

**INDIANA PUBLIC DEFENDER COMMISSION MEETING
MINUTES**

March 10, 2004

The meeting commenced at approximately 3:10 p.m. Present were: Chairman Norman Lefstein, Commission members Bettye Lou Jerrel, Sen. Timothy Lanane, Susan Carpenter, and Rebecca McClure. Sen. Richard Bray joined the meeting at approximately 3:15 p.m. Also in attendance were Larry Landis of the Indiana Public Defender Council; Neal Bowling, attorney for the Commission; David Cook and Peter Haughan, of the Marion County Public Defender Agency; Amy Hutcheson, Chief Public Defender of Tippecanoe County; and Patrick Harrington and Kent Moore of the Tippecanoe County Public Defender Board.

1. Minutes from the December 11, 2003, meeting were reviewed and approved.
2. Chairman Lefstein noted that the Indiana General Assembly had recently increased funding for the Indiana Public Defense Fund from \$7,000,000 annually to \$8,000,000, beginning July 1, 2004, and increasing to \$9,000,000 annually on July 1, 2005. It was also noted that Neal Bowling, the current staff attorney for the Commission, would be leaving within the month, and that a search was being conducted for a suitable replacement.
3. Given the presence of representatives of the Marion County Public Defender Agency and the Tippecanoe County public defender system, Chairman Lefstein proposed that the Commission deviate from the schedule prescribed by the meeting agenda, and instead immediately address the issues for which the Marion and Tippecanoe County officials had appeared. All Commissioners concurred in Chairman Lefstein's suggestion.
4. By way of introduction, Chairman Lefstein discussed a letter from Patricia Puritz of the American Bar Association describing the appalling state of indigent juvenile defense in Marion County. The letter had been reviewed by all Commission members, as well as Chief Public Defender David Cook, who had in turn shared the letter with the Marion County Public Defender Board. It was noted that Mr. Cook had drafted a letter to the members of the Commission describing his plan for addressing the problems with public defense in Marion County Juvenile Court. Part of this plan involved presenting an ordinance to the Marion County Public Safety Committee that would provide funding necessary to bring the Marion County Public Defender Agency's juvenile division into compliance with Commission standards. Another aspect of Mr. Cook's plan involves informing the Executive Committee of the Marion Superior Court that, if the Agency is not adequately funded, the Agency will be compelled to refuse to accept any new appointments.

Next, Mr. Cook stated that he believed that the Commission's current caseload standards for juvenile cases were inappropriate and based upon outdated assumptions. He further asked that the Commission consider amending juvenile caseload standards to better reflect the attorney time requirements of each type of juvenile case. Larry Landis pointed out that the Indiana Chief Defenders Association has recommended that the attorney caseload standards

be changed as well; the recommendations of the Chief Defenders Association comported with Mr. Cook's recommendations. The Commission approved the proposed amendments to the caseload guidelines. The old and new guidelines are as follows:

INADEQUATE SUPPORT STAFF					
JUVENILE CASE TYPES:	OLD STANDARD		NEW STANDARD		
	F/T	P/T	F/T	P/T	
JD-C Felony and above	200	100	200	100	
JD-D Felony	200	100	250	125	
JD-Misd.	200	100	300	150	
JS-Juvenile Status	300	150	400	200	
JC-Juvenile CHINS	300	150	100	50	
JT-TPR	300	150	100	50	
Probation violation	300	150	400	200	
JM-Juvenile Miscellaneous	300	150	400	200	

Chairman Lefstein noted that the Commission would also need to promulgate caseload standards for counties that provided adequate support staff.

Mr. Cook further stated that presently he would be seeking more than \$800,000 from the Marion County Council with which to hire enough attorneys to achieve compliance with the Commission's juvenile caseload standards.

- Tippecanoe County's proposed comprehensive plan was considered. The Commission asked for clarification of the phase-in provision of the proposed plan. Ms. Hutcheson clarified the proposed phase-in, and stated that she expects Tippecanoe County to be in full compliance with Commission standards by 2008, which would be the fifth year of the phase-in project. Mr. Harrington and Mr. Moore stated that all three components of Tippecanoe's county government were highly supportive of the efforts of the Tippecanoe County Public Defender Board to achieve compliance. Larry Landis noted that this state of affairs is quite an improvement from only five years ago, when county government was at best lukewarm toward the idea of spending the necessary funds to achieve compliance. Based upon this discussion, the Commission voted to approve Tippecanoe County's comprehensive plan. See attached Appendix A, the portion of the Tippecanoe County plan describing the proposed phase-in.
- Commissioner McClure departed at 4:20 p.m. At that point, only five Commissioners remained at the meeting.
- The Commissioners who were present then considered and approved capital reimbursements as follows:

COUNTY	DEFENDANT	TOTAL
Delaware	Verner	\$15,867.66
Lake	Azania	\$31,068.37
	Britt	\$3,619.00

Marion	Barker		5,827.50
	Covington		\$10,757.18
	Davis (Bomani)		\$1,644.75
	Ritchie		\$1,615.50
Morgan	Pruitt		\$92,589.92
Spencer	Ward		\$6,091.93
Vanderburgh	McManus		\$135.00
TOTAL			\$169,216.81

8. The Commission then addressed the late claims in the Pruitt case from Morgan County, and the letter from Morgan County Auditor Mae Cooper. Given that the attorney invoices were filed ex parte, that the court orders granting the payment of attorney fees were sealed by the court, and that the personnel in the Morgan County Auditor's office had no prior experience in seeking reimbursement in death penalty cases, the Commission voted to pay in full the \$110,838.13 in late claims in the case.

With respect to death penalty cases in which the trial court dismisses a death penalty count, and the State pursues interlocutory appeal of the trial court's involuntary dismissal, the Commission resolved that it will reimburse counties at 50% for the cost of defending against the State's interlocutory appeal.

9. The Commission approved reimbursement for noncapital claims in the following amounts:

Recommendations for Reimbursement in Non-capital Cases--March 10, 2004					
COUNTY	PERIOD COVERED	TOTAL EXPENSE	ADJUS'T	ADJUS'D EXPEND.	40% REIMB.
ADAMS	10/01/03-12/31/03	\$39,968.40	-\$883.54	\$40,851.94	\$16,340.78
ALLEN	10/01/03-12/31/03	\$591,533.47	\$0.00	\$591,533.47	\$236,613.39
BENTON	10/01/03-12/31/03	\$22,851.96	\$1,151.80	\$21,700.16	\$8,680.06
BLACKFORD	10/01/03-12/31/03	\$14,064.25	\$60.00	\$14,004.25	\$5,601.70
CARROLL	10/01/03-12/31/03	\$20,424.17	\$0.00	\$20,424.17	\$8,169.67
CLARK	10/01/03-12/31/03	\$78,904.10	\$2,065.55	\$76,838.55	\$30,735.42
DECATUR	10/01/03-12/31/03	\$29,697.68	\$10,305.09	\$19,392.59	\$7,757.04
FAYETTE	10/01/03-12/31/03	\$54,837.94	\$0.00	\$54,837.94	\$21,935.18
FLOYD	10/01/03-12/31/03	\$84,210.84	\$0.00	\$84,210.84	\$33,684.34
FOUNTAIN	10/01/03-12/31/03	\$15,088.68	\$3,138.45	\$11,950.23	\$4,780.09
FULTON	10/01/03-12/31/03	\$34,543.04	\$2,256.82	\$32,286.22	\$12,914.49
GREENE	10/01/03-12/31/03	\$59,371.61	\$0.00	\$59,371.61	\$23,748.64
HANCOCK	10/01/03-12/31/03	\$77,751.77	\$0.00	\$77,751.77	\$29,018.44
HENRY	10/01/03-12/31/03	\$79,185.08	\$0.00	\$79,185.08	\$31,674.03
JASPER	10/01/03-12/31/03	\$42,807.70	\$12,970.73	\$29,836.97	\$11,934.79
JAY	10/01/03-12/31/03	\$48,545.97	\$11,249.26	\$37,296.71	\$14,918.68

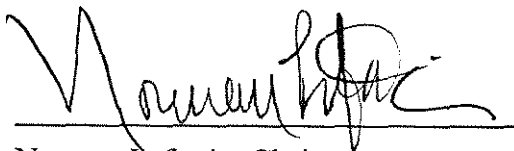
JENNINGS	10/01/03-12/31/03	\$21,227.19	\$1,945.70	\$19,281.49	\$7,712.60
KNOX	10/01/03-12/31/03	\$85,898.88	\$4,122.37	\$81,776.51	\$26,571.18
KOSCIUSKO	10/01/03-12/31/03	\$84,676.30	\$0.00	\$84,676.30	\$33,870.52
LAKE	10/01/03-12/31/03	\$754,313.83	\$0.00	\$754,313.83	\$301,725.53
LAPORTE	10/01/03-12/31/03	\$88,388.55	\$0.00	\$88,388.55	\$35,355.42
MADISON	10/01/03-12/31/03	\$365,184.24	\$14,890.43	\$350,293.81	\$140,117.52
*MARION	10/01/03-12/31/03	\$1,521,707.50	\$9,742.05	\$1,511,965.45	\$604,786.18
MIAMI	10/01/03-12/31/03	\$80,506.53	\$0.00	\$80,506.53	\$32,202.61
MONROE	10/01/03-12/31/03	\$178,325.00	\$4,686.94	\$173,638.06	\$69,455.22
MONTGOMERY	10/01/03-12/31/03	\$98,936.59	\$44,125.72	\$54,810.87	\$21,924.35
**NOBLE	10/01/03-12/31/03	\$42,797.24	\$0.00	\$42,797.24	\$17,118.90
OHIO	10/01/03-12/31/03	\$7,003.75	\$1,599.10	\$5,404.65	\$2,161.86
ORANGE	10/01/03-12/31/03	\$50,034.06	\$1,693.81	\$48,340.25	\$19,336.10
PARKE	10/01/03-12/31/03	\$14,179.45	\$0.00	\$14,179.45	\$5,671.78
PERRY	10/01/03-12/31/03	\$7,322.40	\$0.00	\$7,322.40	\$2,928.96
PULASKI	10/01/03-12/31/03	\$36,993.16	\$6,322.66	\$30,670.50	\$12,268.20
RUSH	10/01/03-12/31/03	\$26,924.28	\$9,328.11	\$17,596.17	\$7,038.47
SCOTT	10/01/03-12/31/03	\$81,200.14	\$20,787.24	\$60,412.90	\$24,165.16
SHELBY	10/01/03-12/31/03	\$46,452.71	\$5,249.16	\$41,203.55	\$16,481.42
SPENCER	10/01/03-12/31/03	\$19,937.25	\$0.00	\$19,937.25	\$7,974.90
STEUBEN	10/01/03-12/31/03	\$72,830.45	\$12,097.26	\$60,733.19	\$24,293.28
SULLIVAN	10/01/03-12/31/03	\$20,518.78	\$581.75	\$19,937.03	\$7,974.81
SWITZERLAND	10/01/03-12/31/03	\$30,632.10	\$2,439.05	\$28,193.05	\$11,277.22
VANDEBURGH	10/01/03-12/31/03	\$375,044.43	\$180.00	\$374,864.43	\$149,945.77
VERMILLION	10/01/03-12/31/03	\$12,328.95	\$3,204.29	\$9,124.66	\$3,649.86
VIGO	10/01/03-12/31/03	\$276,240.83	\$60,772.98	\$215,467.85	\$86,187.14
WARREN	10/01/03-12/31/03	\$7,602.00	\$444.00	\$7,158.00	\$2,863.20
WASHINGTON	10/01/03-12/31/03	\$56,332.60	\$6,768.71	\$49,563.89	\$19,825.56
WHITLEY	10/01/03-12/31/03	\$35,696.65	\$6,634.14	\$29,062.51	\$11,625.00
TOTAL		\$5,793,022.50	\$259,929.63	\$5,533,092.87	\$2,205,015.46

Staff attorney Neal Bowling noted that all Marion County claims, capital and noncapital, were reviewed and recommended by State Court Administration staff attorney Tom Carusillo.

- The Commission then addressed the issue of how and/or whether to pay the reimbursement claims in full. Total claimed reimbursements from the second quarter of fiscal year 2003-2004, including the late amount in the Pruitt case, totaled \$2,485,070.40. It was noted that I.C. 33-19-7-5 mandates that two semiannual deposits of \$1.2 million each be distributed to the Public Defense Fund twice each year, on December 31 and June 30. It was further noted

that, nonetheless, the State Budget Agency has already made the June 30, 2004, distribution of \$1.2 million available to the Commission to spend on reimbursements, along with the \$2.3 million budget allotment that was made on January 1, 2004. Along with \$1.178 million left over from fiscal year 2002-2003, the Commission determined that it possessed sufficient funds to pay all reimbursement claims in full, and voted to do so.

11. The Commission then considered Perry County's proposed comprehensive plan. The Commission noted that the plan did not comport with Commission standards. Furthermore, Chairman Lefstein expressed his concern that the proposed plan was signed by the Perry Circuit Court judge, and that the plan seemed to be largely the creation of the judge. The proposed plan was tabled for further consideration. The Commission resolved that all future contact between the Commission and Perry County officials regarding the county's public defense program should be through the Perry County Public Defender Board.
12. Chairman Lefstein updated the Commission on the status of the *ad hoc* committee which was formed to discuss possible suggested revisions to Criminal Rule 24. It was noted that Justice Brent Dickson had been designated by Chief Justice Shepard to serve on the committee.
13. Chairman Lefstein noted that progress is being made toward establishing a standardized system through which to gather information about indigent defense systems in Indiana, and through which counties will be able to make requests for reimbursement of indigent defense expenditures.
14. The next meeting of the Commission was scheduled for July 7, 2004, at 3:00 p.m.



Norman Lefstein, Chairman

7/27/2004

Date

¹ Paragraph 10 was amended by adding the following sentence:

Chairman Lefstein indicated that a letter will be sent to Chief Justice Shepard requesting approval for the payment of noncapital reimbursement claims as approved by the Commission, and disbursement will be made upon approval by the Chief Justice.

**INDIANA PUBLIC DEFENDER COMMISSION MEETING
MINUTES**

July 28, 2004

The meeting commenced at approximately 3:10 p.m. Present were: Chairman Norman Lefstein, Commission members Susan Carpenter, Hon. Daniel Donahue, Les Duvall, Rep. Ralph Foley, Monica Foster, Bettye Lou Jerrel, Sen. Timothy Lanane, and Rebecca McClure. Absent were: Commission members Sen. Richard Bray and Rep. Bob Kuzman. Also in attendance were Larry Landis of the Indiana Public Defender Council; Bob Borgmann, attorney for the Commission; David Cook, Susan Boatright and Mark Jones of the Marion County Public Defender Agency; and Mark Stamper, Chief Public Defender of Henry County.

1. Minutes from the March 10, 2004 meeting were reviewed and discussed. Chairman Lefstein requested that Paragraph 10 of the proposed minutes be amended to indicate that a letter would be sent to Chief Justice Shepard requesting approval for payment of noncapital reimbursement claims in the manner approved by the Commission, and that the payment would be made upon approval of the Chief Justice. The minutes were so amended and approved. Chairman Lefstein reported that the letter had been sent and approval had been received.
2. Chairman Lefstein called upon Mark Stamper, Chief Public Defender of Henry County, who discussed Henry County's three-year plan to meet Commission standards. Mr. Stamper stated that the Chief Public Defender's salary does not comply with Standard G but that the Henry County Council has approved salary increases in the amount of \$4,500 for each of the next 3 years, which will incrementally increase the Chief Public Defender's salary to bring it into compliance. Mr. Stamper further reported that the County Council has approved an additional \$14,000 in 2005 and an additional \$20,000 in 2006 for part-time contractual attorney assistance to reduce caseload pressure on the D Felony/Misdemeanor Deputy. Larry Landis indicated that in the past counties have been permitted to phase-in compliance; however, during the phase-in period only those parts that meet Commission standards would be eligible for reimbursement. Judge Donahue moved that Henry County should not receive reimbursement for the Chief Public Defender's salary until it complied with Commission standards. Judge Donahue further moved until that Henry County submit a letter listing current caseloads and that payment of Henry County's reimbursement claim be withheld until the requested information was reviewed and approved by Chairman Lefstein. The motion was seconded and approved.
3. Chairman Lefstein next asked the Marion County Chief Public Defender, Dave Cook, to provide an update of the Marion County Juvenile Court. Mr. Cook stated that in February 2004, the Marion County Public Defender Agency had notified the Court that, due to excessive caseloads, in July 2004 it would refuse to accept new juvenile cases unless sufficient funds were appropriated by the City-County Council to hire additional deputy public defenders. Subsequently, a fiscal proposal appropriating \$500,000 for the Public Defender Agency was reviewed by a committee of the City-County Council and sent to the

full Council with a "Do Pass" recommendation; however, on July 19, 2004 the City-County Council tabled the proposal. On July 23, 2004, the Public Defender Agency filed with the Marion County Juvenile Court a petition requesting that no new cases be assigned to the Public Defender Agency until caseloads complied with Commission standards. The Court granted the petition and indicated that new cases would be assigned to a panel of attorneys at a cost of \$90.00 per hour until public defender caseloads met standards. Mr. Cook further reported that he had heard that the Court had issued another order requiring the Public Defender Agency to file a daily report concerning attorney caseloads, but at that time, Mr. Cook had not received a copy of the order.

Several Commission members commented on the appropriateness of the court order requiring daily reports and discussed methods of assessing current caseloads. Larry Landis introduced a method of assessing the relative weight of different types of cases in a mixed caseload to determine compliance with standards (A copy of "Attorney Workload Worksheet" prepared by Mr. Landis is attached hereto in Appendix A), and Dave Cook discuss his method determining relative case weight. Representative Foley moved that Chairman Lefstein issue a letter recognizing the Marion County Public Defender Agency's commitment to provide effective counsel and its efforts restrict excessive caseloads. The letter should further indicate that because of the strong action taken by the Marion County Public Defender Agency, reimbursement of Marion County's noncapital expenses would continue. Finally, the letter should express the Commission's concerns regarding adherence to Commission Standard K and ineffective representation resulting from excessive caseloads. The motion was seconded and approved.

4. Representative Foley left the meeting at 5:05 p.m.
5. The Commissioners who were present then considered and approved capital reimbursements as follows:

COUNTY	DEFENDANT	TOTAL
Delaware	Verner	\$12,451.82
Lake	Aki-Khuam	\$3,554.92
	Azania	\$29,369.46
	Britt	\$3,711.25
	Jeter	\$7,909.65
	Maust	\$4,299.06
	Roche	\$7,727.60
Marion	Adams1	\$570.00
	Adams2	\$2,317.10
	Dye	\$5,178.13
	Holland	\$5,659.00
	Holland2	\$6,765.25
Morgan	Pruitt	\$13,204.10
Vanderburgh	McManus	\$5,037.78

Total			\$107,755.12
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Monica Foster discussed matters involving the Britt case and asked to revisit the decision concerning the \$70.00 per hour rate for old capital cases. Monica Foster agreed to draft a letter for possible submission to Chief Justice Shepard regarding this matter.

6. The Commission approved reimbursement for noncapital claims in the following amounts:

Indiana Public Defender Commission

COUNTY	PERIOD COVERED	TOTAL EXPENSE	ADJUS'T	ADJUS'D EXPEND.	40% REIMB.
ADAMS	01/01/04-03/31/04	\$26,812.06	-\$508.70	\$27,320.76	\$10,928.30
ALLEN	01/01/04-03/31/04	\$589,942.87	\$982.28	\$588,960.59	\$235,584.24
BENTON	01/01/04-03/31/04	\$17,404.68	\$222.00	\$17,182.68	\$6,873.07
BLACKFORD	01/01/04-03/31/04	\$11,781.00	\$0.00	\$11,781.00	\$4,712.40
CARROLL	01/01/04-03/31/04	\$23,650.19	\$0.00	\$23,650.19	\$9,460.08
CLARK	01/01/04-03/31/04	\$99,208.65	\$3,858.11	\$95,350.54	\$38,140.22
DECATUR	01/01/04-03/31/04	\$41,447.88	\$14,690.32	\$26,757.56	\$10,703.02
FAYETTE	01/01/04-03/31/04	\$90,311.85	\$0.00	\$90,311.85	\$36,124.74
FLOYD	01/01/04-03/31/04	\$66,889.46	\$0.00	\$66,889.46	\$26,755.78
FOUNTAIN	01/01/04-03/31/04	\$10,978.24	\$2,469.57	\$8,508.67	\$3,403.47
FULTON	01/01/04-03/31/04	\$37,614.66	\$5,056.94	\$32,557.72	\$13,023.09
GRANT	01/01/04-03/31/04	\$151,272.70	\$19,317.70	\$131,955.00	\$52,782.00
GREENE	01/01/04-03/31/04	\$49,584.66	\$0.00	\$49,584.66	\$19,833.86
HANCOCK	01/01/04-03/31/04	\$60,699.12	\$0.00	\$60,699.12	\$24,279.65
JASPER	01/01/04-03/31/04	\$22,265.61	\$5,004.58	\$17,261.03	\$6,904.41
JAY	01/01/04-03/31/04	\$42,328.84	\$10,732.17	\$31,596.67	\$12,638.67
JENNINGS	01/01/04-03/31/04	\$15,373.02	\$0.00	\$15,373.02	\$6,149.21
KNOX	01/01/04-03/31/04	\$113,004.24	\$36,757.53	\$76,246.71	\$26,571.18
KOSCIUSKO	01/01/04-03/31/04	\$59,785.47	\$0.00	\$59,785.47	\$23,914.19
LAKE	01/01/04-03/31/04	\$669,574.55	\$0.00	\$669,574.55	\$267,829.82
LAPORTE	01/01/04-03/31/04	\$88,389.35	\$0.00	\$88,389.35	\$35,355.74
MADISON	01/01/04-03/31/04	\$366,913.66	\$3,432.36	\$363,481.30	\$145,392.52
MARION	01/01/04-03/31/04	\$1,642,399.56	\$1,831.63	\$1,640,567.93	\$656,227.17
MIAMI	01/01/04-03/31/04	\$67,120.72	\$6,925.15	\$60,195.57	\$24,078.23
MONROE	01/01/04-03/31/04	\$148,769.00	\$1,392.00	\$147,377.00	\$58,950.80
MONTGOMERY	01/01/04-03/31/04	\$56,365.35	\$27,089.11	\$29,276.24	\$11,710.50
NOBLE	01/01/04-03/31/04	\$47,382.13	\$0.00	\$47,382.13	\$18,952.85
OHIO	01/01/04-03/31/04	\$13,830.37	\$2,495.50	\$11,334.87	\$4,533.95
ORANGE	01/01/04-03/31/04	\$62,019.68	\$724.30	\$61,295.38	\$24,518.15

PARKE	01/01/04-03/31/04	\$15,090.71	\$0.00	\$15,090.71	\$6,036.28
PIKE	01/01/04-03/31/04	\$107,249.65	\$0.00	\$107,249.65	\$42,899.86
PULASKI	01/01/04-03/31/04	\$23,349.66	\$7,490.10	\$15,859.56	\$6,343.82
RUSH	01/01/04-03/31/04	\$25,373.85	\$7,237.49	\$18,136.36	\$7,254.54
SCOTT	01/01/04-03/31/04	\$31,905.60	\$4,147.73	\$27,757.87	\$11,103.15
SHELBY	01/01/04-03/31/04	\$56,194.31	\$7,631.33	\$48,562.98	\$19,661.79
SPENCER	01/01/04-03/31-04	\$21,098.79	\$0.00	\$21,098.79	\$8,439.52
STEUBEN	01/01/04-03/31/04	\$63,862.15	\$11,495.19	\$52,366.96	\$20,946.78
SULLIVAN	01/01/04-03/31/04	\$15,250.73	\$857.25	\$14,393.48	\$5,757.39
SWITZERLAND	01/01/04-03/31/04	\$25,675.50	\$3,837.70	\$21,837.80	\$8,735.12
VANDEBURGH	01/01/04-03/31/04	\$325,512.78	\$0.00	\$325,512.78	\$130,205.11
VERMILLION	01/01/04-03/31/04	\$12,743.83	\$0.00	\$12,743.83	\$5,097.53
VIGO	01/01/04-03/31/04	\$270,394.25	\$52,209.10	\$218,185.15	\$87,274.06
WARREN	01/01/04-03/31/04	\$2,138.11	\$0.00	\$2,138.11	\$855.24
WASHINGTON	01/01/04-03/31/04	\$46,738.92	\$11,292.24	\$35,446.68	\$14,178.67
WHITLEY	01/01/04-03/31-04	\$48,736.87	\$7,408.00	\$41,328.87	\$16,531.55
TOTAL		\$5,854,783.27	\$252,421.50	\$5,602,361.77	\$2,237,253.78

Judge Donahue abstained from voting on matters involving reimbursement for Clark County.

7. In accordance with the previously approved motion, Henry County would not be reimbursed for the salary of the Chief Public Defender, and the reimbursement would be adjusted accordingly. Payment of the adjusted reimbursement amount would be withheld pending submission of additional caseload information.
8. The Commission then considered Perry County's proposed comprehensive plan. The Commission noted that the Perry County Circuit Court judge was a party to the public defender contract and further comparison of the contract with Commission standards was requested. The proposed plan was tabled for further consideration. The Commission also requested that Staff Attorney Bob Borgmann send a letter to the Perry County Public Defender Board regarding Commission concerns and the judge's participation in the public defender contract. The Perry County claim for reimbursement was tabled pending future correspondence.
9. Bob Borgmann informed the Commission of the assignment of capital cases to public defenders in Lake County with felony caseloads exceeding Criminal Rule 24 standards. Mr. Borgmann related his conversations with David Schneider, Lake County Chief Public Defender. Felony cases for Lake County public defenders with capital cases had been reassigned, and attorney caseloads were brought into compliance with Criminal Rule 24.
10. Bob Borgmann notified the Commission that the hourly rate for capital cases had been raised from \$93.00 to \$96.00, effective January 1, 2005, in accordance with Criminal Rule 24.

11. Bob Borgmann distributed to Commission members the Capital Case Update that had been prepared by the Division of State Court Administration.

12. The next meeting of the Commission was scheduled for September 29, 2004, at 3:00 p.m.

Norman Lefstein, Chairman

Date

APPENDIX A
PHASE-IN PORTION OF TIPPECANOE COUNTY PLAN

Phase In Compliance

Year 1

Tippecanoe County will meet immediate compliance in Circuit, Superior, Superior II, Superior IV, and Superior VI. Tippecanoe County will approve five additional P.T.E. attorneys to meet compliance in the five aforementioned courts. In addition, Tippecanoe County will approve one additional P.T.E. attorney for Superior Court III at the initial stage of compliance. Tippecanoe County will approve required salary for Chief Public Defender.

Year 2

Tippecanoe County will meet immediate compliance in Circuit, Superior, Superior II, Superior IV and Superior VI. Tippecanoe County will approve additional P.T.E. attorneys as needed to maintain compliance in Circuit, Superior, Superior II, Superior IV, and Superior VI. In addition, Tippecanoe County will approve two additional P.T.E. attorney's positions for the Tippecanoe County Public Defender's Office by March 1st, of Year 2___; by November 1st, of Year 2___, Tippecanoe County will approve one additional P.T.E. position. By the end of Year 2___, three additional P.T.E. attorney positions will be added.

Year 3

Tippecanoe County will meet immediate compliance in Circuit, Superior, Superior II, Superior IV, and Superior VI. Tippecanoe County will approve two additional P.T.E. attorney positions by March 1st, of Year 3___ . By November 1st, of Year 3___, Tippecanoe County will approve additional attorney positions to bring Superior Court III in compliance. Further, by November 1st, Year 3___, Tippecanoe County will approve one additional P.T.E. attorney position toward Superior Court V compliance.

Year 4

Tippecanoe County will meet immediate compliance in Circuit, Superior, Superior II, Superior IV, and Superior VI. By March 1st, Year 4___, Tippecanoe County will approve one additional attorney position toward compliance in Superior Court V. By November 1st, Year 4___, Tippecanoe County will approve one additional P.T.E, position toward compliance in Superior Court V.

Year 5

Tippecanoe County will meet immediate compliance in Circuit, Superior, Superior II, Superior IV< and Superior IV. By March 1st, Year 5___, Tippecanoe County will approve one additional P.T.E. attorney toward compliance in Superior Court V. By October 1st, Year 5___, any additional

attorney needed to bring Superior Court V into compliance will be approved. By December 31st,
Year 5___, all Court of Tippecanoe County will be in compliance.

STATE OF INDIANA



PUBLIC DEFENDER COMMISSION

115 West Washington Street, Suite 1080
Indianapolis, Indiana 46204-3466
(317) 232-2542
Fax (317) 233-6586

http://www.in.gov/judiciary/admin/pub_def/
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Norman Lefstein, Chairman
Indianapolis

Senator Richard D. Bray
Martinsville

Susan Carpenter
Indianapolis

Hon. Daniel F. Donahue
Clark Circuit Court

Les Duvall
Indianapolis

Representative Ralph M. Foley
Martinsville

Monica Foster
Indianapolis

Betty Lou Jerrel
Evansville

Senator Timothy S. Lanane
Anderson

Rebecca S. McClure
Lebanon

Representative Bob Kuzman
Crown Point

April 13, 2004

Honorable Randall T. Shepard
Chief Justice, Indiana Supreme Court
Statehouse Room 304
200 West Washington Street
Indianapolis, IN 46204

Dear Chief Justice Shepard:

During its meeting on March 10, 2004, the Indiana Public Defender Commission decided to pay all approved non-capital claims without prorating any of them. The purpose of this letter is to explain our decision and to seek your approval for the approved payments. I have discussed this matter with Lilly Judson, who asked that I seek your approval before she authorized disbursements.

At our meeting, we were faced with claims from counties for reimbursement of non-capital defense expenditures in the amount of \$2,205,015. The Commission's reimbursement of capital claims at 50% of expenditures totaled \$280,054. Thus, the total of required expenditures was \$2,485,069. The Public Defense Fund balance on March 10, 2004, was \$2,506,050, but this did not include the \$1.2 million designated by statute to be transferred to the Public Defense Fund on June 30, 2004. (Since the law states that the Public Defense Fund balance may not fall below \$250,000, the sum of \$2,506,050 was not sufficient to cover pending non-capital claims.)

Pursuant to I.C. 33-19-7-5, the State Auditor is directed to transfer \$1.2 million to the Public Defense Fund twice each year, i.e., on June 30 and December 31. In fact, we have learned that no transfers of the kind referred to in the statute actually occur on these dates. Instead, the State Budget Agency makes both the \$1.2 million statutory distribution and the \$2.3 million budget allotment on January 1 and July 1 of each year. However, the semi-annual allocations of \$1.2 are always done six

Honorable Randall T. Shepard
April 13, 2004
Page Two

months in advance. Thus, on January 1, 2004, the agency made available to the Public Defense Fund the \$1.2 million, which the statute indicates will be transferred to the Commission as of June 30, 2004. Because of the manner in which funds are allocated to the Public Defense Fund, the dates of June 30 and December 31 are not of any significance at all.

Now, what this means is that when the Commission met on March 10, 2004, it actually had available to spend not only the sum of \$2,506,050 listed above but also the \$1.2 million that the statute states will be distributed as of June 30, 2004. Given this reality, the Public Defender Commission agreed at its meeting on March 10th to pay all claims in full and not suspend any of the non-capital reimbursement requests.

Moreover, the Commission reasoned that if it did suspend payments of non-capital claims until after June 30, 2004, the result would be that all non-capital claims would be paid in full in July in any event. Thus, the only thing that would be accomplished by suspending payments of non-capital claims would be to impose an unnecessary waiting period of several months before counties would receive their reimbursement payments.

As you know, the General Assembly has passed two important measures affecting the Public Defense Fund, which will take effect on July 1, 2004. The first deals with situations where payments in full of non-capital claims would cause the Public Defense Fund balance to drop below \$250,000. In the past, I.C. 33-9-14-6 has required the Commission to suspend payments of non-capital claims until the next semiannual deposit; if, after the next semiannual deposit is made, the Fund still contains insufficient funds to pay all non-capital claims in full without causing the Fund balance to drop below \$250,000, the Commission was required to pay the suspended claims on a prorated basis. I.C. 33-9-14-6 has now been amended to allow the Commission to pay non-capital claims immediately on a prorated basis, rather than impose a suspension period followed by the pro-ration of claims.

The second measure passed by the General Assembly increases annual funding for the Public Defense Fund from the current level of \$7 million to \$8 million for fiscal year 2004-2005, and to \$9 million for subsequent years. This increased funding, though still inadequate to fulfill all of the Commission's statutory obligations, will significantly reduce the frequency and severity of the Commission's need to prorate non-capital claims.

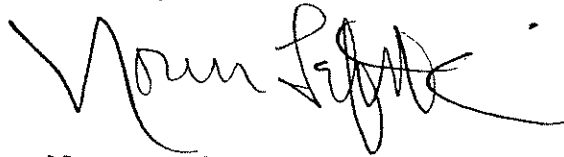
I trust that you understand the reasons for the Commission's decision at its March 10th meeting and will approve as soon as possible the release of payments of the non-capital claims that have not yet been paid. If you have any questions respecting this matter, please do not hesitate to let me know

Honorable Randall T. Shepard

April 13, 2004

Page Three

Sincerely,

A handwritten signature in black ink, appearing to read "Norman Lefstein". The signature is fluid and cursive, with a large initial "N" and a long, sweeping tail.

Norman Lefstein
Chairman

Indiana Public Defender Commission

xc: Lilia Judson
Executive Director
Division of State Court Administration

Larry Landis
Executive Director
Indiana Public Defender Council

Members, Indiana Public Defender Commission

**INDIANA PUBLIC DEFENDER COMMISSION MEETING
MINUTES**

September 29, 2004

The meeting commenced at 3:07 p.m. Present were: Chairman Norman Lefstein, Commission members Les Duvall, Rep. Ralph Foley, Bettye Lou Jerrel, Rep. Bob Kuzman, Sen. Timothy Lanane, Rebecca McClure, and Sen. Joseph Zakas. Absent were: Commission members Susan Carpenter, Hon. Daniel Donahue, and Monica Foster. Also in attendance were Larry Landis of the Indiana Public Defender Council and Bob Borgmann, attorney for the Commission.

1. Minutes from the July 28, 2004 meeting were reviewed and approved. In follow-up to the September 28 minutes, Chairman Lefstein reported that, as requested by the Commission, the Henry County Public Defender submitted a report of pending caseloads, and it was determined that the Henry County Public Defender Agency was in compliance with Commission standards and reimbursement for first quarter 2004 expenses was approved as directed by the Commission. Chairman Leftsein further reported that a letter had been sent to the Perry County Public Defender Board but that no response had yet been received. Bob Borgmann was directed to follow-up on the correspondence. Chairman Lefstein next reported that the Marion County Public Defender Agency had received an additional appropriation of \$500,000 for the year 2004 in the 2005 budget, for hiring additional attorneys in the juvenile court division. In the Marion County Public Defender's 2005 budget this amount will be increased to \$1,000,000. It was noted that the entire 2005 budget for the Marion County Public Defender was increased by \$2,500,000.
2. Chairman Leftstein discussed the date for the next Commission meeting, and the next meeting was scheduled for Thursday, December 16 at 1:30 pm.
3. Chairman Lefstein next discussed a resolution recognizing Senator Richard Bray's dedicated service to the Commission and the cause of Public Defense in Indiana. Senator Zakas moved for approval of the Resolution. The motion was seconded and approved unanimously.
4. The Commissioners then considered capital reimbursements as follows:

**INDIANA PUBLIC DEFENDER
COMMISSION**

Recommendations for Reimbursements in Capital Cases		
2nd QUARTER 2004-2005		
COUNTY	DEFENDANT	TOTAL
Allen	Hatch	\$ 7,424.67
Delaware	Verner	\$ 15,163.68
Lake	Aki-Khuam	\$ 8,496.15

	Britt	\$	5,297.25
	Jeter	\$	12,646.48 2,323.47
	Maust	\$	5,523.42
	Roche	\$	8,290.95
Madison	Baer	\$	21,968.15
Marion	Barker	\$	3,676.50
	Ben Yisrayl	\$	2,184.75
	Covington	\$	7,390.59
	Dye	\$	4,368.45
	Holland	\$	10,788.56
Morgan	Pruitt	\$	34,803.15
Spencer		\$	1,871.65
Total		\$	142,146.72 149,571.39

4/1/05
W

It was noted that for the Dye reimbursement, the presiding judge had not signed the request for reimbursement form. Bob Borgmann reported that he had a telephone conversation with the Marion County Public Defender Agency, assuring him that the signed form would be sent. The Commission approved reimbursement of capital claims; provided however, that reimbursement for expenses in the Dye case was conditioned upon receipt of the signed claim form.

5. The Commission approved reimbursement for non-capital claims in the following amounts:

Indiana Public Defender Commission

Recommendations for Reimbursement in Non-capital Cases--September 29, 2004

COUNTY	PERIOD COVERED	TOTAL EXPENSE	ADJUST	ADJUST'D EXPEND.	40% REIMB.
ADAMS	4/01/04-6/30/04	\$32,356.86	\$0.00	\$32,356.86	\$12,942.74
ALLEN	4/01/04-6/30/04	\$642,602.42	\$0.00	\$642,602.42	\$257,040.97
CARROLL	4/01/04-6/30/04	\$22,732.40	\$0.00	\$22,732.40	\$9,092.96
CLARK	4/01/04-6/30/04	\$99,216.13	\$4,658.03	\$94,558.10	\$37,823.24
DECATUR	4/01/04-6/30/04	\$27,511.88	\$10,335.15	\$17,176.73	\$6,870.69
FAYETTE	4/01/04-6/30/04	\$55,831.30	\$0.00	\$55,831.30	\$22,332.52
FLOYD	4/01/04-6/30/04	\$82,765.52	\$0.00	\$82,765.52	\$33,106.21
FOUNTAIN	4/01/04-6/30-04	\$16,363.00	\$5,379.80	\$10,983.20	\$4,393.28
GRANT	4/01/04-6/30/04	\$115,854.14	\$9,849.95	\$106,004.19	\$42,401.68
GREENE	4/01/04-6/30/04	\$59,751.57	\$0.00	\$59,751.57	\$23,900.63
HANCOCK	4/01/04-6/30/04	\$116,423.48	\$0.00	\$116,423.48	\$46,569.39
HENRY	4/01/04-6/30/04	\$36,669.05	\$15,740.17	\$20,928.88	\$8,371.55
JASPER	4/01/04-6/30/04	\$31,239.84	\$7,936.74	\$23,303.10	\$9,321.24
JAY	4/01/04-6/30/04	\$43,695.57	\$6,084.88	\$37,610.69	\$15,044.28
JENNINGS	4/01/04-6/30/04	\$22,494.25	\$146.02	\$22,348.23	\$8,939.29

	Britt	\$	5,297.25
	Jeter	\$	12,646.48
	Maust	\$	5,523.42
	Roche	\$	8,290.95
Madison	Baer	\$	21,968.15
Marion	Barker	\$	3,676.50
	Ben Yisrayl	\$	2,184.75
	Covington	\$	7,390.59
	Dye	\$	4,368.45
	Holland	\$	10,788.56
Morgan	Pruitt	\$	34,803.15
Spencer		\$	1,871.65
Total		\$	142,146.72

It was noted that for the Dye reimbursement, the presiding judge had not signed the request for reimbursement form. Bob Borgmann reported that he had a telephone conversation with the Marion County Public Defender Agency, assuring him that the signed form would be sent. The Commission approved reimbursement of capital claims; provided however, that reimbursement for expenses in the Dye case was conditioned upon receipt of the signed claim form.

5. The Commission approved reimbursement for non-capital claims in the following amounts:

Indiana Public Defender Commission

Recommendations for Reimbursement in Non-capital Cases--September 29, 2004

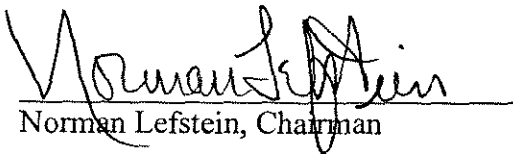
COUNTY	PERIOD COVERED	TOTAL EXPENSE	ADJUST	ADJUST'D EXPEND.	40% REIMB.
ADAMS	4/01/04-6/30/04	\$32,356.86	\$0.00	\$32,356.86	\$12,942.74
ALLEN	4/01/04-6/30/04	\$642,602.42	\$0.00	\$642,602.42	\$257,040.97
CARROLL	4/01/04-6/30/04	\$22,732.40	\$0.00	\$22,732.40	\$9,092.96
CLARK	4/01/04-6/30/04	\$99,216.13	\$4,658.03	\$94,558.10	\$37,823.24
DECATUR	4/01/04-6/30/04	\$27,511.88	\$10,335.15	\$17,176.73	\$6,870.69
FAYETTE	4/01/04-6/30/04	\$55,831.30	\$0.00	\$55,831.30	\$22,332.52
FLOYD	4/01/04-6/30/04	\$82,765.52	\$0.00	\$82,765.52	\$33,106.21
FOUNTAIN	4/01/04-6/30/04	\$16,363.00	\$5,379.80	\$10,983.20	\$4,393.28
GRANT	4/01/04-6/30/04	\$115,854.14	\$9,849.95	\$106,004.19	\$42,401.68
GREENE	4/01/04-6/30/04	\$59,751.57	\$0.00	\$59,751.57	\$23,900.63
HANCOCK	4/01/04-6/30/04	\$116,423.48	\$0.00	\$116,423.48	\$46,569.39
HENRY	4/01/04-6/30/04	\$36,669.05	\$15,740.17	\$20,928.88	\$8,371.55
JASPER	4/01/04-6/30/04	\$31,239.84	\$7,936.74	\$23,303.10	\$9,321.24
JAY	4/01/04-6/30/04	\$43,695.57	\$6,084.88	\$37,610.69	\$15,044.28
JENNINGS	4/01/04-6/30/04	\$22,494.25	\$146.02	\$22,348.23	\$8,939.29

KNOX	4/01/04-6/30/04	\$132,141.29	\$47,364.42	\$84,776.87	\$33,910.75
KOSCIUSKO	4/01/04-6/30/04	\$73,092.69	\$0.00	\$73,092.69	\$29,237.08
LAKE	4/01/04-6/30/04	\$779,405.72	\$0.00	\$779,405.72	\$311,762.29
LAPORTE	4/01/04-6/30/04	\$90,824.95	\$0.00	\$90,824.95	\$36,329.98
MADISON	4/01/04-6/30/04	\$380,018.69	\$11,292.40	\$368,726.29	\$147,490.52
MARION	4/01/04-6/30/04	\$1,478,015.53	\$0.00	\$1,478,015.53	\$591,206.21
MONROE	4/01/04-6/30/04	\$164,341.00	\$5,282.38	\$159,058.62	\$63,623.45
MONTGOMERY	4/01/04-6/30/04	\$69,973.45	\$31,016.60	\$38,956.85	\$15,582.74
NOBLE	4/01/04-6/30/04	\$54,091.64	\$0.00	\$54,091.64	\$21,636.66
OHIO	4/01/04-6/30/04	\$11,097.54	\$2,495.50	\$8,602.04	\$3,440.82
ORANGE	4/01/04-6/30/04	\$17,790.76	\$0.00	\$17,790.76	\$7,116.30
PARKE	4/01/04-6/30/04	\$16,064.01	\$0.00	\$16,064.01	\$6,425.60
PERRY	4/01/04-6/30/04	\$16,199.75	\$0.00	\$16,199.75	\$6,479.90
PULASKI	4/01/04-6/30/04	\$25,677.15	\$7,166.87	\$18,510.28	\$7,404.11
RUSH	4/01/04-6/30/04	\$36,545.39	\$9,397.39	\$27,148.00	\$10,859.20
SCOTT	4/01/04-6/30/04	\$48,659.37	\$10,393.26	\$38,266.11	\$15,306.44
SHELBY	4/01/04-6/30/04	\$56,120.93	\$7,775.79	\$48,345.14	\$19,661.79
SPENCER	4/01/04-6/30/04	\$19,793.05	\$0.00	\$19,793.05	\$7,917.22
STEUBEN	4/01/04-6/30/04	\$74,714.26	\$15,319.96	\$59,394.30	\$23,757.72
SULLIVAN	4/01/04-6/30/04	\$11,643.99	\$442.00	\$11,201.99	\$4,480.80
SWITZERLAND	4/01/04-6/30/04	\$18,733.57	\$3,837.75	\$14,895.82	\$5,958.33
TIPPECANOE	4/01/04-6/30/04	\$168,737.73	\$18,398.20	\$150,339.53	\$60,135.81
VANDEBURGH	4/01/04-6/30/04	\$336,806.13	\$0.00	\$336,806.13	\$134,722.45
VIGO	4/01-04-6/30-04	\$273,584.62	\$52,253.24	\$221,331.38	\$88,532.55
WARREN	4/01/04-6/30/04	\$9,671.52	\$0.00	\$9,671.52	\$3,868.61
WASHINGTON	4/01/04-6/30/04	\$46,539.72	\$10,222.37	\$36,317.35	\$14,526.94
TOTAL		\$6,118,443.27	\$312,400.96	\$5,806,042.31	\$2,322,740.67

The Perry County claim for reimbursement was tabled pending further follow-up concerning its Contract for Legal Services.

- The Commission next considered the anticipated budget flow for the remaining fiscal year 2004-2005 and for the start of fiscal year 2005-2006. Chairman Lefstein noted that because the next appropriated installment to the Public Defender Fund will be paid in January 2005, the reimbursement of third quarter 2004 non-capital expenses, considered at the December 2004 Commission meeting, may have to be delayed until after the January installment has been made. The Commission further discussed the probability of having to pro-rate fourth quarter 2004 non-capital reimbursement claims which will be considered by the Commission in March 2005. It was recommended that a letter be sent to participating county public defender agencies and to county auditors concerning possibility of pro-rated reimbursements. The Commission discussed the need to lobby the legislature for additional funds.

7. Chairman Lefstein discussed desirability hiring additional staff for the Commission. Additional staff is necessary to complete a number of projects initiated by the Commission and to enable better monitoring of county agencies. Chairman Lefstein stated that in the past the lack of office space in the Division of State Court Administration has been an obstacle to hiring additional staff; however, is acquiring additional office space to meet this need. Chairman Lefstein further noted that Chief Justice Shepard has agreed to hiring an additional staff attorney for the Commission. Les Duvall moved to authorize Chairman Lefstein to proceed with the hiring of an additional staff attorney. The motion was seconded and approved.
8. The Commission next considered a proposed amendment to Standards for Indigent Defense Services in Non-Capital Cases, Standard J. Chairman Lefstein noted that under Standard J, as it was currently written, caseload statistics for variuos contract and appointed counsel are not reported to the Commission, and he recommended that Standard J be amended to require the reporting caseload statistics for all counsel providing indigent defense services. Senator Lanane moved to adopt the proposed amendment to Standard J. The motion was seconded and approved.
9. Bob Borgmann indicated possible inconsistencies in Standard J involving caseload limits established for Non-Capital Murder and all Felonies, Non-Capital Murder: Class A, B, C felonies, and Class D felonies only, and for Class D felonies only, Misdemeanors only, and Class D felonies and misdemeanors. Larry Landis indicated that the caseload limits in Standard J were adopted in this manner to accommodate for organizational differences found in the various criminal courts. In some counties, courts are established to handle either felonies cases or misdemeanors cases; however in other counties, courts are established to handle either Class D felony and misdemeanor cases or Class A, B, and C felonies and murder cases. Mr. Landis indicated that Commission intended the standards to be applied in a manner consistent with the court system found in each particular county. No further action was recommended concerning this topic.
10. The meeting was adjourned at 4:35 p.m.


Norman Lefstein, Chairman

12/16/2004
Date

**INDIANA PUBLIC DEFENDER COMMISSION MEETING
MINUTES**

December 16, 2004

The meeting commenced at 1:40 p.m. Present were: Chairman Norman Lefstein, Commission members Hon. Daniel Donahue, Les Duvall, Bettye Lou Jerrel, Sen. Timothy Lanane, Rebecca McClure, and Sen. Joseph Zakas. Absent were: Commission members Susan Carpenter, Rep. Ralph Foley, Monica Foster, and Rep. Bob Kuzman. Also in attendance were Larry Landis of the Indiana Public Defender Council and Bob Borgmann, Staff Counsel for the Commission.

1. Minutes from the September 29, 2004 meeting were reviewed and approved.
2. The Commissioners next considered and approved capital reimbursements as follows:

Reimbursements in Capital Cases		
December 16, 2004		
COUNTY	DEFENDANT	TOTAL
Delaware	Verner	\$9,623.64
Lake	Aki-Khuam	\$9,551.60
	Britt	\$3,582.25
	Jeter	\$7,812.00
	Maust	\$16,832.37
	Roche	\$7,072.65
Madison	Baer	\$9,934.69
Marion	Barker	\$1,181.83
	Covington	\$11,807.36
	Dye	\$16,669.02
	Holland	\$16,280.23
TOTAL		\$110,347.64

3. The Commission considered reimbursement for non-capital claims in the following amounts:

Reimbursement in Non-capital Cases--December 16,2004

COUNTY	PERIOD COVERED	TOTAL EXPENSE	ADJUST	ADJUS'D EXPEND.	40% REIMB.
ADAMS	7/01/04-9/30/04	\$27,982.58	\$0.00	\$27,982.58	\$11,193.03
ALLEN	7/01/04-9/30/04	\$609,336.40	\$0.00	\$609,336.40	\$243,734.56
BENTON	7/01/04-9/30/04	\$23,007.18	\$0.00	\$23,007.18	\$9,202.87
CARROLL	7/01/04-9/30/04	\$26,692.57	\$0.00	\$26,692.57	\$10,677.03
CLARK	7/01/04-9/30/04	\$90,123.67	\$3,551.67	\$86,572.00	\$34,628.80

DECATUR	7/01/04-9/30/04	\$30,675.88	\$14,445.26	\$16,230.62	\$6,492.25
FAYETTE	7/01/04-9/30/04	\$56,582.70	\$0.00	\$56,582.70	\$22,633.08
FLOYD	7/01/04-9/30/04	\$79,588.72	\$0.00	\$79,588.72	\$31,835.49
FOUNTAIN	7/01/04-9/30-04	\$15,626.86	\$4,253.98	\$11,372.88	\$4,549.15
FULTON*	4/01/04-7/30/04	\$20,604.22	\$285.03	\$20,319.19	\$8,127.68
FULTON*	7/01/04-9/30/04	\$32,861.04	\$4,748.32	\$28,112.72	\$11,245.09
GRANT	7/01/04-9/30/04	\$106,426.52	\$12,311.35	\$94,115.17	\$37,646.07
GREENE	7/01/04-9/30/04	\$51,373.29	\$60.00	\$51,313.29	\$20,525.32
HANCOCK	7/01/04-9/30/04	\$83,971.47	\$0.00	\$83,971.47	\$33,588.59
HENRY	7/01/04-9/30/04	\$37,189.11	\$0.00	\$37,189.11	\$14,875.64
JASPER	7/01/04-9/30/04	\$33,086.29	\$7,806.88	\$25,279.41	\$10,111.76
JAY	7/01/04-9/30/04	\$37,099.42	\$7,159.54	\$29,939.88	\$11,975.95
JENNINGS	7/01/04-9/31/04	\$25,825.52	\$0.00	\$25,825.52	\$10,330.21
KNOX	7/01/04-9/30/04	\$194,567.04	\$102,841.21	\$91,725.83	\$36,690.33
KOSCIUSKO	7/01/04-9/30/04	\$62,846.62	\$0.00	\$62,846.62	\$25,138.65
LAKE	7/01/04-9/30/04	\$686,497.76	\$0.00	\$686,497.76	\$274,599.10
LAPORTE	7/01/04-9/30/04	\$88,388.55	\$0.00	\$88,388.55	\$35,355.42
MADISON	7/01/04-9/30/04	\$370,039.62	\$888.81	\$369,150.81	\$147,660.32
MARION	7/01/04-9/30/04	\$1,767,468.78	\$12,233.77	\$1,755,235.01	\$702,094.00
MIAMI*	4/01/04-6-30/04	\$78,264.52	\$15,137.31	\$63,127.21	\$25,250.88
MIAMI*	7/01/04-9/30/04	\$67,618.64	\$4,277.16	\$63,341.48	\$25,336.59
MONROE	7/01/04-9/30/04	\$162,904.00	\$6,589.71	\$156,314.29	\$62,525.72
MONTGOMERY	7/01/04-9/30/04	\$72,792.26	\$30,189.12	\$42,603.14	\$17,041.26
NOBLE	7/01/04-9/30/04	\$85,596.15	\$0.00	\$85,596.15	\$34,238.46
OHIO	7/01/04-9/30/04	\$11,296.25	\$2,495.50	\$8,800.75	\$3,520.30
ORANGE	7/01/04-9/30/04	\$32,351.37	\$0.00	\$32,351.37	\$12,940.55
PARKE	7/01/04-9/30/04	\$16,055.62	\$0.00	\$16,055.62	\$6,422.25
PULASKI	7/01/04-9/30/04	\$26,641.43	\$7,841.50	\$18,799.93	\$7,519.97
RUSH	7/01/04-9/30/04	\$44,384.35	\$8,734.50	\$35,649.85	\$14,259.94
SCOTT	7/01/04-9/30/04	\$51,388.53	\$9,525.11	\$41,863.42	\$16,745.37
SHELBY	7/01/04-9/30/04	\$49,338.56	\$4,259.44	\$45,079.12	\$19,661.79
SPENCER	7/01/04-9/30/04	\$36,595.59	\$413.25	\$36,182.34	\$14,472.94
STEUBEN	7/01/04-9/30/04	\$71,063.43	\$22,226.89	\$48,836.54	\$19,534.62
SULLIVAN	7/01/04-9/30-04	\$19,184.90	\$378.50	\$18,806.40	\$7,522.56
SWITZERLAND	7/01/04-9/30/04	\$27,457.50	\$3,837.75	\$23,619.75	\$9,447.90
TIPPECANOE	7/01/04-9/30/04	\$193,671.30	\$4,334.97	\$189,336.33	\$75,734.53
VANDEBURGH	7/01/04-9/30/04	\$312,528.86	\$0.00	\$312,528.86	\$125,011.54
VIGO	7/01/04-9/30-04	\$258,357.11	\$50,005.05	\$208,352.06	\$83,340.82
WARREN	7/01/04-9/30/04	\$2,425.50	\$0.00	\$2,425.50	\$970.20

WASHINGTON	7/01/04-9/30/04	\$54,462.18	\$14,174.88	\$40,287.30	\$16,114.92
TOTAL		\$6,232,239.86	\$355,006.46	\$5,877,233.40	\$2,352,523.50

Bob Borgmann reported that Fulton County and Miami County submitted reimbursement claims for both the second and third quarters of 2004 and that both counties had indicated that they had not received notice for the deadline for submitting second quarter requests. Mr. Borgmann stated that five other counties had not submitted requests for this quarter and that he would contact those counties to determine if notice had been received. Concerning Marion County, Mr. Borgmann reported that Juvenile Court defense expenses were included in Marion County's request for reimbursement. Caseload assignment statistics for only the third quarter 2004 were submitted, but based upon those statistics, it appeared that Marion County Juvenile Division was in substantial compliance. Mr. Borgmann further noted that the unusually high adjustment made to the claim from Knox County resulted from an apparent transposition of numerals in the total expense claim. The total expense reported by Knox County was approximately \$194,000 while Mr. Borgmann computed the actual expense to be \$149,000.

The Commission approved payment of all reimbursements claims as recommended.

4. Mr. Borgmann next discussed the letter he received from Anthony Pappano, Chairman of the Perry County Public Defender Board, concerning requested amendments to the Perry County public defender contracts. In his letter, Mr. Pappano indicated that the Judge of the Perry Circuit Court informally agreed to the requested changes and once the amendments were formally executed, copies to the amended contracts would be forwarded to the Commission. The Commission approved payment of reimbursement claims currently being withheld upon receipt of the amended contracts.
5. The Commission next discussed the practice in Marion County criminal courts that if a defendant has more than one criminal case pending, all criminal cases involving that defendant are transferred to one court for docketing and disposition. The Commission discussed the effect this practice might have on counting of cases under Standard J of the Standards for Indigent Defense Services in Non-capital Cases. The Commission considered a memorandum prepared by Neal Bowling, dated January 12, 2004 and recommendations made by Larry Landis concerning how cases should be counted under Standard J. Mr. Landis' recommendations were as follows:
 1. Each cause number counts as one case regardless of the number of charges or counts.
 2. Each count or charge that is severed under the trial rules counts as one case.
 3. Separate counts or charges joined under the trial rules count as one case
 4. If cases with separate cause numbers are consolidated for the purposes of docketing in the same court, each case is counted as a separate case.

The Commission moved and approved the adoption of the case counting policies recommended by Mr. Landis.

6. The Commission next considered the budget flow for the remaining fiscal year 2004-2005 and for the start of fiscal year 2005-2006. As anticipated at the last Commission meeting, the payment of reimbursement claims for capital and non-capital expenses approved at this meeting will need to be delayed until after the deposit of the next installment of funds in the Public Defense Fund. The next installment will be deposited in the Public Defense Fund in January 2005. The Commission further discussed the probability of having to pro-rate fourth quarter 2004 non-capital reimbursement claims, which will be considered by the Commission in March 2005. It appears the Public Defense Fund will not have sufficient funds to pay all anticipated reimbursement requests, and the anticipated shortage will be approximately \$400,000. It was agreed that a letter would be sent to participating county public defender agencies and to county auditors concerning the need to pro-rate reimbursements.
7. Chairman Lefstein reported to the Commission that the Indiana Supreme Court was requesting the General Assembly to increase the Public Defender Commission's 2005-2006 budget to \$9.5 million and the 2006-2007 budget to \$10 million. In light of the anticipated need to pro-rate future reimbursement requests, the Commission discussed strategies for requesting additional increases. Chairman Lefstein agreed to send a letter to Chief Justice Shepard regarding the Commission's intention of seeking additional funding, and Les Duvall agreed to contact Speaker of the House Bosma concerning an increase to the Public Defender Commission's budget. Les Duvall suggested that a special meeting of the Commission be held in early February to further review this topic. Chairman Lefstein indicated that a special meeting for could be called for that purpose and that Bob Borgmann would contact Commission members regarding possible meeting dates should a special meeting become necessary. Bob Borgmann is in the process of preparing a three-year estimated budget projection to cover the Commission's needs and will consult with Chairman Lefstein about this projection.

8. Chairman Lefstein next updated the Commission on various ongoing projects:

An advertisement for an assistant staff counsel for the Commission has been published and applications for the position have been received. Chairman Lefstein intends to begin interviews in January 2005. The group conducting the interviews will include Chairman Lefstein, Lilia Judson, Larry Landis, Susan Carpenter, and Bob Borgmann. Bob Borgmann will now have the title of Staff Counsel for the Indiana Public Defender Commission and the individual hired to fill the new position will be the Assistant Staff Counsel.

The *ad hoc* CR 24 Committee met on December 6, 2004 to discuss possible amendments to Criminal Rule 24, in light of the ABA's Revised Guidelines and the recently enacted Innocence Protection Act. Criminal Rule 24 and the ABA's Revised Guidelines differ in the manner in which defense counsel is qualified and appointed in a capital case. Under CR 24, the trial judge has the responsibility of appointing qualified defense counsel, and qualifications are based upon the number of years of criminal litigation experience and the number of felony jury trials. Under the ABA Guidelines, an independent authority, consisting of lawyers who are knowledgeable of death penalty law and capital defense representation are responsible for recruiting and certifying qualified attorneys, drafting

certification guidelines, assigning counsel to specific cases and monitoring performance. The Innocence Protection Act provides \$75 million in grant funds to be used for the death penalty training of prosecutors and defense counsel. The funds may not be used for direct legal representation in death penalty cases but may be used to establish and operate a system for providing qualified defense counsel. To be eligible for a grant, a state must develop and implement a plan for qualifying and appointing counsel along the lines recommended by the ABA Guidelines. Indiana, operating under the current provisions of CR 24, would not be eligible for funds under the IPA. The tasks of the *ad hoc* Committee are twofold: The first is to develop criteria for the qualification, monitoring and evaluation of death penalty counsel; and, second, to determine the make-up of an independent authority responsible for performing these functions. The *ad hoc* Committee will meet again in March 2005 to continue its discussions.

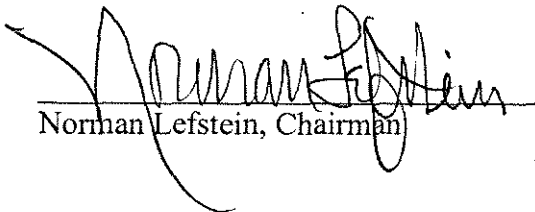
Chairman Lefstein and Bob Borgmann have prepared a letter notifying counties of the Commission's amendments to Standard J, which will be mailed shortly.

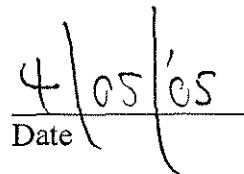
Updates to the Commission's website have been made.

Chairman Lefstein and Bob Borgmann are completing changes to a proposed standardized reporting form and to the annual report, both of which will be brought to the Commission at its next meeting for consideration.

9. The next regular meeting of the Commission was scheduled for March 22, 2005 at 12:00 noon.

10. The meeting was adjourned at 3:35 p.m.


Norman Lefstein, Chairman


Date