

**DRAFT**

**INDIANA PUBLIC DEFENDER COMMISSION**

**June 12, 2024**

**2:00 PM**

**101 West Ohio, 18<sup>th</sup> Floor, Commission Conference Room  
Indianapolis, Indiana 46204**

**Members in attendance:**

Mark W. Rutherford, Chair (in person)  
Ms. Samantha DeWester (remote)  
Hon. Mary Ellen Diekhoff (in person)  
Rep. Ragen Hatcher (remote)  
Mr. David J. Hensel (remote)  
Sen. Eric Koch (remote)  
Rep. Ryan Lauer (in person)  
Hon. Steven P. Meyer (in person)  
Sen. Gregory G. Taylor (remote)

**Members absent:**

Ms. Bernice Corley  
Hon. Kelsey B. Hanlon

**Staff in attendance:**

Derrick Mason (in person)  
Andrew Cullen (in person)  
Andrew Falk (remote)  
Linda Hunter (remote)  
Jennifer Pinkston (remote)  
Tristan Snell (remote)

**Audience members:**

Jim Abbs, Noble County Chief Public  
Defender and President, Chiefs  
Association (remote)  
Ethan Basile, PDCOM Intern (remote)  
Liam Callan, PDCOM Intern (remote)  
Ray Casanova, Marion County Public  
Defender Agency (in person)  
Birjan Crispin, Legislative Staff, House  
of Representatives (in person)  
Manveer Dhadwal, PDCOM Intern  
(remote)  
Gretchen Etling, Vigo County Chief  
Public Defender (remote)  
Amy Karozos, State Public Defender  
(remote)  
Sabra Stevens, Hallowell Consulting (in  
person)  
Emma Yarber, Legislative Staff, House  
of Representatives (in person)

At 2 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 March 27, 2024 Meeting**

There were no changes to the minutes. Judge Meyer moved to approve the minutes. Ms. DeWester seconded the motion. The minutes were approved unanimously.

**2. Approval of Amended Comprehensive Plans**

Adams and Delaware Counties submitted amended Comprehensive Plans for approval.

*a. Adams County (Formal Chief PD Position & Updated Standards)*

Mr. Mason stated that aside from a few scrivener’s errors in the text, the updated plan for Adams County was in compliance with the Commission’s standards. He recommended that the Adams County plan be approved. Judge Meyer moved to approve the plan with the noted corrections. Judge Diekhoff seconded the motion. The Adams County plan was approved unanimously.

*b. Delaware County (Updated Standards & New Standard O)*

The primary update that Delaware County made to their plan was to add standards for support staff pay parity. Mr. Mason noted that when drafting their updated plan, the County accidentally deleted language that the Commission had added. Mr. Mason stated that the county had recognized the error and promised to add the language. Mr. Mason recommended approval of the Delaware County plan. Judge Diekhoff moved to approve the plan. Mr. Hensel seconded the motion. The Delaware County plan was approved unanimously.

**3. Financial Status of Public Defense Fund & Title IV-E Reimbursements**

Mr. Mason presented the Commission’s budget for review. He stated that there were sufficient funds to pay all pending reimbursement requests. He noted that, in the current report, the fourth quarter reimbursement tier was absent.

#### **4. FY25 Internal Budget Approval**

Mr. Mason presented the proposed budget for the Commission for fiscal year 2025. The budgetary decrease in office supplies and contracts, among other expenses, was due to the Commission's move to a new office. The budget included a rental increase because the eight-month period of free rent at the Commission's new office location was expiring. He noted that most other expenses were flat. Other increases in the budget were for projected adjustments for staff payroll and benefits that were estimated to increase in the coming fiscal year. Mr. Rutherford noted that on July 1, the Commission's name was going to change to the Commission on Court Appointed Attorneys. Mr. Mason stated that the presented budget was less than 4% of the Commission's total operating budget and that over 96% of the total budget was still set to go back to the counties.

Mr. Mason stated that, due to recent legislative changes, the Commission will now start receiving new revenue from state courts due to changes in public defense fees. How much money is uncertain, however, so the new revenue was unlisted in the presented budget. The first payment from the fees to the Commission from the Comptroller was expected December 2024, with the second in June 2025. He noted that because the December payment would only reflect four months of payment, a more accurate estimation of the new revenue would come in June 2025. Judge Meyer inquired from where the new revenue is coming. Mr. Mason explained that because of a statute enacted in the 2024 legislative session, there has been an increase in the public defender fees. The public defense user fees of \$50 for misdemeanors and \$100 for felonies have increased to \$100 and \$200, respectively. The increased amount was to go to the Commission. The Commission was working with the Office of Judicial Administration (OJA) to add new fields enabling transfer of the new funds through Odyssey. The most important measure, however, was training the clerks and court reporters to enter the new public defense fees correctly. All other fees above the \$100 and \$200 amounts were now optional under the statute. Mr. Mason expressed the hope that if courts assess a fee in excess of \$200, the courts will assess the statutory fee of \$200 (if it is a felony) as part of that.

Judge Meyer stated that in his county, the common thought is that the fees would go to the general fund and would not always reach the line item. Mr. Mason clarified that statutorily, the fees will go into the Commission's supplemental fund, not the general fund. The Commission has recently started to regularly audit the supplemental funds. Judge Meyer inquired whether the supplemental fund first went to the state and then eventually to the Commission, and not to the county public defender offices. Mr. Mason responded that the supplemental fund should not be changed by the statute because even though the fee has been doubled, only the *increase* in the fee is going to the Commission. The county funds are still prioritized; the county first must collect the \$50 or \$100 fee before any fees come to the Commission. The way Odyssey works, all other fees are also prioritized. Mr. Cullen stated that the Commission's staff was very careful during the legislative process to prioritize counties in the bill; all fees that stay local are unchanged.

Mr. Hensel requested that during subsequent meetings the Commission members receive an overview report of what funds are in the supplemental fund and how and how often that money is used. Mr. Mason responded that county clerks are required to provide an annual report to the Commission of deposits and transfers into the supplemental fund related to the public defense user fees. These reports should give the Commission a better idea of whether the counties are using the new fees and collecting money on them. On behalf of the clerks, the OJA will pull that data and file the report with the Commission. The Commission may be able to get more than just the information that the Commission already has. He also reiterated that the Commission has just started to audit the supplemental fund. He estimated that around \$3 million dollars annually is generated in the supplemental fund around the state.

Judge Meyer moved to approve the budget. Sen. Taylor seconded the motion. The budget was approved unanimously.

## **5. Status of County Compliance**

*a. 90-Day Update: Warrick, Jasper, Crawford, Martin, Knox, Orange, Perry, & Pike County*

Mr. Mason noted that, following the March 27 meeting, he prepared the most 90-day letters that he has ever sent due to many multi-county noncompliance issues. Letters were sent to Warrick and Jasper counties because those counties continually assigned unqualified attorneys. The counties have since verified those attorneys are qualified. Because the issue has been resolved, Mr. Mason recommended that reimbursement should proceed.

Mr. Mason also reminded the Commission about the 90-day letters sent to Crawford, Martin, Knox, Orange, Perry, and Pike counties. In the first five counties, defender Nicholas Siler is noncompliant with 120.3% of a full-time caseload, while in all six counties defender Calvin Miller is noncompliant with 137.2% of a full-time caseload. Siler's and Miller's caseloads have not significantly fallen, but the majority of those counties have promised not to assign more cases to Mr. Siler and Mr. Miller. Mr. Mason stated that the problem was that by the time that the counties received the 90-day letter and started taking action to rectify the issue, the quarter was essentially over. It will take time to ensure the counties are following through on their promise, but if they do so the issue would be rectified. He recommended that reimbursement be approved.

*b. Other County Updates: Pay Parity and Marion County*

Mr. Mason stated that the Marion County update was included on the agenda as a placeholder due to potential support staff pay parity issues. He understood that the county had come to an agreement to try to resolve their support staff pay parity issue over the next 90 days. The county asked the Commission to potentially consider a 90-day letter for noncompliance if the county has not resolved the issue by then. Mr. Mason noted that the county has been making regular progress, and so he personally thought that it would be appropriate to give the county the extra 90 days to come into compliance at the September meeting.

Mr. Mason stated that, regarding pay parity audits, the Commission has been doing biannual pay parity audits. Many counties will be bumped to an annual pay parity audit due to significant issues across many counties. Many of the counties have

already started addressing their pay parity issues and fixing salaries or contract amounts. But he predicted that it was likely that at the September and December meetings the Commission would need to send more 90-day letters.

Sen. Taylor expressed a concern that this timetable would not serve the counties, who would already have submitted their budgets for approval. Mr. Casanova clarified that Marion County was submitting its budget in August, with final approval later in the fall. Mr. Mason also noted that Marion County's resolution is effective immediately. Additionally, Marion County is amending its current budget, and therefore it does not need to pass a new one.

Mr. Casanova added that the agency has obtained pay parity for about two-thirds of its support staff. The current issue is with the investigators and social workers, and he believes progress is being made. He stated that because Marion County's public defender office is unionized, there were some issues with the union, but those issues have been resolved.

*c. Individual and Multi-County Compliance Updates*

Mr. Mason stated that, overall, there was good news. Regarding the Stanley Campbell multi-county compliance issue with Allen and LaGrange Counties, attorney Stanley Campbell is going to be resigning from LaGrange County, which should resolve the third quarter of issues in LaGrange County. Allen County continues to have the same attorney out of compliance due to an overloaded caseload. He stated that the county has kept promising to start assigning attorneys differently in their juvenile delinquency court. He noted that the noncompliant attorney has been working the court the day that the majority of case assignments happen, and that the court keeps giving the cases to him. He recommended not sending a 90-day letter to Allen County, but instead giving the county another quarter to come into compliance. Mr. Mason stated that Jefferson County has been working to refresh the way that they have been appointing a noncompliant attorney. He recommended giving Jefferson County another quarter to make sure that Jefferson County has accomplished their new way of appointing attorneys.

Mr. Mason stated St. Joseph County is still significantly noncompliant. He reminded the Commission that this was the first quarter that the Commission implemented its new caseload standards, after giving counties two years' notice of the change and showing them what their current compliance was in 2024 and what their compliance has been from 2022-2024. The Commission had agreed to only report those attorneys, even if they are substantially out of compliance across their four quarters, if they were quarterly noncompliant—that is, not on track to be compliant by the end of 2024. St. Joseph County has indicated that the county is fully staffed, has had two retirements, and has created one new full-time position. But Mr. Mason stated that although he was not convinced it was going to resolve the county's issues, he was willing to give St. Joseph County another 90 days to come into compliance. St. Joseph has had compliance issues in the past, which it has previously tried to resolve by shuffling assignments. He did not recommend 90-day letters for any other county.

Sen. Taylor inquired about the 11 of 34 attorneys in St. Joseph County who were out of compliance. Mr. Mason stated that the attorneys who have been out of compliance have been constantly shifting. Sen. Taylor asked if this meant that the Commission would thus see the same thing at its next meeting. Mr. Mason responded that the county believes that they are fully adequately staffed and that this will fix the issue. But by the Commission's estimates and numbers, the Commission is not convinced that the county will fix the compliance issues. He stated that it was difficult to say until the after the Commission sees the second quarter numbers.

Mr. Rutherford inquired as to whether Allen County's and St. Joseph County's efforts to come into compliance is the reason that a 90-day letter may or may not be necessary. Mr. Mason responded that Allen County's chief public defender has not responded to him about why the county has not increased compliance with the one attorney. The county has indicated that they are working with the juvenile judge to improve compliance. But Mr. Mason noted that the third quarter showed a flat noncompliance, meaning that the noncompliance is neither becoming worse nor improving. Therefore, the Commission could send a 90-day letter. While the county says that they are still working on the issue, he doesn't think that their efforts will

resolve it. St. Joseph has proactively said that their efforts will fix the issue, but it is up to the Commission to believe that. He opined that while it is not impossible for St. Joseph County to fix its compliance issues, it would be very tight if it did so.

The Commission elected not to send any 90-day letters at this time.

**6. Requests for Reimbursement**

*a. 50% Reimbursement in Death Penalty Cases*

Mr. Mason reported that there were \$58,227.19 in death penalty requests for which he would be seeking approval for reimbursement (see table below). He recommended reimbursement for all requests, as adjusted. Judge Meyer moved to approve the death penalty reimbursement requests. Judge Diekhoff seconded the motion. There were no objections. The motion carried.

Reimbursement Requests in Capital Cases

June 12, 2024

COUNTY	DEFENDANT	TOTAL
Marion	Mitchell	<b>\$254.75</b>
Wayne	Lee	<b>\$57,972.44</b>
<b>TOTAL</b>		<b>\$58,227.19</b>

*b. 40% Reimbursement in Non-Capital Cases*

Mr. Mason reported that the total reimbursement request for the first quarter of 2024 was \$9,977,104.63 (see Appendix 1). Sen. Taylor moved to approve the reimbursement request. Mr. Hensel seconded the motion. The motion carried unanimously and the reimbursements were approved. Mr. Hensel requested that the Commission receive a historical record of the last 20 years of 40% reimbursements. He stated that he has noticed the number going up and knew that counties have been joining over the years. Mr. Mason agreed, and he stated that on the Commission’s website, there is a record of every quarter of reimbursements for the last few years, a



record of every year of non-capital reimbursements by county since 1996, and a record of every year of capital reimbursements since the early 1990s.

## **7. Death Penalty (CR 6.1) Update Recommendations**

Mr. Mason reminded the Commission that at the last September meeting, the Commission approved a recommendation asking the Indiana Supreme Court to change attorney compensation in death penalty cases to allow the public defender's compensation to adjust with the life of the case. Presently, the public defender's compensation is "locked-in" at the date the death penalty is filed until the case is sent back for appeal or otherwise refiled. Mr. Mason noted that most judges do not know that compensation is "locked-in," as the rule is difficult to read. The Commission also approved a recommendation that the Commission work with the Indiana Public Defender Council to overhaul the entire death penalty rule (Criminal Rule 6.1). The Commission's vote is a recommendation, because by statute, the Supreme Court creates and amends rules. By statute, the Commission is tasked with advising the Supreme Court on the appointment of death penalty representation. Referring to the copy of CR 6.1 distributed to the members at the meeting, the recommended changes from both the Council's subcommittee (in blue) and the Council's Board (in red) were enumerated. Mr. Mason reviewed some key summaries of proposed changes.

The change to 6.1(A) requires that the Commission, the Council, and IPAC all receive notice of a death penalty filing. Mr. Mason stated that the biggest change in CR 6.1 was in section (B). The original rule provided that in counties with no chief public defender, trial judges appoint the public defenders in death penalty cases. The modified rule shifted the duty of appointing the public defenders in those counties with no chief public defender from the trial judge to the Public Defender Council. The modified rule also changed the language for the number of attorneys on a death penalty case defense team from "two" to "no fewer than two." Mr. Mason expressed concern that the new language would allow a state agency to appoint as many attorneys to a case as it wanted and that the county and judge would then be obligated to make such an order and pay the related expenses. Mr. Mason stated that

he was not invited to the meeting where the Public Defender Council's Board voted on the final changes but the subcommittee chair told him the Board was worried about judges appointing the attorneys. Mr. Mason expressed doubt that the Supreme Court would take the Board's proposed change seriously. He recommended letting judges retain appointment authority if there is no chief public defender.

After Mr. Rutherford opened the topic for discussion, Mr. Mason clarified that the Commission would be deciding what language to send out for public comment, not the final recommended language sent to the Supreme Court. Mr. Mason was uncertain how much public comment the changes would generate because the change would not impact many attorneys.

Mr. Mason stated that the general qualifications in 6.1(B)(1) were changed to align with the practices of other states by adding language following ABA standards. The changes to 6.1(B)(2) would likely make it harder to qualify as a death penalty attorney. The changes recommend requiring "no fewer than two cases where the death penalty experience was sought." The next change provided that the cases used to qualify as a death penalty attorney must include a level 5 felony charge or greater, and that one of the cases must be a serious violent felony tried to completion within the previous ten years of appointment. (The previous language only provided for "no fewer than five felony jury trials.") This language was mirrored in the co-counsel qualifications. The subcommittee also increased the required CLE from 12 hours to 18 hours. The CLE timeline remained the same for both lead and co-counsel.

Mr. Mason moved on to the section regarding the defense team. He stated that this section was completely new. He and Mr. Falk did a survey of state death penalty standards across the United States. He subsequently advised the subcommittee on what other states had incorporated defense teams into their qualification standards. A section outlining the required defense team participants was something that almost every other state has in its standards. Mr. Mason expressed that he felt such a section was important to include. Judge Meyer inquired whether different roles on the defense team can be fulfilled by the same person on the team. Mr. Mason affirmed it was possible that if a person met both qualifications, they could satisfy both roles.

In the section concerning workload of counsel, Mr. Mason noted several changes. There was a concern about attorneys taking a death penalty case and then contracting with another county. The proposed change disallows working on more than two capital cases at one time (down from three). The change also disallows any other open felony public defense cases while there are two capital cases pending; if there is only one capital case pending, the public defender is restricted to up to twenty open felony public defense cases. The change also provides that an attorney cannot have a public or private jury trial within 30 days of a capital public defense case, up from 15 days. Mr. Mason noted that the section on workload and full-time salary is eliminated. The changes also would require that both an attorney's public and private workload be considered when making an appointment.

Mr. Mason stated that the changes made to the compensation section were mostly meant for clarification. One change clarifies that if counsel is appointed to a death penalty case in a county where he/she already has contract services, their compensation may be adjusted on the contract to account for restrictions imposed due to the appointment in a death penalty case. The biggest changes in the salaried public defenders' sections were how the salaries are approved by OJA. He noted that the current rule is not followed by Marion County, which approves of the change.

In the appellate counsel section, he noted that two attorneys must be appointed to a death penalty appeal (up from one) and the resulting new co-counsel section. The number of required appeals in the qualifications was raised to "no fewer than ten appeals within the last five years." The post-conviction relief (PCR) standards were drafted by the State Public Defender (SPD), which handles PCRs. The SPD recommended the standards for PCR because almost every state has PCR standards.

In discussion, Judge Diekhoff supported the original language in Section (B) that has judges appoint the death penalty attorneys. She stated that if the Council appointed the attorneys, the trial judge would have no control over the costs spent by the county death penalty defense. She noted that the procedural complexity of death penalty cases makes them very expensive.

Sen. Taylor stated that if the same judge who was presiding over the death penalty case also appointed the public defenders, it could lead to impropriety. Judge Diekhoff responded that she appoints outside counsel regularly. Sen. Taylor stated that a death penalty case is a special situation, with special standards and unique rules. He felt there was cause for concern, because the judge would get to choose the attorneys that he or she would hear from in the case. Mr. Casanova agreed with Sen. Taylor, opining that this was the reason why an independent public defender agency was created in Marion County in the first place.

Sen. Taylor asked if there were any members of the Commission whose counties do not have a chief public defender. Rep. Lauer stated that his county does not have a chief and would thus be affected by the change. Mason stated that in death penalty cases in counties without a chief public defender, judges usually consult the Commission for the list it maintains for qualified attorneys under Rule 6.1. Once the judges ascertain whether the attorneys that they are interested in are on the list, they contact the attorneys directly. Judge Diekhoff stated that, even with a chief public defender, she would reach out to the Commission because the Commission's list would likely be more comprehensive than what the county maintains.

Rep. Lauer voiced his opposition to the proposed changes and wondered who on the Council would make the appointment? What if there were not a quorum on the Council? He was concerned that such questions had not been answered and that this change should be seriously vetted. Mr. Mason reiterated that the proposed changes came out of a meeting that he was unable to attend and agreed that Rep. Laurer's concerns were valid because the mechanics and timeline of appointment are unclear. Mr. Mason speculated ways the Council might eliminate or minimize any big gap in appointment but acknowledged that the change does risk a temporal gap.

Sen. Taylor asked whether the Council could contact the Commission like the judges do. Mr. Mason responded that the Council could, but that he anticipated that the Council would instead likely maintain regular contact with capital lawyers as to availability and willingness to be appointed. Mr. Mason said his biggest concern was

under what circumstances the Council would appoint a third or fourth lawyer since the proposed rule contemplates the appointment of more than two attorneys.

Judge Diekhoff reiterated that death penalty cases are expensive and that they can be lucrative for the public defenders involved. Meanwhile, she noted that she as the judge is paid the same regardless of who she appoints, so she has no stake in the case. Instead, her concern would be giving the defendant the best defense attorney possible. She noted that judges know the local attorneys in their county and would know who would provide the best defense. Some capital-qualified attorneys may not be as good in a death penalty case because they don't have experience in the particular court. She echoed Rep. Lauer's concern about the time it might add if the Council appointed counsel, which could make a cumbersome process even more burdensome.

Mr. Cullen stated that questions such as these were part of the reason Commission staff wanted the Commission to review the changes before being sent for public comment. He acknowledged the legitimacy of Rep. Lauer's questions and added that because the Council's Board is elected by public defenders, there may be potential conflict of interest if the Council itself appointed the public defenders to every death penalty case. Mr. Rutherford stated that if the language were sent for public comment, the Commission could add information about how various individuals drafted the proposed changes and that the Commission wanted to receive additional feedback before the Commission made its final recommendation.

Rep. Lauer inquired how the appointments would be made. Sen. Taylor said the same question could be asked of how the judge made their decisions. He stated that some judges are elected, and if they mess up a death penalty case, that may harm their future reelection campaign. But, he noted, different counties choose their judges in different ways. Where judges are not elected, there is little to no accountability for the judge if they mess up a death penalty case. Sen. Taylor clarified that he may, in fact, agree that judges should appoint, but that he would be remiss if he didn't express his concern about the unaccountability of unelected county judges.

Judge Diekhoff asked Mr. Casanova about the appointment procedure in Marion County after the prosecutor has filed a death penalty case. Mr. Casanova

responded that Marion County's public defender office would likely get the case, and so the appointment would fall to Marion County's chief public defender. The chief public defender would then appoint an attorney from Marion County's office. He noted that there were three attorneys in their office who were capital-qualified and the appointment would therefore be limited to those three. Judge Diekhoff asked what would happen if one of those attorneys was conflicted out. Mr. Casanova responded that if there were a conflict, more than likely the office would have to seek outside counsel. He stated that while the office had in-house conflict panels of attorneys, he did not believe that anyone on that panel was capital-qualified. He stated that many of the attorneys who used to take death penalty cases are now retired and have not been replaced. Judge Diekhoff asked if he were conflicted out whether the office, the judge, or both, appointed the counsel. Mr. Casanova responded that he did not know.

Mr. Rutherford again reminded the Commission that the language approved at this meeting would not be the final language, but it would only be sent for public comment. He reiterated that when the final vote arose at the September meeting, it would merely be a recommendation to the Supreme Court, not a final rule.

Mr. Hensel suggested sending out both the original language and the modified language of section (B) for public comment. Mr. Rutherford asked Mr. Hensel if his suggestion was a motion. Mr. Hensel so moved. Judge Diekhoff seconded the motion. Rep. Lauer stated that he would vote against the motion, arguing the modified language should not be sent for public comment. He expressed his concern about having the Council appoint the public defenders. Judge Diekhoff asked what was being sent for public comment. Mr. Mason responded that the current motion was to send both the original 6.1(B) and the revised 6.1(B) for public comment. He affirmed that the judge appointment option would indeed be included in the rule sent for public comment. Judge Meyer expressed his support for everything Judge Diekhoff had said. He stated that while he did not mind sending out the modified language for comment, he was concerned that it was ambiguous how the Council would select the attorneys to appoint. He noted, however, that in the counties that

had a chief public defender, the alternative means of appointment, whether judge or Council, would not happen very often.

Rep. Lauer asked how many counties would be affected by the new rule. Mr. Mason responded that the rule would apply to all counties, not just the counties in the Commission. Rep. Lauer clarified that he was asking how many counties do not have a chief public defender. Mr. Mason responded that he did not know how many did not, but he approximated that anywhere from one-half to two-thirds of counties had a chief public defender. Mr. Cullen stated that he was going to share the proposed rule changes with the Association of Indiana Counties to get state-wide input on the new language. He stated that the Commission was going to make sure to get judicial and local county comment on the changes. Mr. Mason again reiterated that the final rule would ultimately be set by the Indiana Supreme Court. The Commission's recommendation was simply its opinion about what the Supreme Court should adopt. Mr. Rutherford was also concerned about the changed language.

Mr. Hensel's motion was put up to a vote, and Rep. Lauer voted nay. He reiterated that he did not want the changed language to proceed beyond the meeting. Due to ambiguity over the votes, Mr. Rutherford put the motion up to a roll-call vote.

Ms. DeWester—aye

Judge Diekhoff—aye

Rep. Hatcher—aye

Mr. Hensel—aye

Sen. Koch—aye

Rep. Lauer—nay

Judge Meyer—aye

Sen. Taylor—aye

Mr. Rutherford abstained.

The motion carried.

Mr. Mason stated that he wanted to talk with the three judges on the Commission before the September meeting regarding concerns about the changed

rule and about proposed life without parole qualification standards that the Commission was also going to develop and send over to the Supreme Court

## **8. Local Public Defender Board Appointments**

Mr. Cullen reported that there were nine candidates on the list for appointment or reappointment. He stated that the Commission's ideal candidate for appointment was a local attorney who does not practice public defense, a local elected official, or a retired local elected official. Everyone on the list was either a retired elected official, a current elected official, or an attorney. Mr. Mason stated that White County just passed an ordinance creating a public defender board, so that position was new. Once the board is selected, the county will be sending a comprehensive plan to the Commission for approval. Mr. Cullen added that one of the proposed appointees is the White County auditor, who has explicitly expressed her desire to get a comprehensive plan drafted. Sen. Taylor inquired who is appointed to county public defender boards and whether minority leaders receive appointments. Mr. Cullen responded that in most counties, the public defender board consists of three members: one appointed by the Commission (who must be a resident of the county), one appointed by the county juvenile and criminal judges, and one appointed by the county commissioners. Judge Meyer moved to approve the appointments and reappointments. Sen. Taylor seconded the motion. There were no objections. The motion carried.

## **9. Legislative & Policy Updates**

Mr. Cullen stated that after the Commission's successes during the previous session of the General Assembly, he did not anticipate any changes in public defense legislative policy soon. He updated the Commission about the efforts of the Supreme Court-created Commission on Indiana's Legal Future to address the attorney shortage in Indiana. He stated that he and Mr. Mason were invited to one of the workgroups and that they pitched a proposal to create a \$25,000-per-year scholarship for three years of law school, awarded if the student agreed to serve as a deputy prosecutor or



deputy public defender. The proposal was adopted by the workgroup. Mr. Cullen reminded the Commission about the news article he gave them about the Commission's work last legislative session.

Sen. Taylor stated that he serves on the Pathways to Admission and Education subcommittee. He noted his observations of how much the legal profession has changed since he took the bar exam and the resulting generation gap between attorneys who graduated in the 1990s and those who are graduating in 2024. He expressed his desire to speak to a newly licensed attorney about changes in the bar exam and in law school admissions. Mr. Cullen stated that, in his and Mr. Mason's scholarship proposal, there was a provision requiring that if there is an Indiana pathway at Indiana law schools, a student must be on that pathway to receive the scholarship.

Judge Meyer inquired whether counties in the misdemeanor pilot program have been selected. Mr. Mason responded that the Commission is in a holding pattern because for counties to participate in the reimbursement program, by statute, each county needs to have an indigency form that every court in the county follows. He stated that the selection process for the pilot program will not happen until late fall 2024 or early in 2025 when the OJA finishes working on the form. The form will allow the counties to know what they are committing to if participating in the pilot program. Judge Meyer said that anecdotally, there has been a lot of pushback on the form. Mr. Cullen stated that the pushback was likely due to incorrect information in part stating that all judges would have to use the new form all the time. He stated that while judges were under no obligation to use the form, however if they did not use it, that judge's county could not participate in the pilot program.

## **10. Other Matters**

Sen. Taylor moved to adjourn the meeting. There were no objections. The meeting was adjourned at 3:38 p.m.

## Appendix 1

### First Quarter 2024 Requests for Reimbursement in Non-Capital Cases 6/12/24

County	Total Expenditure	Non-reimbursable Adjustment	% Adjusted	Eligible Expenditure	40% Reimbursed	Prior Quarter Adjustment	Total Payment
Adams	\$139,652.55	\$22,898.13	16.40%	\$116,754.42	\$ 46,701.77		\$ 46,701.77
Allen	\$1,277,574.55	\$97,627.01	7.64%	\$1,179,947.54	\$ 471,979.02		\$ 471,979.02
Benton	\$38,358.30	\$7,310.21	19.06%	\$31,048.09	\$ 12,419.24		\$ 12,419.24
Blackford	\$27,065.25	\$2,769.17	10.23%	\$24,296.08	\$ 9,718.43		\$ 9,718.43
Brown	\$52,166.84	\$12,911.45	24.75%	\$39,255.39	\$ 15,702.16		\$ 15,702.16
Carroll	\$199,288.11	\$24,927.50	12.51%	\$174,360.61	\$ 69,744.25	\$ 1,574.98	\$ 71,319.23
Cass	\$206,917.00	\$25,611.47	12.38%	\$181,305.53	\$ 72,522.21		\$ 72,522.21
Clark	\$522,752.95	\$43,609.78	8.34%	\$479,143.17	\$ 191,657.27		\$ 191,657.27
Clinton	\$75,565.62	\$9,208.25	12.19%	\$66,357.37	\$ 26,542.95		\$ 26,542.95
Crawford	\$39,440.85	\$2,121.05	5.38%	\$37,319.80	\$ 14,927.92		\$ 14,927.92
Decatur	\$144,739.11	\$29,960.83	20.70%	\$114,778.28	\$ 45,911.31		\$ 45,911.31
DeKalb	\$271,871.46	\$20,451.01	7.52%	\$251,420.45	\$ 100,568.18		\$ 100,568.18
Delaware	\$513,894.75	\$7,213.29	1.40%	\$506,681.46	\$ 202,672.58		\$ 202,672.58
Elkhart	\$1,015,748.26	\$115,496.80	11.37%	\$900,251.46	\$ 360,100.58		\$ 360,100.58
Fayette	\$113,718.48	\$20,194.97	17.76%	\$93,523.51	\$ 37,409.40		\$ 37,409.40
Floyd	\$378,371.40	\$46,409.86	12.27%	\$331,961.54	\$ 132,784.62		\$ 132,784.62
Fulton	\$89,249.04	\$34,178.02	38.30%	\$55,071.02	\$ 22,028.41		\$ 22,028.41
Gibson	\$198,193.81	\$27,907.08	14.08%	\$170,286.73	\$ 68,114.69		\$ 68,114.69
Grant	\$315,058.19	\$25,997.29	8.25%	\$289,060.90	\$ 115,624.36		\$ 115,624.36
Greene	\$217,428.36	\$33,163.07	15.25%	\$184,265.29	\$ 73,706.12		\$ 73,706.12
Hancock	\$263,531.41	\$26,020.46	9.87%	\$237,510.95	\$ 95,004.38		\$ 95,004.38
Harrison	\$179,907.25	\$23,051.33	12.81%	\$156,855.92	\$ 62,742.37		\$ 62,742.37
Hendricks	\$544,207.52	\$76,926.83	14.14%	\$467,280.69	\$ 186,912.28	\$ (163.30)	\$ 186,748.98
Howard	\$579,259.71	\$41,882.08	7.23%	\$537,377.63	\$ 214,951.05		\$ 214,951.05
Jackson	\$271,316.42	\$14,385.66	5.30%	\$256,930.76	\$ 102,772.31		\$ 102,772.31
Jasper	\$66,394.55	\$20,185.63	30.40%	\$46,208.92	\$ 18,483.57		\$ 18,483.57
Jay	\$153,624.09	\$15,623.12	10.17%	\$138,000.97	\$ 55,200.39		\$ 55,200.39
Jefferson	\$184,849.23	\$33,609.34	18.18%	\$151,239.89	\$ 60,495.95		\$ 60,495.95
Jennings	\$129,180.00	\$9,562.40	7.40%	\$119,617.60	\$ 47,847.04		\$ 47,847.04
Knox	\$251,794.23	\$34,839.82	13.84%	\$216,954.41	\$ 86,781.76		\$ 86,781.76
Kosciusko	\$316,063.85	\$124,683.78	39.45%	\$191,380.07	\$ 76,552.03		\$ 76,552.03
LaGrange	\$90,732.30	\$16,758.12	18.47%	\$73,974.18	\$ 29,589.67		\$ 29,589.67
Lake	\$1,772,950.91	\$8,580.18	0.48%	\$1,764,370.73	\$ 705,748.29		\$ 705,748.29
LaPorte	\$345,516.14	\$25,164.69	7.28%	\$320,351.45	\$ 128,140.58		\$ 128,140.58
Lawrence	\$336,158.70	\$47,749.84	14.20%	\$288,408.86	\$ 115,363.55		\$ 115,363.55
Madison	\$612,463.91	\$24,698.95	4.03%	\$587,764.96	\$ 235,105.98		\$ 235,105.98
Marion	\$8,345,690.52	\$895,111.13	10.73%	\$7,450,579.38	\$ 2,980,231.75		\$ 2,980,231.75
Martin	\$41,510.62	\$6,992.12	16.84%	\$34,518.50	\$ 13,807.40		\$ 13,807.40
Miami	\$204,620.49	\$27,789.48	13.58%	\$176,831.01	\$ 70,732.40		\$ 70,732.40
Monroe	\$735,306.62	\$109,818.18	14.94%	\$625,488.44	\$ 250,195.38		\$ 250,195.38
Noble	\$328,726.92	\$56,247.30	17.11%	\$272,479.62	\$ 108,991.85		\$ 108,991.85
Ohio	\$53,805.20	\$11,415.29	21.22%	\$42,389.91	\$ 16,955.96		\$ 16,955.96
Orange	\$104,567.21	\$19,135.69	18.30%	\$85,431.52	\$ 34,172.61		\$ 34,172.61
Owen	\$70,801.31	\$12,740.53	17.99%	\$58,060.78	\$ 23,224.31		\$ 23,224.31

Perry	\$148,092.26	\$11,333.32	7.65%	\$136,758.94	\$ 54,703.57		\$ 54,703.57
Pike	\$43,546.40	\$2,461.00	5.65%	\$41,085.40	\$ 16,434.16		\$ 16,434.16
Pulaski	\$103,642.95	\$23,857.42	23.02%	\$79,785.53	\$ 31,914.21		\$ 31,914.21
Ripley	\$47,368.31	\$12,607.54	26.62%	\$34,760.77	\$ 13,904.31		\$ 13,904.31
Rush	\$133,511.30	\$21,672.55	16.23%	\$111,838.75	\$ 44,735.50		\$ 44,735.50
Scott	\$110,397.88	\$16,354.21	14.81%	\$94,043.67	\$ 37,617.47		\$ 37,617.47
Shelby	\$177,145.93	\$32,703.44	18.46%	\$144,442.49	\$ 57,777.00		\$ 57,777.00
Spencer	\$142,479.66	\$7,533.52	5.29%	\$134,946.14	\$ 53,978.46		\$ 53,978.46
Steuben	\$135,613.12	\$36,806.69	27.14%	\$98,806.43	\$ 39,522.57		\$ 39,522.57
StJoseph	\$873,079.13	\$66,438.53	7.61%	\$806,640.60	\$ 322,656.24		\$ 322,656.24
Sullivan	\$67,088.91	\$11,543.52	17.21%	\$55,545.39	\$ 22,218.15		\$ 22,218.15
Switzerland	\$39,641.50	\$10,405.16	26.25%	\$29,236.34	\$ 11,694.54		\$ 11,694.54
Tippecanoe	\$1,172,713.65	\$169,181.59	14.43%	\$1,003,532.06	\$ 401,412.82		\$ 401,412.82
Union	\$18,095.00	\$2,525.95	13.96%	\$15,569.05	\$ 6,227.62		\$ 6,227.62
Vanderburgh	\$1,155,879.45	\$61,955.56	5.36%	\$1,093,923.89	\$ 437,569.56	\$ 7,722.50	\$ 445,292.06
Vigo	\$1,019,061.80	\$154,442.75	15.16%	\$864,619.05	\$ 345,847.62	\$ -	\$ 345,847.62
Wabash	\$154,774.22	\$35,063.63	22.65%	\$119,710.59	\$ 47,884.24		\$ 47,884.24
Warren	\$21,765.46	\$2,979.20	13.69%	\$18,786.26	\$ 7,514.50		\$ 7,514.50
Warrick	\$165,220.30	\$10,984.14	6.65%	\$154,236.16	\$ 61,694.46		\$ 61,694.46
Washington	\$211,002.67	\$33,938.77	16.08%	\$177,063.90	\$ 70,825.56		\$ 70,825.56
WCIPDO	\$198,980.92	\$21,482.02	10.80%	\$177,498.90	\$ 70,999.56		\$ 70,999.56
<b>TOTAL</b>	<b>\$27,959,134.81</b>			<b>\$24,919,926.10</b>	<b>\$9,967,970.45</b>	<b>\$9,134.18</b>	<b>\$9,977,104.63</b>