in the office of the prosecuting attorney.

In instances where there is not a similar support staff position in the office of the prosecuting attorney, the salaries and compensation of the full-time public defender support staff shall be the same as the salaries and compensation provided to the support staff in similar positions with similar experience in the criminal justice system which will include police, sheriff, probation, community corrections and courts.

In instances where there is not a similar contractual support staff position in the office of the prosecuting attorney, the compensation of contractual public defender support staff shall be the same as the compensation provided to the support staff in similar positions with similar experience in the criminal justice system which will include police, sheriff, probation, community corrections and courts.

The Commission's Standard G, which sets a similar requirement for attorneys, reads as follows:

COMPENSATION OF SALARIED OR CONTRACTUAL PUBLIC DEFENDERS. The comprehensive plan shall provide that the salaries and compensation of full-time salaried public defenders shall be the same as the salaries and compensation provided to deputy prosecutors in similar positions with similar experience in the office of the Prosecuting Attorney. The compensation of contractual public defenders shall be substantially comparable to the compensation provided to deputy prosecutors in similar positions with similar experience in the office of the Prosecuting Attorney. In counties that have established a county public defender office, the salaries and compensation provided to the chief public defender and deputy chief public defender shall be the same as provided to the elected prosecutor and the chief deputy prosecutor in the county under I.C. 33-39-6-5. Effective 1/1/14.

Marion County's proposal differs from the Commission's Standards and Guidelines for attorneys in two key ways:

- 1) Marion County's proposal does not include the substantially comparable language for contractors that is contained in Standard G. Specifically, Standard G states that contractual public defender compensation "shall be substantially comparable" vs. "the same as." The Commission has yet to define "compensation" and whether or not "compensation" includes more than salary. It is implied that it does because earlier in Standard G, the Commission does state that salaried public defenders require the same "salary and compensation."
- 2) The Commission's Guidelines for Standard G dictates a set amount of compensation on which to base caseload, i.e., \$60,350 for a 100% FTE (going to \$80,000 in 2024), when there is no comparable deputy prosecutor working in a "similar position with similar experience." There is no requirement to compare to other positions outside of the prosecutor's office in Standard G while this requires parity with similar positions in other departments.

Commission staff suggested revising the Marion County proposal to eliminate repetitiveness, as follows:

The comprehensive plan shall provide that the salaries and compensation of the full time salaried public defender support staff shall be the same as the salaries and compensation provided to the support staff in similar positions with similar experience in the office of the prosecuting attorney.

The compensation of contractual public defender support staff shall be the same as the compensation provided to the support staff in similar positions with similar experience in the office of the prosecuting attorney.

In instances where there is not a similar salaried or contractual support staff position in the office of the prosecuting attorney, the salaries and compensation of the full-time public defender support staff shall be the same as the salaries and compensation provided to the support staff in similar positions with similar experience in the criminal justice system

which will include police, sheriff, probation, community corrections and courts.

~~In instances where there is not a similar contractual support staff position in the office of the prosecuting attorney, the compensation of contractual public defender support staff shall be the same as the compensation provided to the support staff in similar positions with similar experience in the criminal justice system which will include police, sheriff, probation, community corrections and courts.~~

Mr. Casanova explained to the Commission that the Marion County Public Defender Agency is in a staff crisis. Staff are leaving at a much higher rate than normal, almost entirely due to pay issues. The starting salary for paralegals is \$10,000 less than the prosecutor's office, and \$7,000 less for investigators. The prosecutor's office does not have a comparable position for social workers, but the sheriff's office social worker, with a bachelor's degree, receives \$60,000, whereas the public defender hires masters level social workers, who start at \$43,000. Since 2013, there has been only one support staff pay increase, but even that was offset by an increase in health care costs.

Mr. Mason asked about a Marion County salary review study that he understood was occurring. Mr. Casanova responded that it has been frustrating to them because the results of that study have been repeatedly delayed, and there is little indication how it will affect their support staff.

Judge Diekhoff noted that instituting a statewide support staff parity requirement could cause many problems for other counties, which would likely refuse to increase staff pay without a comprehensive county study. She expressed her concern that it could cause some counties to leave the Commission.

Mr. Casanova recognized that the process would be complicated and challenging but expressed hope that since parity at the attorney level was reached, it could be at the staff level also.

Judge Hanlon inquired whether there was ever an instance where pay parity had led to a reduction in pay. Neither Mr. Casanova nor Mr. Mason were immediately aware of such a situation.

The conversation turned to whether support staff pay parity could be required solely in Indianapolis, and Commission staff agreed to research that issue.

Mr. Mason stated that it would be very difficult for Commission staff to effectively monitor support staff pay parity in addition to attorney pay parity, which alone takes several months of intense work.

Judge Diekhoff recommended that the Commission work with Marion County and other counties that do not have pay schedules to create some type of pay parity program. Counties such as Monroe, which already have pay schedules for support staff, will balk at such efforts, believing they have already complied with the spirit of such a requirement.

Judge Hanlon asked if this is a problem in other counties. Ms. Corley could not recall any whether other counties had this issue. Mr. Abbs thought there were a few other counties where it is a problem, but the chiefs hate to bring it up because it will be a budget increase. Mr. Mason said he has heard about this issue approximately three times in the last eight years.

Mr. Mason proposed that staff work with Marion County to better understand what the disparity is, why they believe it is happening, what the matrix/pay schedule is and is not, and how much that might cost Marion County; determine how many support staff there are in other counties, and what the impact there might be; and then report that information to the Commission. The Commission agreed.

Before the meeting ended, Mr. Cullen asked the Commission members to review their bio in the draft annual report. Mr. Mason requested any other feedback on the report as well. Mr. Mason also reported that the Commission has five counties interested in joining the Commission.

13. Other Matters

There were no objections to adjournment. The meeting was adjourned at 3:59 p.m.

INDIANA PUBLIC DEFENDER COMMISSION

December 14, 2022

2:00 PM

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

Members in attendance:

Mark W. Rutherford, Chair (in person)
Ms. Bernice Corley (remote)
Hon. Mary Ellen Diekhoff (remote)
Hon. Kelsey B. Hanlon (in person)
Mr. David J. Hensel (in person)
Rep. Ryan Lauer (in person)
Hon. Steven P. Meyer (in person)
Sen. Gregory G. Taylor (remote)

Members absent:

Ms. Samantha DeWester
Rep. Ragen Hatcher
Sen. Eric Koch

Staff in attendance:

Derrick Mason (in person)
Andrew Cullen (in person)
Paula Diaz (in person)
Andrew Falk (remote)
Linda Hunter (in person)
Torrin Liddell (remote)
Jennifer Pinkston (remote)

Audience members:

Jim Abbs, Noble County Chief Public
Defender and President, Chiefs
Association (remote)
Ray Casanova, Marion County Public
Defender Agency (in person)
Mark Clark, Washington County Chief
Public Defender (remote)
Gretchen Etling, Vigo County Chief
Public Defender (remote)
Bob Hill, Marion County Chief Public
Defender (in person)
Amy Karozos, State Public Defender
(remote)
Sabra Northam, Hallowell Consultants
(remote)
Michael Slagle, WCIPDO Chief Public
Defender (remote)

At 2:00 p.m., Chair Mark Rutherford called the meeting to order. Introductions were made and it was established that a quorum was present.

1. Approval of Minutes of the October 5, 2022 Meeting

There were no changes to the minutes. Judge Hanlon moved to approve the minutes. Mr. Hensel seconded the motion. There were no objections, and the motion carried unanimously.

2. Approval of Amended Comprehensive Plan: Warren County

Mr. Mason noted that at the Commission's October meeting, Commission members had concerns about the language in section 3(d) (related to the timing of the appointment of a public defender) of the Warren County Amended Comprehensive Plan. When Mr. Mason raised the language in question with the county judge, the judge eliminated the questionable language. Mr. Mason reminded the Commission that the main reason for the amendment was to add language allowing a defender to be hired with benefits. There were no other issues with the amended plan. Mr. Mason recommended approval.

Judge Meyer moved to approve the Warren County Amended Comprehensive Plan. Mr. Hensel seconded the motion. The motion carried unanimously.

3. Financial Status of Public Defense Fund

Mr. Mason reminded the Commission about the new format for presenting the financial status of the public defense fund, which now shows streams of income and expenses.

Mr. Mason recalled that the Commission previously granted an amendment to Vigo County's system navigator pilot after they asked for another system navigator. The Supreme Court is now pulling the funding for Vigo County public defenders in their Family Recovery Court (a program modeled after drug court for certain eligible CHINS cases). The cases in the Family Recovery Court include cases in the system navigator pilot.

The Commission wants to maintain the pilot as consistently as possible. The county is now requesting \$29,377.49 to pay for the public defenders working in the Family Recovery Court program. This is a small cost to maintain the system navigator

pilot in stasis, Mr. Mason reasoned. Commission staff will be asking the county to collect data on the Family Recovery Court.

Judge Meyer asked Mr. Mason to elaborate on the Supreme Court's removal of public defender funding. Mr. Mason explained that the Supreme Court has been starting a variety of pilot programs, including some for Rule 26 initial hearings, but also others such as the Family Recovery Court. As programs have grown, the Court has had to cut some funding. In particular, the Court seems to be prioritizing funding programs and not attorneys.

Judge Hanlon suggested that the Court was trying to start programs and then expected the counties to take over funding after they were started. Mr. Mason agreed, but he also noted that it was because requests for funding were exceeding capacity. He clarified that Commission staff were not requesting approval for additional funding; he just wanted to make sure the Commission had no objections to Commission staff approving such funding. There were no objections.

Mr. Mason provided the status of the Fund, which was sufficient to pay the reimbursement requests.

4. Statewide Salary Adjustments: Amendment to Internal Budget

Mr. Mason noted that cost of living salary increases and raises are often requested in June or sometimes in March. In 2022, however, the executive branch conducted a year-long study of all its positions and their salaries. As a result of the study, the executive branch recommended raises for executive branch employees, taking effect in October. The executive branch shared the results of its study with the judicial branch and other agencies and recommended that they mirror its approach.

The Supreme Court has followed the executive branch's example and instituted raises across the board, although not same as the executive branch. Mr. Mason stated that he has had several meetings with State Personnel, and he has followed their exact formula with raises for Commission staff. The average agency budget increase is about 16%; the Commission's is only a 6% increase. State Personnel evaluated Mr. Mason's proposal and thought it was reasonable and supported the proposed changes.

Commission staff combined salaries would increase from \$910,000 to \$965,000. Nevertheless, staff salaries would remain below 3% of the Commission’s total budget (see table below).

FY 2022-2023 Budget		Budget Amount	
AMENDED PAYROLL BUDGET		\$ 965,000.00	
Travel		\$ 18,000.00	
Interagency Charges (IOT, etc)		\$ 20,000.00	
Rentals		\$ 39,000.00	
Admin Ops/Supplies/Misc		\$ 15,000.00	
Contractual		\$ 50,000.00	
Subtotal		\$ 1,107,000.00	2.73%
% Increase to Payroll Budget		6.04%	

The Chair asked if there were any questions or concern. Sen. Taylor inquired whether the Commission had the funds to pay the salary increase. Mr. Mason affirmed that it did. Sen. Taylor moved to approve the proposed staff salary increase. Judge Hanlon seconded the motion. There were no further comments or questions. The Chair called the roll:

- Judge Diekhoff: yes
- Judge Hanlon: yes
- Mr. Hensel: yes
- Rep. Lauer: yes
- Judge Meyer: yes
- Ms. Corley: yes
- Sen. Taylor: yes

The Chair abstained. The motion carried unanimously. Mr. Mason, on behalf of the staff, thanked the Commission heartily.

5. Status of County Compliance

Mr. Mason noted that caseload compliance was shockingly good, and at 97%, it was the best Commission staff have seen since 2014 (excluding multicounty issues).

One attorney triggered multiple county compliance issues across six counties. Commission staff are talking with the attorney and the counties and will continue to work with all the parties to resolve the issue.

All the historical issues were resolved except Warrick. In Warrick, Mr. Mason previously wondered if they were playing a shell game, but it is clear they are not playing such a game, and it appears they should be fully compliant after the next quarter. He noted that someday he would like the Commission to fund a system that would help the counties coordinate the use of attorneys in multiple counties. Judge Hanlon recognized the need for attorneys and how hard it is for rural counties to find public defense attorneys.

Mr. Mason did not recommend any ninety-day letters.

a. \$30,175 for Part-Time PD's: Howard & Vanderburgh Counties

Mr. Mason recalled that, pursuant to Standard G, the minimum salary for counties without equivalent prosecutors is increasing in 2024 from \$60,350 to \$80,000. Commission staff have moved away from using the terms “full time” and “part time” and instead refer to the full-time equivalent (FTE) that a defender works. In making the determination whether a county has equivalent positions, Commission staff evaluate whether deputy prosecutors are doing similar work and have similar experience to public defenders.

While doing the Commission’s biannual pay parity analysis, Commission staff identified two counties that were using the \$60,350 amount solely because the county had no part-time prosecutors.

Howard County realized that they were not properly compensating their public defenders after the county hired at least one part-time prosecutor. The county sent a letter to the Commission proposing to resolve their issue by gradually increasing public defender salaries and reducing FTE over the next two years to achieve true parity. Mr. Mason recommending approving this plan so long as the county made any salary adjustments for the public defenders to match any raises that the prosecutor’s office provided between now and then.

Judge Hanlon asked if this is an office with benefits. Mr. Mason responded that it is an office and the defenders are all part-time, but they do receive benefits. Judge Hanlon asked what this decision would mean for counties with contracts. Mr. Mason responded that most counties do use part-time defenders with contracts that are based on the salaries of the counties' deputy prosecutors. Howard County just rationalized that since there were no part-time prosecutors, there were no comparable prosecutors, and the public defender office could pay its defenders based on the \$60,350 amount.

Similarly, Commission staff discovered that Vanderburgh County has been paying its part-time public defenders based on the \$60,350 salary because there were no part-time deputy prosecutors. Mr. Mason stated that Vanderburgh County sent Commission staff a letter recognizing that it needed to change its compensation for its part-time defenders and expressed a desire to do so before its budget submission next year. Mr. Mason proposed that the county be required to send the Commission a plan by March detailing how it will come into compliance in the budget it submits for 2024.

Ms. Corley moved to send a letter to Howard and Vanderburgh Counties stating that public defender contracts must be based on actual county prosecutor salaries, and the counties need to inform the Commission how they will do so by the March meeting. Judge Diekhoff seconded the motion. The Chair clarified that the letter would not be an enforcement action but a pre-ninety day letter. There were no objections, and the motion carried unanimously.

Mr. Mason added that Howard County has additional issues: for example, the chief public defender does not receive a supplemental payment that the elected prosecutor receives (contrary to Commission requirements), and the County gave the prosecutor a raise after denying the supplemental payment to the chief public defender.

b. Chief PD Compensation: Adams County, Shelby County & Contractors

i. Adams County

Adams County submitted its comprehensive plan in 2000. It provided for a “county public defender” (Chief Public Defender) and an office. It now has three salaried defenders and two support staff. In 2007, the county submitted an amended plan that changed “county public defender” to “managing public defender” to avoid paying the salary for a Chief Public Defender. The Commission had just lost Henry County because it did not want to pay its chief the same as the prosecutor. Larry Landis handled the negotiations and the Commission approved the amended plan. The Commission minutes reflect that the change was made to save the county money.

Mr. Mason has talked to Adams County repeatedly over the last two years about this situation. He understood they would fix it, but they have not. Mr. Mason proposed that the Commission send a letter (not a 90-day letter) to Adams County’s Chief and PD Board advising them that after reviewing their comprehensive plan, it is not in compliance with Commission Standards and Guidelines nor the applicable statute. The letter would require the county to explain how it would resolve the issue by the March meeting.

Judge Meyer asked what kind of pushback Mr. Mason expected from the county. He was also curious why Commission staff proposed addressing this issue now. Mr. Mason responded that like with Vanderburgh County, the Commission is doing pay parity audits more carefully and evaluating these issues more thoroughly. He also said that the Commission would be willing to work with the county to phase in the needed changes over time. Judge Meyer asked what the Commission response would be if the county did not budge. Mr. Mason responded that the county and the Commission must follow the statute, and because the county has an office, it needs to comply with the law.

Judge Hanlon asked how the Commission defines “office.” Mr. Mason responded that he had considered defining the term, but he concluded it would be more appropriate to keep the term more expansive because it is applied many ways: some “offices” have only a chief working out of them, whereas others may have only

support staff, and there are many variations. In Adams, the county says it has an office, and they have a physical office with staff working from it. Judge Hanlon observed that the Commission does not want to create an incentive for counties to eliminate their office, to which Mr. Mason agreed. There is no indication, however, that the county is considering closing their office. The county's feet needed to be held to the fire, he stated.

Judge Hanlon moved to have Mr. Mason send the letter requesting an explanation by March how it would amend its plan and resolve the situation. Judge Meyer seconded the motion. Judge Meyer suggested that the letter explain why this action was being taken now. There were no additional comments or objections. The motion carried unanimously.

ii. Shelby County

The Shelby County Comprehensive plan, in contrast, provides for a managing public defender and it does not mention an office. Nevertheless, the county public defender has an office, support staff, and a website discussing its office and the services its office provides. Cases are assigned to the public defender office. Thus, Mr. Mason proposes that the Commission send a letter (not a 90-day letter) to the Shelby County Managing Public Defender and the county Board advising them that upon review of their comprehensive plan, it appears to be out of date regarding the services their county currently has in place in relation to the operation of an office without a chief public defender. The county would be requested to advise the Commission by the March meeting as to how the Board would amend its plan and add a part-time chief.

Judge Hanlon asked if there were an agreed understanding of definition. Mr. Mason noted that the county itself says they have an office. He does not anticipate having to address this issue elsewhere. This is the only county that says it has an office but that uses a managing public defender. He hesitates to create a definition for an "office" that would allow a county to find an exclusion to the definition and thus try to eliminate their chief.

Ms. Corley moved to authorize Commission staff to send a letter to Shelby County asking them to amend their comprehensive plan or explain why the county does not need to do so. Mr. Hensel seconded the motion. The Chair inquired whether there was any discussion. Ms. Corley proposed that language be included in the letter that the Commission was not punishing the county for having an office; the Commission does want to encourage having an office. Mr. Mason responded that such language should be included in both letters.

Mr. Abbs was granted leave to speak. He stated that the issue is much bigger than was being discussed. He believes every county needs a chief, and he is concerned that counties will try to eliminate offices to use managing public defenders. Judge Hanlon suggested that if the Commission re-examines its standards, the Commission require chiefs, but set a minimum salary and not require parity. She was concerned because people say, “the Commission gets 100% of control and we get 40% of the money.” Mr. Cullen stated that obtaining legislation authorizing state-paid chiefs might be an option. Judge Hanlon responded that if pay parity is to be required, source (of payment) parity is also needed.

The Chair asked if there were any objections to the motion. There were none. The motion carried unanimously.

iii. Contract Chief PDs

Mr. Mason explained that until recently, no counties have hired chiefs as contractors. In the past few years, both Knox and Miami Counties have created contractor chief public defenders. Commission staff informed the counties this was permitted but that the salaries and compensation, including benefits, needed to be the same as that provided to the elected prosecutor (to prevent all counties from simply hiring their chiefs as contractors to avoid paying benefits). Miami County sought and was allowed to create a contract chief position that included benefits.

Knox County’s chief, however, does not want health insurance (he is covered by his wife’s benefits), so the county is neither providing it nor the equivalent budgeted amount. Mr. Mason recommended sending a letter to the county stating that

the value of the benefits must be given to prevent future chiefs from being encouraged to also report that they simply would not take the insurance, if offered, so there is no reason to compensate for it. He also wants to avoid incentivizing the county to hire someone that would decline benefits to save the county money.

Rep. Lauer asked if there would be any practical differences between a salaried public defender and a contracted public defender in terms of role or responsibility. Mr. Mason said there would not be any differences.

Judge Meyer observed that the clearest path forward, and the easiest thing for the Commission to enforce, would be to require chiefs to accept the benefits. Mr. Mason observed that it made sense to allow counties to have contract chiefs because it meant that two more counties established chief positions.

Judge Hanlon moved to adopt the staff recommendation requiring counties that have an office to have salaried chiefs with benefits. Ms. Corley seconded the motion. She further argued that we should move toward having a standard definition for a chief, including an office and salary paid the same as an elected prosecutor.

Rep. Lauer asked if a county may have a salaried chief at .6 FTE. Mr. Mason answered yes. Mr. Lauer asked that if a chief is full time, what insures that the chief is working full time and not doing other things. Mr. Mason responded that the restriction is what the county public defender board allows (since it is the board that hires the chief). Mr. Lauer asked whether that could be dictated by the contract with the public defender board, and Mr. Mason said it could. The challenge of outside work is something the Commission may need to address in the future. The Chair called the roll:

Judge Diekhoff: yes

Judge Hanlon: yes

Mr. Hensel: yes

Rep. Lauer: yes

Judge Meyer: yes

Ms. Corley: yes

Sen. Taylor: yes

The Chair abstained. The motion carried unanimously.

6. Requests for Reimbursement:

a. 50% Reimbursement in Death Penalty Cases

Mr. Mason advised the Commission that a few more death penalty cases will likely be coming, but for now only Clinton and Marion are seeking reimbursements. The Clinton County request is lower due to a billing issue; he told the county the Commission would accept any reasonable time delay in the request.

INDIANA PUBLIC DEFENDER COMMISSION

Reimbursement Requests in Capital Cases

December 14, 2022

COUNTY	DEFENDANT	TOTAL
Clinton	Ferrell	\$13,269.41
Marion	Dorsey	\$2,089.00
TOTAL		\$15,358.41

LATE CLAIMS

TOTAL		\$15,358.41

Judge Hanlon moved to approve the death penalty reimbursements. Judge Meyer seconded the motion. The motion carried unanimously.

b. 40% Reimbursement in Non-Capital Cases

Mr. Mason reported that there a few adjustments to the non-capital reimbursement requests due to audits of Rush and Vigo Counties. The total reimbursement request for the third quarter of 2022 is \$8,608,560.93 (see table below).

INDIANA PUBLIC DEFENDER COMMISSION

Third Quarter 2022 Requests for Reimbursements in Non-Capital Cases

12/14/2022

County	Total Expenditure	Non-reimbursable Adjustment	% Adjusted	Eligible Reimbursement	Adjustments	Total Payment
Adams	\$133,488.21	\$20,705.97	15.51%	\$45,112.90		\$45,112.90
Allen	\$1,423,792.81	\$103,062.24	7.24%	\$528,292.23		\$528,292.23
Benton	\$32,702.40	\$2,567.65	7.85%	\$12,053.90		\$12,053.90
Blackford	\$57,039.00	\$12,269.10	21.51%	\$17,907.96		\$17,907.96
Brown	\$59,058.13	\$18,697.10	31.66%	\$16,144.41		\$16,144.41
Carroll	\$81,006.88	\$8,750.18	10.80%	\$28,902.68		\$28,902.68
Cass	\$187,590.39	\$31,149.47	16.61%	\$62,576.37		\$62,576.37
Clark	\$454,018.80	\$31,507.28	6.94%	\$169,004.61		\$169,004.61
Clinton	\$83,023.25	\$20,035.61	24.13%	\$25,195.06		\$25,195.06
Crawford	\$65,775.88	\$7,109.15	10.81%	\$23,466.69		\$23,466.69
Decatur	\$119,144.38	\$18,912.91	15.87%	\$40,092.59		\$40,092.59
Dekalb	\$237,593.33	\$12,265.96	5.16%	\$90,130.95		\$90,130.95
Delaware	\$367,399.36	\$7,060.15	1.92%	\$144,135.68		\$144,135.68
Elkhart	\$947,345.31	\$135,790.08	14.33%	\$324,622.09		\$324,622.09
Fayette	\$100,436.15	\$12,577.66	12.52%	\$35,143.40		\$35,143.40
Floyd	\$275,010.53	\$20,869.40	7.59%	\$101,656.45		\$101,656.45
Fountain	\$33,301.00	\$6,454.29	19.38%	\$10,738.69		\$10,738.69
Fulton	\$91,714.14	\$28,131.71	30.67%	\$25,432.97		\$25,432.97
Gibson	\$207,813.99	\$32,814.29	15.79%	\$69,999.88		\$69,999.88
Grant	\$298,678.38	\$4,675.44	1.57%	\$117,601.18		\$117,601.18
Greene	\$194,578.06	\$29,489.53	15.16%	\$66,035.41		\$66,035.41
Hancock	\$298,135.66	\$16,498.92	5.53%	\$112,654.70		\$112,654.70
Harrison	\$171,805.64	\$20,023.21	11.65%	\$60,712.97		\$60,712.97
Hendricks	\$523,617.91	\$84,956.78	16.22%	\$175,464.45		\$175,464.45
Howard	\$527,001.18	\$42,160.49	8.00%	\$193,936.28		\$193,936.28
Jackson	\$258,614.61	\$13,805.44	5.34%	\$97,923.67		\$97,923.67
Jasper	\$112,270.71	\$26,825.60	23.89%	\$34,178.04		\$34,178.04
Jay	\$149,833.36	\$14,532.03	9.70%	\$54,120.53		\$54,120.53
Jefferson	\$206,533.31	\$31,142.75	15.08%	\$70,156.22		\$70,156.22
Jennings	\$121,338.83	\$17,277.61	14.24%	\$41,624.49		\$41,624.49
Knox	\$198,857.58	\$32,977.11	16.58%	\$66,352.19		\$66,352.19
Kosciusko	\$230,699.32	\$52,845.20	22.91%	\$71,141.65		\$71,141.65
LaGrange	\$89,860.86	\$16,296.96	18.14%	\$29,425.56		\$29,425.56
Lake	\$1,585,765.83	\$8,458.19	0.53%	\$630,923.06		\$630,923.06
LaPorte	\$275,490.91	\$45,463.48	16.50%	\$92,010.97		\$92,010.97

Lawrence	\$325,236.81	\$41,617.95	12.80%	\$113,447.54		\$113,447.54
Madison	\$573,813.71	\$31,113.92	5.42%	\$217,079.92		\$217,079.92
Marion	\$6,071,321.22	\$512,497.87	8.44%	\$2,223,529.34		\$2,223,529.34
Martin	\$76,797.11	\$6,439.00	8.38%	\$28,143.24		\$28,143.24
Miami	\$185,124.65	\$27,832.64	15.03%	\$62,916.80		\$62,916.80
Monroe	\$698,896.88	\$106,839.65	15.29%	\$236,822.89		\$236,822.89
Noble	\$432,379.31	\$43,286.00	10.01%	\$155,637.32		\$155,637.32
Ohio	\$34,161.97	\$2,504.43	7.33%	\$12,663.02		\$12,663.02
Orange	\$95,476.90	\$17,767.18	18.61%	\$31,083.89		\$31,083.89
Owen	\$93,763.18	\$16,079.04	17.15%	\$31,073.66		\$31,073.66
Parke	\$45,209.16	\$9,642.96	21.33%	\$14,226.48		\$14,226.48
Perry	\$65,397.92	\$18,917.83	28.93%	\$18,592.04		\$18,592.04
Pike	\$15,709.10	\$633.16	4.03%	\$6,030.38		\$6,030.38
Pulaski	\$89,148.24	\$16,605.22	18.63%	\$29,017.21		\$29,017.21
Ripley	\$58,890.80	\$13,108.36	22.26%	\$18,312.98		\$18,312.98
Rush	\$110,018.98	\$14,709.27	13.37%	\$38,123.89	-\$3,802.06	\$34,321.83
Scott	\$151,733.89	\$16,369.05	10.79%	\$54,145.94		\$54,145.94
Shelby	\$177,021.55	\$14,005.61	7.91%	\$65,206.38		\$65,206.38
Spencer	\$127,960.64	\$16,367.07	12.79%	\$44,637.43		\$44,637.43
Steuben	\$128,443.79	\$39,954.49	31.11%	\$35,395.72		\$35,395.72
StJoseph	\$707,193.07	\$77,607.49	10.97%	\$251,834.23		\$251,834.23
Sullivan	\$59,385.85	\$15,873.77	26.73%	\$17,404.83		\$17,404.83
Switzerland	\$111,623.51	\$13,419.54	12.02%	\$39,281.59		\$39,281.59
Tippecanoe	\$1,018,436.53	\$179,918.74	17.67%	\$335,407.11		\$335,407.11
Union	\$21,001.50	\$2,250.00	10.71%	\$7,500.60		\$7,500.60
Vanderburgh	\$932,332.27	\$64,086.04	6.87%	\$347,298.49		\$347,298.49
Vermillion	\$79,420.97	\$15,405.53	19.40%	\$25,606.18		\$25,606.18
Vigo	\$887,064.87	\$159,038.60	17.93%	\$291,210.51	-\$1,884.77	\$289,325.74
Wabash	\$134,902.63	\$25,390.40	18.82%	\$43,804.89		\$43,804.89
Warren	\$3,310.00	\$579.47	17.51%	\$1,092.21		\$1,092.21
Warrick	\$158,137.77	\$18,496.90	11.70%	\$55,856.35		\$55,856.35
Washington	\$187,112.79	\$32,877.53	17.57%	\$61,694.10		\$61,694.10
WCIPDO	\$38,249.29	\$0.00	0.00%	\$15,299.72		\$15,299.72
TOTAL	\$24,095,012.95	\$2,559,393.65		\$8,614,247.76	-\$5,686.83	\$8,608,560.93

Judge Hanlon moved to approve the reimbursements. Mr. Hensel seconded the motion. The motion carried unanimously.

7. Local Public Defender Board Appointments

Mr. Cullen reported that Commission staff were recommending that the Commission appoint and reappoint consensus candidates to local public defender boards (see table below).

<i>Re-appointments</i>	
<i>County</i>	<i>Candidate</i>
DeKalb	Joe Dunn
Delaware	Ted Baker
Elkhart	Ian Forte
Hancock	Michael Adkins
Howard	R. Cartwright Ellis
Jackson	Joe Theole
Perry	James Tyler
Pulaski	Laura Bailey
Shelby	Brady Claxton
Steuben	Ronald Thomas
Vigo	Becky Buse
Warrick	Chad Groves
<i>New Appointments</i>	
<i>County</i>	<i>Candidate</i>
Hendricks	Jennifer Stout
Madison	Jack Brinkman
Miami	Ryan Schmidt
Noble	Michael Yoder
Pike	Cheryl Deffendoll
Sullivan	Joanne Davis

Judge Diekhoff moved to approve staff's recommended appointments. Mr. Hensel seconded the motion. Sen. Taylor stated that he wants to make sure that Commission staff are considering ethnic and gender diversity at local level. Mr. Cullen affirmed that Commission staff are striving to increase diversity in its appointment process and that he considers it with every appointment. The motion carried unanimously.

Mr. Cullen reported that in Hendricks County, where there were two candidates, the Commission staff did not make a recommendation. Mr. Christopher Arrington is a local attorney. Ms. Jennifer Stout worked for Judge Love for 20 years. Both contacted Mr. Cullen proactively. The county chief public defender does not

have a preference. The judges preferred Mr. Arrington. Mr. Cullen reports that both individuals are kind people who are interested in volunteering. Whichever individual is not appointed would likely be referred to the judges as a recommendation for their selection to the board.

Ms. Corley stated that she appreciated that Ms. Stout has in-court experience, and she opined that Ms. Stout would be a champion for public defense. Judge Hanlon spoke in favor of Mr. Harrington since he was the judges' preference. Sen. Taylor said he would favor Ms. Stout since he had advocated for gender diversity. Ms. Corley moved to appoint Ms. Stout to the Hendricks County Public Defender Board. Sen. Taylor seconded the motion. The Chair called the roll:

Judge Diekhoff: yes

Judge Hanlon: no

Mr. Hensel: yes

Rep. Lauer: no

Judge Meyer: no

Ms. Corley: yes

Sen. Taylor: yes

The Chair abstained. The motion passed, 4-3, and Ms. Stout was appointed to the Hendricks County Public Defender Board.

Mr. Cullen recommended that a formal letter be sent to Mr. Arrington thanking him, on behalf of the Commission, for volunteering to serve, and the Chair strongly concurred.

8. Legislative & Policy Updates

Mr. Cullen reminded the Commission that it is staff's hope that the Commission's base budget increase will again be included in the Governor's proposed State Budget. He stated that he should be receiving an update after the Budget Agency decides after the Revenue Forecast is finalized.

He also provided an update on the retirement plan for chief public defenders. The Commission is advocating for the change to help create a strong public defense

system, with this retirement benefit an attractive recruiting tool. The Pension Management Oversight Committee has approved the concept but not the language. One of the details to be worked out is how far back to go and who will be included. The current proposal would permit all current Chiefs and Chief Deputies who are paid according to the Commission's standards to receive years of service credit in the new fund starting in 2014 (the first year pay parity was enforced). It would likely require that participants be full time with no private practice.

One issue has been that it will likely cost up to one million dollars to set up a new retirement program. Some have suggested that it would be more cost effective to merge with the prosecutors' retirement program. The chief public defenders would be fine with such a move, but do not believe the prosecutors would agree. If the Legislature were to propose such an approach, it would be better to let it come from them. Mr. Cullen noted that much more information would be available at the March meeting. Mr. Abbs was allowed to speak and thanked the Commission and Mr. Cullen for their help in advocating for this proposal. Mr. Hensel moved to authorize staff to continue working on the public defender retirement fund. Judge Hanlon seconded the motion. It carried unanimously.

Mr. Cullen recalled that at the October meeting, the Commission discussed a name change. He reported that after much discussion, Commission staff have settled on the name "Commission on Court Appointed Attorneys (CCAA)." The name has been polled on our website and in the newsletter and was generally well received. The change would not be a legislative priority but would be pushed if the perfect opportunity arose.

Judge Meyer wondered if the name was too broad since the Commission does not cover some court-appointed counsel. Ms. Corley stated that she likes a name related to what the Commission does, such as standards and reimbursement. Rep. Lauer asked what it would cost, in terms of updating stationary, business cards, and the website, to make the change. Mr. Mason stated that it would be a de minimis amount. Judge Hanlon observed that it would reduce confusion between the Commission and the Council and other public defender agencies.

Judge Diekhoff moved to authorize staff to seek an opportunity to change the name in the statute if appropriate legislation became available. Judge Hanlon seconded the motion. The Chair called the roll:

Judge Diekhoff: yes

Judge Hanlon: yes

Mr. Hensel: yes

Rep. Lauer: abstain

Judge Meyer: no

Ms. Corley: no

Sen. Taylor: abstain

The Chair abstained. The motion passed, 3-2.

Finally, Mr. Cullen said that Sen. Jon Ford continues to move forward with proposed legislation providing a right to counsel for children in CHINS and TPR cases. The bill has gone through several iterations and now authorizes pilot programs. Mr. Cullen suggested to Sen. Ford that the Commission might be well-suited to run the pilot through the Commission's "At Risk Youth and Families" funding, but that the Commission would need General Assembly authorization to do so. Sen. Ford liked that approach.

9. New Standard Request: Marion County Support Staff Pay Parity Request

Mr. Mason informed the Commission that after the discussion at the last Commission meeting, Commission staff received a new proposal from the Marion County Public Defender Agency. Mr. Mason liked this option more than the previous proposals. He noted that staff pay parity is something important to consider, because it is difficult to provide equality in defense if prosecutors pay their staff and investigators so much more. He recommended that public comment should be solicited because it is uncertain how many counties it would affect. Mr. Mason also reiterated that Commission staff would not be able to handle staff pay parity audits except perhaps ad hoc as needed. He recommended that parity with the courts not be required, since that is not a requirement in the Commission standards generally. Thus,

the staff recommendation would be to adopt the Marion County first revised standard as an amendment to Standard G, with the last three words (“and court system”) deleted.

The Marion County first revised proposed standard provides:

The comprehensive plan shall provide that the salaries and compensation of full time salaried public defender support staff shall be the same as the salaries and compensation provided to the support staff in similar positions with similar experience in the prosecutor’s office and court system.

The county also offered an alternative:

In counties without a uniform pay scale or that exempt court and prosecution staff from compliance with a uniform pay scale, the comprehensive plan shall provide that the salaries and compensation of full time salaried public defender support staff shall be the same as the salaries and compensation provided to the support staff in similar positions with similar experience in the prosecutor’s office and court system.

Judge Hanlon expressed her opinion that regulating staff pay parity is a total overreach of the Commission’s authority and not something the Commission should address. She proposed instead sending a letter to Marion County, focusing on the turnover in staff, as an incentive to increase staff parity. Mr. Mason stated that Commission staff could send a letter asking the county to address the issue or else the Commission would have to address the issue, such as with a new standard.

Mr. Hill stated that the biggest problem is with retention, not recruitment. If staff pay parity is not realized, adequate staff, especially in terms of quality, will never be reached. Judge Hanlon agreed and asked if this could be addressed by telling the county it is not adequately staffed. Having adequate staffing saves the county money because it means attorneys can carry heavier caseloads.

The Chair asked whether this problem was unique to Marion County because of its size. Mr. Mason responded that he has been asked about staffing pay parity a few times over the years and that he has responded that they would ordinarily be

addressed by a pay schedule. He observed that Marion County's situation seems to be system-wide and more pervasive than anything he's seen.

Judge Hanlon said that the question becomes with whom pay parity should be established. If the question is about social workers, the comparison should probably be to DCS and not to the prosecutor's office.

Mr. Cullen suggested that the agency have a conversation with the city controller's office. Mr. Hill responded that he has had numerous conversations with the controller's office. Mr. Cullen asked why the controller won't adjust the pay. Mr. Hill answered that the prosecutor is treated differently. Mr. Cullen suggested that perhaps this issue should be raised with the mayor's office. Mr. Hill said that his office has spoken with individuals from the controller's office to the mayor's office. The issue is the independence of the prosecutor's office; the Public Defender Agency is under the city's HR, whereas the prosecutor is not. Mr. Hill added that pay parity should include an evaluation of DCS pay, as his CHINS staff make \$15,000 less.

The Chair asked whether the Commission could make such a change and limit it to a Class 1 City. Mr. Mason said that the Commission has broad authority to make rules. Mr. Hill recalled that previously Class 1 Cities did have separate standards for D felonies.

Mr. Hensel stated that he did not understand why the Sheriff and DCS should influence staffing salaries and suggested that prosecution salaries be the guideline. Mr. Hill said that he would be happy with parity with the prosecutor's office as a minimum first step but reiterated that DCS attorneys start at \$15,000 more than his attorneys.

Ms. Corley observed that going forward, discrepancies are going to be worse, as defenders will be across the table from attorneys earning even more because of the executive branch pay increases. It is therefore appropriate, she believes, to look at more than just the prosecutor but also DCS, the sheriff, etc., in making parity evaluations. Mr. Hensel responded that he did not realize Mr. Hill's attorneys faced DCS attorneys in court, and thanked Ms. Corley for her comment.

Ms. Etling was granted leave to speak and noted that just the day before, she lost a CHINS/TPR attorney who went to DCS to obtain a salary paying \$19,000 more. Parity is needed with DCS, she argued. Perhaps parity with DCS attorneys, which is another state-funded agency, should be addressed in the future.

Judge Hanlon observed that the state likely needs a pay schedule for all its attorneys, and that this issue is symptomatic of huge problem. She is sympathetic to the staffing parity issue, but she does not believe the Commission should be involved with policing it at that level other than adequate staffing. Mr. Hensel responded that the Commission has crossed that line; it is involved with pay parity; the question is, how far should the Commission go. Mr. Hill stated that pay parity for attorneys has worked; once it was instituted, his office was able to retain quality, experienced attorneys.

Mr. Mason stated that considering some strong opposition on the Commission, he would modify the staff recommendation and suggest not putting the proposal out for public opinion, but instead electronically poll the counties who have support staff. He suggested that the Commission could also send letter to Marion County discussing adequate staffing and recommend a meeting with Mr. Cullen and the county.

Judge Hanlon stated that she did not want to kill the proposed changes if she were the only one with reservations. Judge Diekhoff said that she had stated her opposition to staff pay parity before, and she agreed with Judge Hanlon that if the Commission began regulating staff pay parity, it would be an overreach and would hurt the Commission's credibility. The Commission does need additional staffing data, she opined, and she does not want the proposed language to go out for public comment. Mr. Mason affirmed that there would be further discussion about DCS pay parity.

Ms. Corley asked what Marion County thought of Mr. Mason's proposal to study the issue, talk to counties with staff issues, and send a letter. Mr. Hill responded that this issue has caused a lot of heartburn due to losing staff, and that any assistance would be appreciated. A letter could help. A standard upon which they could rely would be more helpful.

Mr. Cullen asked if Mr. Hill thought a letter from the Chair, Mr. Mason, and the members of the Marion County Board would be effective. Such an approach would not require Commission approval. Mr. Hill said anything would be helpful.

The Chair inquired if anything that had been proposed would need Commission approval. Mr. Mason responded that Commission staff had enough direction to move forward as discussed. The Chair promised that the issue would be on the agenda again at the March meeting.

Mr. Hill expressed his opinion that the Commission would not have to enforce staffing pay parity, and that merely having the standard would be sufficient to compel action. Judge Hanlon responded that she believed the Commission does have enforcement obligations.

The Chair opined that the Marion County pay disparity probably violates the Commission's standards in some way.

The issue was tabled until the March meeting.

10. 2023 Commission Meeting Dates

Mr. Mason provided the Commission with proposed meeting dates for 2023. Two dates were proposed during the legislature: a Wednesday and a Friday. A consensus agreed that a Friday would be better. The following dates were agreed upon:

- Friday, March 24, 2023
- Wednesday, June 14, 2023
- Wednesday, September 20, 2023
- Wednesday, December 13, 2023

11. Other Matters

There were no other matters and no objections to adjournment. The meeting was adjourned at 4:31 p.m.