

DRAFT

INDIANA COMMISSION ON COURT APPOINTED ATTORNEYS

March 26, 2025

2:00 PM

**101 West Ohio, 18th Floor, Commission Conference Room
Indianapolis, Indiana 46204**

Members in attendance:

Mark W. Rutherford, Chair (in person)
Mr. James J. Abbs (in person)
Ms. Bernice Corley (in person)
Ms. Samantha DeWester (in person)
Hon. Kelsey B. Hanlon (in person)
Rep. Ragen Hatcher (in person)
Mr. David J. Hensel (remote)
Rep. Ryan Lauer (in person)

Members absent:

Hon. Mary Ellen Diekhoff
Sen. Eric Koch
Sen. Gregory G. Taylor

Staff in attendance:

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

Audience members:

Janice Conley, Hancock County Public
Defender Office
Ray Casanova, Marion County Chief
Public Defender
Gretchen Etling, Vigo County Chief
Public Defender
Jeremy Gooch, Hendricks County
Chief Public Defender
Deana Martin, Marion County Public
Defender Agency

At 2 p.m., Chair Mark Rutherford called the meeting to order. Introductions of Commission members and guests were made and a quorum was established.

1. Approval of Minutes

a. December 18, 2024 Meeting

There were no changes to the minutes for the December 18, 2024 meeting. Judge Hanlon moved to approve the minutes and Mr. Abbs seconded the motion. The minutes were approved unanimously.

b. January 15, 2025 Meeting

There were no changes to the minutes for the January 15, 2025 meeting. Mr. Abbs moved to approve the minutes and Ms. DeWester seconded the motion. The minutes were approved unanimously.

2. Approval of Comprehensive Plans

a. Jasper County (Creates an Office w/ a Part-Time Chief PD Position)

Jasper County intends to establish an actual office but for now does not have a formal office. The county has also created a part-time chief public defender position. Both changes require amending the comprehensive plan. Mr. Mason recommended that the Jasper County amended plan be approved. Judge Hanlon moved to approve the plan. Ms. Corley seconded the motion. The Jasper County plan was approved unanimously.

b. Kosciusko County (Creates an Office w/ Full-Time Chief & Chief Dep.)

Kosciusko County is working to create a full office that should be ready by July 1, 2025. The county amended their comprehensive plan to provide for a full-time chief, a chief deputy, and an office. They also adopted a provision requiring staff parity in conformity with Standard O. The county hopes to recruit attorneys right out of law school and retain them long-term. Mr. Mason recommended that the Kosciusko County plan be approved. Mr. Abbs moved to approve the amended

comprehensive plan and Ms. Corley seconded the motion. The Kosciusko County amended plan was approved unanimously.

c. LaGrange County (Creates an Office w/ Full-Time Chief PD Position)

Mr. Mason stated that he has been working with LaGrange County for a few years to establish a chief and an office. The County has hired a chief, who will be in a county office. They did not adopt Standard O. He recommended that the LaGrange County amended plan be approved. Mr. Abbs moved to approve the amended comprehensive plan and Ms. Corley seconded the motion. The LaGrange County amended plan was approved unanimously.

3. Financial Status of Public Defense Fund & Title IVE Reimbursements

Mr. Mason stated that there were sufficient funds to pay all pending reimbursement requests, which was another record high total. He called the Commission's attention to a new revenue source, the supplemental public defender fee line in the amount of \$100,609.12. Mr. Mason explained that this sum was the first revenue generated from the new, increased supplemental fee that was passed in the 2024 legislative session, the second half of which goes to the Commission's Public Defense Fund. The amount on this line was for the period of July 1 to November 30, 2024. He noted that this was a significant number for such a small period but that it was not particularly representative of what the Commission may see over the course of a full year.

Mr. Mason also provided an update regarding the Department of Child Services that has, after several months' delay, established the grant for the Commission's Title IV-E funds. The Commission has begun reimbursing itself the money that it had been fronting until the DCS grant was operational.

4. 90-Day Letter Updates

At the December meeting, a 90-day letter was authorized for Jasper County due to the repeated appointment of unqualified attorneys. The situation appears to be on

its way to a resolution because (a) a judge who was appointing many of the unqualified attorneys is no longer in office, and (b) the county has hired a new Chief Public Defender who has assured Commission staff that the issue will be rectified.

Jefferson County received a 90-day letter due to caseload non-compliance issues. The county has now elevated their part-time chief to full-time and hired support staff, making the chief adequately staffed. The county has also hired a half-time contract attorney. These changes should bring the county back into compliance over the course of the year.

The Commission also authorized a 90-day letter for St. Joseph County if the county's plan to return to compliance, which required approval from the county, was not approved. Nevertheless, the plan was approved, allowing additional attorneys and support staff to be hired as of January 1, and it appears they are on track to return to compliance. At the same time, there is an impending issue with a surge in CHINS filings, and it appears their CHINS attorneys were already close to compliance due to pay parity issues, so that could be an issue appearing at the June meeting.

5. Status of County Compliance

Mr. Mason identified issues with several multi-country attorneys, which the Commission is working to address with the relevant counties.

The Grant County Chief Public Defender is noncompliant for the fourth quarter in a row. Part of the problem is that the county has multiple attorney vacancies that it has been unable to fill. The Chief could technically be in compliance, based on the staff the office has, if he would simply consider himself to be adequately staffed. The Chief has not explained why he will not consider himself to be adequately staffed. The Chair asked if Mr. Mason would prefer to wait until June before sending a letter, and Mr. Mason said he would because the Chief is only technically out of compliance, while he could be considered within compliance if he listed himself to be adequately staffed. Mr. Mason suggested that he could mail the chief a formal letter urging communication and stating that if the situation is not resolved by the June meeting, the Commission will send a 90-day letter. The Commission agreed.

Mr. Mason identified issues in Howard, Jefferson, Jennings, Switzerland and Miami counties, but those all appear to be moving toward resolution. Ripley County has multiple issues that could be resolved with needed pay increases; he is scheduled to talk with the Ripley County judge and county public defender board to address that issue.

6. Requests for Reimbursement:

a. 50% Reimbursement in Death Penalty Cases

The Commission received two claims from Madison County and one claim from Marion County, for a total of \$34,338.78 (see table below). Mr. Mason recommended reimbursement. Ms. Corley moved to approve the death penalty reimbursement requests. Rep. Hatcher seconded the motion. The motion carried unanimously.

INDIANA PUBLIC DEFENDER COMMISSION

Reimbursement Requests in Capital Cases

March 26, 2025

COUNTY	DEFENDANT	TOTAL
Madison	Boards	\$33,237.92
Marion	Mitchell	\$1,100.86
TOTAL		\$34,338.78

b. 40% Reimbursement in Non-Capital Cases

Mr. Mason reported that the total reimbursement request for the fourth quarter of 2024 was \$10,303,597.40 (see Appendix A). Commission staff reduced reimbursements by \$501 due to desk audits. Judge Hanlon moved to approve the reimbursement request, and Ms. DeWester seconded the motion. The motion carried unanimously, and the reimbursements were approved.

7. Local Public Defender Board Appointments

Mr. Cullen brought the appointment of David Hadley to the Montgomery County Public Defender Board. He noted that Montgomery County has been working to rejoin the Commission, and Mr. Hadley has been one of the leaders in that effort. Mr. Hadley is also the former chair of the State Ethics Commission. Mr. Cullen recommended that the Commission approve Mr. Hadley's appointment. Mr. Mason informed the Commission that Montgomery County left the Commission in 2014 but is seeking to rejoin. Ms. Corley moved to approve the appointment of Mr. Hadley, and Mr. Abbs seconded the motion. The motion carried unanimously.

8. Legislative & Policy Updates

Mr. Cullen provided an update on the Commission's legislative efforts and the status of bills of interest to the Commission. He reported that the House was very kind to the Commission in its budget bill, increasing the agency fund by \$11.8 million per year to coincide with what was given to prosecutors. The House legislation provided about \$45 million to prosecutors, reimbursing 50% of deputy prosecutor salaries if the county agrees to set salaries at 55% of the elected prosecutor's salary, which currently is \$101,000. The Indiana Prosecuting Attorneys Council (IPAC) has been testifying that the current average prosecutor salary is about \$89,000. The proposed increase to prosecutors' salaries would require a commensurate increase in the Commission counties, requiring a proportional \$11.8 million for the Commission. The House legislation also granted authority for a full 50% reimbursement for Commission counties for all reimbursements, including the Commission's misdemeanor pilot.

Mr. Cullen explained that it is not yet known what the Senate would do with the House proposed legislation. He has meetings scheduled with Senate leaders. He noted that there was a possibility that the Senate would reduce funding to 40%, which would not help the Commission much, but even if prosecutors received 40% reimbursement, the Commission would need a proportional increase, which Commission staff calculated to be about \$3 million.

Mr. Cullen stated that after the January emergency meeting regarding House Bill 1006, he engaged in intense discussions with legislators and was able to persuade the House to remove the merger language. The Commission did have to agree to some conditions, such as changes to Commission member appointments and being open-minded about future conversations regarding potential public defense agency mergers/realignments.

The public service attorney scholarship bill appears likely to pass. The bill would create a new scholarship program allowing law students to agree to serve as a deputy public defender or a deputy prosecutor for five years after graduation, in which case they would receive \$20,000 a year for law school.

Regarding public defender retirement accounts, Mr. Cullen expressed his frustration that although significant progress was made in previous years, and despite valuable contributions from multiple allies including the Chief Public Defenders' Association, no traction was made this year. There appears to be a belief that multiple retirement accounts should be combined, and there remains concern among legislators that the PARF fund is currently underfunded.

Mr. Abbs called the Commission's attention to the fact that counties will have to increase public defender spending if they accept state funding for prosecutors; his office would need an additional \$60,000 in county funds if the county were to accept the 50% prosecutor reimbursement. Mr. Mason agreed, but he also stated that the difference could be offset by savings to the county on the prosecutor's side. Mr. Cullen indicated that, if something is passed, the Commission will send a newsletter explaining its impact on county budgets.

9. Updates: Misdemeanor Pilot, 2024 Compensation Analysis, Criminal Rule 6.1, and Meeting Requirements post July 1, 2025

Mr. Mason updated the Commission on the status of the misdemeanor pilot. Referring to a diagram in the materials (see Appendix B), he explained that counties in red have applied to participate in the pilot. Only 12 may be chosen. Counties in green have entered into data collection agreements. Participation in these agreements does

not mean they will be selected for the pilot; it just provides the Commission with additional information. He anticipates that the Commission will select the pilot participants at the June meeting.

Mr. Mason reported that the median salary for public defenders in 2024 was \$86,000, up \$9,000 from 2023. This change is particularly relevant to counties who are losing or unable to hire attorneys; many of them are paying less than the median. He frequently shares the example of Delaware County, which initially could not fill a position until it offered a 0.5 FTE contract for \$50,000, at which time it filled. Market forces take time but do work; until supply meets demand, lower paying counties will need to increase contract amounts.

As discussed at the December meeting, Commission staff sent the Commission's recommendations regarding Criminal Rule 6.1 to the Supreme Court. The Chief Justice forwarded the recommendations to the Court's Rules Committee and thanked the Commission for its work.

Due to legislation passed in 2024, the Commission will be recording and storing recordings online in perpetuity. There is a question whether the statute requires streaming, recording, and storage of county public defender meetings. As will be addressed in another newsletter article, Commission staff, while not the final authority, do not believe it will be required unless the boards are meeting in the county council/commission room.

10. Other Matters

Ms. Corley called the Commission's attention to the passing of Jesse Cook, who was a giant in the Indiana public defense community. Mr. Cullen stated that the Commission tweeted a notice of his passing as well as a moving tribute to Ms. Cook penned by attorney Mark Nicholson.

Also, based on her understanding that this would be her final meeting, Ms. Corley stated how much she appreciated serving on the Commission and working with everyone.

The meeting was adjourned.

Appendix A

Commission on Court Appointed Attorneys Non-Capital Claims 4Q2024 3/26/25

County	Total Expenditure	Non-reimbursable Adjustment	% Adjusted	Eligible Expenditure	40% Reimbursed	Prior Quarter Adjustmen t	Total Reimbursement
Adams	\$ 131,944.76	\$ 25,573.56	19%	\$ 106,371.20	\$ 42,548.48		\$ 42,548.48
Allen	\$ 1,475,588.01	\$ 109,374.05	7%	\$ 1,366,213.96	\$ 546,485.58		\$ 546,485.58
Benton	\$ 31,507.14	\$ 2,492.27	8%	\$ 29,014.87	\$ 11,605.95		\$ 11,605.95
Blackford	\$ 100,127.76	\$ 10,910.03	11%	\$ 89,217.73	\$ 35,687.09		\$ 35,687.09
Brown	\$ 68,119.93	\$ 27,676.52	41%	\$ 40,443.41	\$ 16,177.36		\$ 16,177.36
Carroll	\$ 345,128.94	\$ 10,680.65	3%	\$ 334,448.29	\$ 133,779.32	\$ (319.04)	\$ 133,460.28
Cass	\$ 199,307.11	\$ 30,191.61	15%	\$ 169,115.50	\$ 67,646.20		\$ 67,646.20
Clark	\$ 544,079.15	\$ 44,021.45	8%	\$ 500,057.70	\$ 200,023.08		\$ 200,023.08
Clinton	\$ 114,215.08	\$ 27,148.30	24%	\$ 87,066.78	\$ 34,826.71		\$ 34,826.71
Crawford	\$ 37,500.00	\$ 8,193.18	22%	\$ 29,306.82	\$ 11,722.73		\$ 11,722.73
Decatur	\$ 140,583.66	\$ 33,870.04	24%	\$ 106,713.62	\$ 42,685.45		\$ 42,685.45
DeKalb	\$ 269,148.86	\$ 22,990.82	9%	\$ 246,158.04	\$ 98,463.22		\$ 98,463.22
Delaware	\$ 543,572.57	\$ 9,425.77	2%	\$ 534,146.80	\$ 213,658.72		\$ 213,658.72
Elkhart	\$ 1,241,460.15	\$ 163,207.85	13%	\$ 1,078,252.30	\$ 431,300.92		\$ 431,300.92
Fayette	\$ 123,799.44	\$ 18,068.50	15%	\$ 105,730.94	\$ 42,292.37		\$ 42,292.37
Floyd	\$ 427,469.06	\$ 72,954.09	17%	\$ 354,514.97	\$ 141,805.99		\$ 141,805.99
Fulton	\$ 95,085.43	\$ 17,230.93	18%	\$ 77,854.50	\$ 31,141.80		\$ 31,141.80
Gibson	\$ 213,868.10	\$ 27,420.09	13%	\$ 186,448.01	\$ 74,579.20		\$ 74,579.20
Grant	\$ 315,355.09	\$ 3,525.64	1%	\$ 311,829.45	\$ 124,731.78		\$ 124,731.78
Greene	\$ 204,682.35	\$ 37,686.37	18%	\$ 166,995.98	\$ 66,798.39		\$ 66,798.39
Hancock	\$ 278,117.22	\$ 18,600.19	7%	\$ 259,517.03	\$ 103,806.81		\$ 103,806.81
Harrison	\$ 219,825.83	\$ 24,832.54	11%	\$ 194,993.29	\$ 77,997.32		\$ 77,997.32
Hendricks	\$ 682,207.45	\$ 118,032.68	17%	\$ 564,174.77	\$ 225,669.91		\$ 225,669.91
Howard	\$ 655,880.72	\$ 51,327.87	8%	\$ 604,552.85	\$ 241,821.14		\$ 241,821.14
Jackson	\$ 312,970.65	\$ 20,046.19	6%	\$ 292,924.46	\$ 117,169.78		\$ 117,169.78
Jasper	\$ 146,408.50	\$ 33,289.96	23%	\$ 113,118.54	\$ 45,247.42		\$ 45,247.42
Jay	\$ 164,903.64	\$ 29,184.43	18%	\$ 135,719.21	\$ 54,287.68		\$ 54,287.68
Jefferson	\$ 185,971.49	\$ 25,602.88	14%	\$ 160,368.61	\$ 64,147.44		\$ 64,147.44
Jennings	\$ 128,731.03	\$ 1,937.26	2%	\$ 126,793.77	\$ 50,717.51		\$ 50,717.51
Knox	\$ 266,410.81	\$ 34,845.50	13%	\$ 231,565.31	\$ 92,626.12		\$ 92,626.12
Kosciusko	\$ 353,944.74	\$ 113,447.97	32%	\$ 240,496.77	\$ 96,198.71		\$ 96,198.71
LaGrange	\$ 185,126.58	\$ 27,805.17	15%	\$ 157,321.41	\$ 62,928.57		\$ 62,928.57
Lake	\$ 1,871,137.85	\$ 941.32	0%	\$ 1,870,196.53	\$ 748,078.61		\$ 748,078.61
LaPorte	\$ 361,833.85	\$ 37,200.09	10%	\$ 324,633.76	\$ 129,853.50		\$ 129,853.50
Lawrence	\$ 301,177.08	\$ 49,333.72	16%	\$ 251,843.36	\$ 100,737.34	\$ (9.60)	\$ 100,727.74
Madison	\$ 634,182.59	\$ 8,175.04	1%	\$ 626,007.55	\$ 250,403.02		\$ 250,403.02
Marion	\$ 7,305,659.54	\$ 888,488.46	12%	\$ 6,417,171.08	\$ 2,566,868.43		\$ 2,566,868.43
Martin	\$ 91,956.77	\$ 21,794.63	24%	\$ 70,162.14	\$ 28,064.85		\$ 28,064.85
Miami	\$ 212,986.15	\$ 22,814.96	11%	\$ 190,171.19	\$ 76,068.48		\$ 76,068.48

Appendix A

Monroe	\$ 890,470.12	\$ 163,030.75	18%	\$ 727,439.37	\$ 290,975.75		\$ 290,975.75
Noble	\$ 340,002.08	\$ 58,707.79	17%	\$ 281,294.29	\$ 112,517.72	\$ (10.68)	\$ 112,507.04
Ohio	\$ 147,093.71	\$ 17,330.21	12%	\$ 129,763.50	\$ 51,905.40		\$ 51,905.40
Orange	\$ 141,579.50	\$ 28,251.45	20%	\$ 113,328.05	\$ 45,331.22		\$ 45,331.22
Owen	\$ 120,908.58	\$ 18,184.14	15%	\$ 102,724.44	\$ 41,089.77		\$ 41,089.77
Perry	\$ 128,253.69	\$ 40,898.65	32%	\$ 87,355.04	\$ 34,942.02		\$ 34,942.02
Pike	\$ 48,886.49	\$ 5,343.55	11%	\$ 43,542.94	\$ 17,417.18		\$ 17,417.18
Pulaski	\$ 99,894.88	\$ 28,405.86	28%	\$ 71,489.02	\$ 28,595.61		\$ 28,595.61
Ripley	\$ 58,450.95	\$ 13,640.11	23%	\$ 44,810.84	\$ 17,924.34		\$ 17,924.34
Rush	\$ 128,684.01	\$ 28,227.57	22%	\$ 100,456.44	\$ 40,182.58		\$ 40,182.58
Scott	\$ 188,290.66	\$ 21,291.32	11%	\$ 166,999.34	\$ 66,799.74		\$ 66,799.74
Shelby	\$ 254,778.13	\$ 39,585.73	16%	\$ 215,192.40	\$ 86,076.96		\$ 86,076.96
Spencer	\$ 88,719.77	\$ 5,465.22	6%	\$ 83,254.55	\$ 33,301.82		\$ 33,301.82
Steuben	\$ 147,205.38	\$ 46,096.05	31%	\$ 101,109.33	\$ 40,443.73		\$ 40,443.73
StJoseph	\$ 845,654.88	\$ 63,178.52	7%	\$ 782,476.36	\$ 312,990.54	\$ (161.68)	\$ 312,828.86
Sullivan	\$ 190,863.66	\$ 22,938.38	12%	\$ 167,925.28	\$ 67,170.11		\$ 67,170.11
Switzerlan	\$ 40,735.81	\$ 15,393.33	38%	\$ 25,342.48	\$ 10,136.99		\$ 10,136.99
Tippecano	\$ 1,066,147.61	\$ 171,580.32	16%	\$ 894,567.29	\$ 357,826.92		\$ 357,826.92
Union	\$ 20,032.75	\$ 2,740.35	14%	\$ 17,292.40	\$ 6,916.96		\$ 6,916.96
Vanderbur	\$ 1,379,071.30	\$ 66,345.89	5%	\$ 1,312,725.41	\$ 525,090.16		\$ 525,090.16
Vigo	\$ 884,566.92	\$ 138,777.61	16%	\$ 745,789.31	\$ 298,315.73		\$ 298,315.73
Wabash	\$ 165,719.74	\$ 23,612.38	14%	\$ 142,107.36	\$ 56,842.94		\$ 56,842.94
Warren	\$ 17,743.24	\$ 1,977.90	11%	\$ 15,765.34	\$ 6,306.14		\$ 6,306.14
Warrick	\$ 271,576.11	\$ 16,793.91	6%	\$ 254,782.20	\$ 101,912.88		\$ 101,912.88
Washingto	\$ 162,648.48	\$ 24,076.75	15%	\$ 138,571.73	\$ 55,428.69		\$ 55,428.69
WCIPDO	\$ 182,700.78	\$ 24,946.53	14%	\$ 157,754.25	\$ 63,101.70		\$ 63,101.70
White	\$ 112,401.95	\$ 27,647.37	25%	\$ 84,754.58	\$ 33,901.83		\$ 33,901.83
TOTAL	\$ 29,105,056.26	\$ 3,344,810.22		\$ 25,760,246.04	\$ 10,304,098.40	\$ (501.00)	\$ 10,303,597.40

Appendix B

