

# Gary Listening Tour

Indiana Public Defender Commission

Taskforce on Public Defense

March 31, 2018

**Public Attendees:**

Marce Gonzalez  
Kelly Lavin  
Michaela Spangenburg  
William Schaefer  
Bernice Corley  
Gojko Kasich  
Norman Bailey  
Kim McGee  
Mayor Freeman-Wilson  
Rev. Homer Cobb  
Tammi Davis, USCCR  
Barbara Boling-Williams

**Taskforce Member Attendees:**

Judge John Tinder  
Dr. Jeff Papa  
Larry Landis

**Public Defender Commission Staff:**

Kathleen Casey

1 PRELIMINARY STATEMENT

2 JUDGE JOHN TINDER

3 JUDGE TINDER. - Scheduled this as a Listening Tour, so we're here - we're here to  
4 listen. As you may be familiar - oh about a year and a half ago or so, the Sixth  
5 Amendment Center issued a report that analyzed the public defender system in Indiana  
6 in many, many respects and had some things to say that weren't so positive and some  
7 positive things as well. But following that and other reports have been issued, the  
8 Public Defender Commission ha - impaneled a Task Force which includes Dr. Jeff Papa to  
9 my left and Mr. Larry Landis to my right. I'm John Tinder. We have fourteen other  
10 members. A wide variety of backgrounds, and we've had contact with the court system,  
11 legislature, governor's office as well, and so forth, and Mr. Joe Heerens from the  
12 Governor's office is on the phone with us. So -

13 MR. HEERENS. - Good afternoon.

14 JUDGE TINDER. Good afternoon. And, for the benefit of our other Task Force members,  
15 we will be recording the event and later transcribing it, and a transcription will be  
16 available on our website as is the minutes of all of the meetings we've held at this  
17 point about five meetings at this point. We've got about four to go. This will be  
18 our sixth listening session. We've had them in various parts of the state. We've had  
19 them in Indianapolis, Evansville, Clarksville, Fort Wayne and here. And we have also  
20 been acquiring information in other means. Through surveys, through focus groups,  
21 through discussions with individual groups, individuals and so forth, and we continue  
22 to gather information so that we can report back to the Public Defender Commission our  
23 assessment of the public defense - not just in the criminal arena, not just in the  
24 juvenile arena, but also in the very important area that we've heard so much about  
25 lately involving the Department of Child Services. Situations leading to the  
26 termination of parental rights as well as CHINS proceedings as well as involuntary  
27 commitments to - for mental health reasons, and a variety of other circumstances. So,  
28 we're taking a look at the big picture, and we want to make recommendations to the  
29 Public Defender Commission that they can take and - and perhaps to legislative  
30 purposes and other organizational changes to improve the public defense throughout the  
31 state. So, that having been said, it is a listening tour; not a talking tour. We  
32 look forward to hearing what you've got to say. As we go forward as well, if there

1 are things that you forget to mention in your comments, feel free to send information  
2 to us later in writing or contact us - Katie Casey's cards are back there with a good  
3 number to call, and we can follow up and have a later interview with you if you'd like  
4 or anyone else you think we ought to talk with. So, with that, I'd like to start with  
5 the Chief Public Defender here in Lake County, Marce Gonazalez. Mr. Gonzalez, thank  
6 you so much for coming today, and we very much look forward to hearing your comments.

7  
8 **MARCE GONZALEZ, LAKE COUNTY CHIEF PUBLIC DEFENDER**

9 MR. GONZALEZ. Thank you. And, I can't tell you how great it is to have you folks  
10 involved, giving of all of your time and effort in this. It's critical to the Sixth  
11 Amendment that we make a lot of changes, you know. So many years after the Gideon  
12 case and - it reminds me a lot - the public defender work reminds me a lot of race  
13 relations, you know. It's a start - but where are we after all of this time, and so -  
14 I think that - that this is a great way to start the ball rolling with the state. So,  
15 I'll give you a little bit of background with me and that might help with my comments,  
16 and of course, I'm open to questions. I know a lot of the topics you want to talk  
17 about. I'm born and raised in Gary actually. I'm a product of Gary - Gary Public  
18 School System. And, I've been a lawyer for thirty-five years, I was a public defender  
19 for thirty-two years, and then eighteen months ago, I became the chief public defender  
20 here. Now, in Lake County, we're part of the forty percent reimbursement plan. I'm  
21 particularly - there's always the question, I know of - I'll talk about that in a  
22 minute - about the validity of a public defender board versus not and how much the  
23 State - control should the State have versus the counties and what have you, but I  
24 think there's some basic principles that all of us I think who take time to - to look  
25 at public defense services recognize. Number one is there has to be a distinction -  
26 you have to be separate from the judiciary. There's no question about that. You  
27 cannot have an effective public defender staff or even part-time lawyers who are hired  
28 and work for their judges. That's my first comment that I'm going to make, and I mean  
29 the reasons for that is clear. It's very difficult to argue with all the zeal you  
30 have in your heart against a judge when that judge is the person who controls your  
31 paycheck. Okay? That's number one.

32 JUDGE TINDER. We're certainly going to circle back to that because -

1 MR. GONZALEZ. Right.

2 JUDGE TINDER. - there are a number of courts within Lake County that are not in the  
3 reimbursement system and where the employment is directly by the judge (inaudible).  
4 And, we're going to talk about that.

5 MR. GONZALEZ. And, I think we should. And I - And I know - and I think that needs to  
6 be fixed number one. Number two, of course, is the need for experts. When the purse  
7 strings are also controlled by the judge and you tell the judge, you know, Judge, I  
8 need an investigator in this case. How much is it going to cost? Well, I don't know.  
9 Probably a few grand to start with. I need a ballistics expert in this case. I need  
10 a shaken baby expert in this case. It just real - where is this money coming from,  
11 you know. And, you have to ask again. You're asking the judge to basically fund or  
12 help you fund the - the case. So, the first principle that I think that we hafta -  
13 everybody has to agree with in Indiana is that judges cannot be in control of public  
14 defenders. That's my - my first point. I happen to like our board, and, from what  
15 I've learned about in our public defender board, I have some comments and suggestions  
16 for you for setting up of other boards throughout the state.

17 JUDGE TINDER. And, we look forward to hearing that. The Lake County system is  
18 different than any of the ninety-one other counties.

19 MR. GONZALEZ. It is.

20 JUDGE TINDER. So, we're very much interested in hearing your response on that.

21 MR. GONZALEZ. When - when Lake County was lobbying - when they were lobbying for the  
22 independent public defender office, there were some things that - that were - that  
23 Lake County politicians and judges wouldn't give up and - and that was - there were  
24 two things. Number one the juvenile court would not come under the purview of the  
25 public defender office, and the reason for that is political. One can understand why.  
26 The juvenile court employs the most employees of any department or subdivision of Lake  
27 County government. Okay. So, you've got basically all the employees and you've got  
28 the largest budget. So, we don't do - we don't do the termination of parental rights.  
29 We don't do any of the juvenile court cases. The second thing was the misdemeanor  
30 courts, and what I mean by that is that we have four county courts that have  
31 jurisdiction up to a level six - used to be a level D felony - level six felonies and  
32 below - all the misdemeanors - they opted out. They would not agree to become part of

1 the public defender system, and, so, for example, their particular lawyers didn't get  
2 health insurance like we have. They wanted to keep - the judges keep control of who  
3 they - who they have on their staff, and so they are still independent.

4 JUDGE TINDER. That includes the city and town courts that are in Lake County?

5 MR. GONZALEZ. They were never - I think approached with this. They also have a  
6 similar makeup where the judges - I mean - where they don't have their own office -  
7 you know - a public defender office. One thing I think is - is important to recognize  
8 about that - I know we'll get to that - is when I talked about the forty percent  
9 reimbursement, there - a lot - a lot of things boil down to money, and - and, in my  
10 office I'm impacted by the county courts and the city courts not being part of the  
11 forty percent reimbursement. Now - you know - the statute doesn't - doesn't provide  
12 for misdemeanors to be part of the reimbursement, so I'm up for the amendment bringing  
13 in misdemeanors for - as part of the forty percent reimbursement, and let me explain  
14 why. Let's say that I have a felony public defender and he has a case or she has a  
15 case and there happen to be down in the county courts or the city courts there's a  
16 couple of open cases that - you know, the public defender, being a diligent person,  
17 recognizes - well - this person is going to be sentenced, and there's a really good  
18 opportunity for this person to have a certain type of sentence that would allow for  
19 drug treatment, you know, some type of benefit within the DOC. You can't have open  
20 cases when you're sentenced to get into these programs, so what will happen is the  
21 public defender says, I'm going to move to transfer or maybe the judge will see these  
22 - let's transfer them to a global plea agreement - clean up all those other cases so  
23 your client can get the best result in this courtroom. But, what the judges didn't  
24 know and what most people don't know is that when that happens it hurts us financially  
25 in the forty percent reimbursement. We get charged \$1500 to \$1700 per misdemeanor  
26 that gets added into our - our caseload because they're not on our plan. So, what  
27 that does is - you know - it doesn't take a lot of math - you think about how many  
28 there are, and then you multiply that and that money is lost - for it. In other  
29 words, when you take the figures of we're going to get forty percent of at the end of  
30 the year, you've got to deduct the misdemeanors and it reduces the - the amount. So,  
31 that's a very good reason financially for - economically to include the misdemeanors  
32 in the - in the program. Back to the board. I got a little bit off, but I wanted to

1 expla - I didn't want to lose my thought on it. So, we have a five person board, and  
2 the reason I think that that's important that I suggest to you gentlemen is this, it  
3 goes again to control of the judiciary. On our board, the judge has two - makes two  
4 appointments of lawyers - there are two lawyers appointed by the judge. My office  
5 appoints a lawyer, and then a county council person and a county commissioner serve,  
6 so that's how we have five - five people.

7 JUDGE TINDER. And, those appointments are required to be lawyers with the court's  
8 appointment and with your appointments?

9 MR. GONZALEZ. Yes.

10 JUDGE TINDER. Those appointments, those are required to be lawyers?

11 MR. GONZALEZ. Yes. So, we have three lawyers. Now, why that's important is because  
12 the judge then - the judge does not have the majority vote. The judge cannot persuade  
13 people to vote one way or the other and control a decision that needs to be made by my  
14 office. So, my point is that in the counties that have boards - let's say a three-  
15 person board - if a judge appoints two of the three, then no matter how you look like  
16 - you look at it, ultimately, the judge still has - ultimately could have control over  
17 decision making with - with the board and with office rather - the public defender.

18 So, I think that five is a - is a - is a good number. Whatever number that one would  
19 come up with, it's important that judges' appointments never are the majority in  
20 number because again, that just takes us back and we lose the idea of independence  
21 from - from the judge. Why is reimbursement important for the county? This past year  
22 - my first full year, we brought back over two million dollars to Lake County because  
23 of the forty percent reimbursement. Now, that is important because when I am trying  
24 to negotiate for a new public defender position or I'm trying to negotiate for an IT  
25 person with the county council, I say look, and they say well that's another - that's  
26 another \$42,000 plus insurance. And, I say, but wait a minute - you get forty percent  
27 back, and they say, oh yeah - we get forty percent back. And, so there's an  
28 attractive aspect to it we're the only group that's bringing them back money. And, we  
29 have to play that up all the time when I'm negotiating for new positions. Another  
30 thing that I think is important, and I bring this up - I bring this up from past  
31 experience here - is I think that when we look at - if you promulgate rules as to what  
32 the qualifications for chief should be, I think that we should have a rule - a statute

1 - a statute that says that the chief public defender cannot be married to or related  
2 to a certain degree to a sitting judge in the same county. (PAUSE) Without getting  
3 into too many specifics, the - that type of situation prevented - prevented change in  
4 the past on at least two occasions in my - with my predecessor, and it's easy to see -  
5 remember, that we have - if you have three lawyers on the board and you have two  
6 appointed by the judges and one is not, but they're practicing lawyers and that's  
7 three out of five people, and if the public defender's spouse is a sitting judge in  
8 that county, it's going to be very difficult to attempt to remove a public defender or  
9 have change in the public defender's office. And, that brings up a point that - that  
10 I think is interesting that - I don't know - I haven't seen - I'm probably the only  
11 person that read all of the transcripts for your listening tour, you know. And, so, I  
12 can't recall how much in depth this - that we got into this - but there's an  
13 interesting question of what happens about - Tinder, what should be done about removal  
14 of a chief - what happens when a chief needs to be removed? I had the pleasure of  
15 being on the disciplinary commission - Supreme Court Disciplinary Commission from '94  
16 to '99, and when I was thinking about this, it brought to mind a Supreme Court  
17 admission and discipline rule 23. Supreme Court admission and discipline rule 23  
18 governs the ability of the disciplinary commission and the Supreme Court to  
19 temporarily suspend by of course sanction and discipline a lawyer. Some of the  
20 conversations we've had have been - what were the appropriate - what is the  
21 appropriate body for that? What if - what if I for some reason am - I'm not  
22 performing my tasks, I'm under a disability, but I won't voluntarily leave my position  
23 and everybody knows that I should be removed. Should the Supreme Court or should the  
24 Public Defender Commission control? And, I think if you use - we use as a prototype  
25 the admission and discipline rule 23, what should happen would be the Commission would  
26 have the ability - and I think perhaps they'd be coming from a recommendation from the  
27 local board if there's a local board - to the Commission, and the question would be -  
28 and I mean the Commission would have the ability then to seek to remove the chief in  
29 an emergency basis and have somebody come in and take that chief's place. And, in  
30 that respect, I think the petition needs to be filed in front of the Supreme Court  
31 because we're dealing with a lawyer - we're dealing with the public defender office,  
32 and I think that the Supreme Court is the best equipped to make that type of decision

1 because they make that - those decisions all the time for sitting lawyers - for  
2 sitting judges. Now, so, I think that the Commission could serve basically as the  
3 prosecutor and ultimately for due process purposes we'd have the Supreme Court be the  
4 body to make the ultimate decision. That's my suggestion on - on the - if the chief  
5 needed to be removed. I'm also a big advocate of increasing the reimbursement to  
6 fifty percent. I would ask that be strongly considered by your group. I know that  
7 Larry Landis has pushed for that and we're pushing for that. The more money that we  
8 can - as I said before it goes back to - to - money and politics and the more money  
9 that I could show that's being brought back to Lake County, the more I'm going to be  
10 able to keep my office up to date and running the way - that I get the funding that I  
11 need. Question always is - well, I had this thought - okay, Marce, so the  
12 Commission's now going to be the prosecutor and as far as the removal of chief. Where  
13 do they get the funds? You know I have two - I have two comments about that. I  
14 remember when Chief Justice Shepherd wanted raises for the Indiana Supreme Court and  
15 for the judges. The question was where is that money going to come from? Well, they  
16 greatly raised the filing fees and costs up, so litigants and people that were coming  
17 to court basically were paying. When the Supreme Court Disciplinary Commission needed  
18 more money to prosecute lawyers, they raised our annual fees. So, we fund our own  
19 investigation and prosecution. Couldn't we - couldn't we suggest that we raise their  
20 - the reimbursement to fifty percent, but part of that money is kept back for the  
21 Commission. Part of that - a percentage of that money from all the counties is kept  
22 back for the Commission to increase their funds to do the type of things that they  
23 need to do in their daily efforts.

24 JUDGE TINDER. Part of the fifty?

25 MR. GONZALEZ. Part of the fifty percent. Oh yeah. I don't want - oh yeah - I don't  
26 want to be too generous, but I think - I think - I mean - we get more than forty  
27 percent we're in a good position and some of the money goes back to the - to the  
28 Commission because - I mean it's necessary. If - if we have a chief or chiefs that  
29 for whatever reason aren't performing their duties and they need to be removed, then  
30 we have to have a mechanism to do that, and we have to have the funding to do that.  
31 And that was simply something I thought about the other day. So, those are the points  
32 that I would like to make - that I - that I see here in my first eighteen months, and



1 I'll take any questions if I have inspired anything or I'll sit down and I'll be in  
2 the audience and talk more. Larry?

3 JUDGE TINDER. Larry Landis?

4 MR. LANDIS. So, what do you - what do you do? What do you suggest the Taskforce do  
5 in order to help you get more money? Let's say that you - that Lake County suffers a  
6 - an economic down turn, and that the county council says look we're going to have to  
7 cut your funding by ten percent and you don't have enough funding to do the cases that  
8 you project to do. What - what do you do, and then what do you - what do you think  
9 the council - or the Taskforce should recommend to help counties like you?

10 MR. GONZALEZ. I think that - I think that probably implicit, inherent in my budget  
11 each year would be an estimate of what the costs are going to be to defend. I mean  
12 clearly we have a capital case and we ask for "X" amount of extra dollars. Based on  
13 this year - that year we have some many f - cases coming up, it's this amount of  
14 money. I'm in favor of - and I know we - we're working now with the Commission in  
15 attempting to look at the length, amount of time and cost it takes to complete a case  
16 as each level of felony is (inaudible). Ultimately I think we need to determine - you  
17 know - how much money we need based on our - on our caseload - each particular county,  
18 and then if we can't get the money from the county, we look to assistance from the  
19 Commission. And, I think it's almost a result of a mandamus. We ask the local judges  
20 to - to mandate our county to give us the extra funds.

21 MR. LANDIS. Okay. So, how do you trigger that mandate? What's the triggering  
22 mechanism of - let's say - the council appropriates "X" amount, and you say, that's  
23 clearly inadequate based upon our projected caseload?

24 MR. GONZALEZ. We have to litigate.

25 MR. LANDIS. But you litigate by saying that's an inadequate amount? Or do you -

26 MR. GONZALEZ. - We say -

27 MR. LANDIS. - stop taking cases somewhere along the way?

28 MR. GONZALEZ. Both. I think there comes a point if you look at the other - if you  
29 look at the other states and counties - I mean - states that have gone through this  
30 that have been overworked - there comes a point where you have to say we can't do any  
31 more to do the competent, quality work the system now requires. My office cannot take  
32

1 any more cases unless we get "X" amount of dollars, and then we ask for the judges to  
2 mandate.

3 MR. LANDIS. Do you think they would?

4 MR. GONZALEZ. You know, they mandate for - they mandate for - they just w - they just  
5 were threatened with a man - well they mediated - this one they mediated - but - but -  
6 I think it's our best shot. I think that - I think that - that if you have the  
7 respect of your sitting judges and you have change - we have - we have to change the  
8 culture. Not only in Lake County, but all over about the Sixth Amendment. We have to  
9 change the culture of how important it is to provide competent legal representation to  
10 - to indigent folks. We have to change that culture. And, so, part of my job - as I  
11 see it - from day one was to educate the judges, keep a dialogue with them, and let  
12 them know where we are and what we need. So, if you ask me do I think in Lake County  
13 would the judges support me with a mandate? The answer would be yes.

14 MR. LANDIS. Do you now have adequate money for the experts, investigators, any  
15 variations of which services you'd need?

16 MR. GONZALEZ. Yes.

17 MR. LANDIS. How about social workers, paralegals?

18 MR. GONZALEZ. That's the next thing that I need. My next step that I'm looking at -  
19 I mean, I've got an IT person. I only went through one budget is my (inaudible). I  
20 got involved late. I got three new positions so far. I got an IT slash trial lawyer  
21 now dedicated to assist us all with the trials. I've - I'm not bragging about this,  
22 but when I talk about getting the county council to recognize what my vision is, we're  
23 the only office wh - my budget was approved one hundred percent by the county council.  
24 One hundred percent. I got one hundred percent of everything I asked for. That's  
25 basically unheard of, but I'm proud of that because I took the time to speak to them  
26 individually and let them know what we need. You know, and before they didn't even  
27 know we had a plan. They didn't know that Lake County had this plan when I got raises  
28 for our - our public defenders. Our plan which is pas - is quantified as an  
29 ordinance. Our plan says that the public defender shall be paid comparably to the pub  
30 - to the prosecutors. I had to pho - I had to photocopy that - I had to get the  
31 budget to the prosecutors, highlight in yellow what our adversaries are making and  
32 then meet me individually and four out of seven were with me on it. But you have to

1 educate them. When I brought them the plan, they said what is that? We've never seen  
2 that before because it - it - it was put into place before these particular  
3 politicians were elected. My next thing I need are social workers. I know Marion  
4 County has a few. Just the other day, we had a situation where it was - it was a - it  
5 was a terrible situation where we - we had worked out a result for a - for a man - a  
6 gentleman who was homeless where he could be released that day from jail but he had  
7 nowhere to go, and so he didn't want to take the plea - you know. He'd rather sit in  
8 jail than be released. Well, we need somebody there with us to say we can - we can  
9 bridge this gap here. These are the services this person needs - this person needs  
10 this - I mean. Our office - everyone knows about the tragedy of addiction - whether  
11 it be opio - opioids - it be - it be alcohol. Whatever it is, I mean - it's a  
12 revolving door - you know. And, mental health people - I mean - catch and release.  
13 Catch and release. So, that's the next step for our office is full time social  
14 worker. That's what I'll be go - what I'll be asking for next year.

15 JUDGE TINDER. Dr. Papa?

16 DR. PAPA. You talked about maybe raising the reimbursement up to fifty percent. Do  
17 you have any thoughts about where that money would come from or are you just talking  
18 about general funding from the legislature?

19 MR. GONZALEZ. Yeah, general funding. I have to say - I mean - I - I - I don't have  
20 the expertise that you do - that other people do - Larry with the lobbying. I don't  
21 know the answers. I don't know where to come up - I just gave two examples - you know  
22 - creative ways that I saw how -

23 DR. PAPA. - Yeah. -

24 MR. GONZALEZ. - how it's done in the past. I mean - I don't know - I - I would bet  
25 that the misdemeanors went - the statute wasn't amended for misdemeanors this year was  
26 a financial analysis - you know - financial issue. You know, they wanted more time to  
27 study it - if I - if I cla - if I remember correctly. So, I can't say to where it's  
28 come from. That's something that's out of my expertise.

29 DR. PAPA. Yeah. I just wondered.

30 MR. GONZALEZ. Yeah.

31 DR. PAPA. We've talked about that a lot.

32

1 MR. GONZALEZ. Yeah. I'm sure you - I'm sure you ha - I wish I - you know - I only  
2 know what I know.

3 DR. PAPA. What about training and quality control for individual public defenders?  
4 Maybe from the state planning commission perspective. Do you have any thoughts about  
5 that?

6 MR. GONZALEZ. Oh, I think it should be mandatory. I mean - there should be - in my  
7 office, you know, we do in-house CLE's - you know - we run whatever we need - we need  
8 to talk about double-jeopardy, we need to talk about this, we need this - we make it -  
9 we make it free - you know - in-house CLE's for our - for our public defenders and  
10 then the CLE's that the State puts on public defenders are some of the finest that -  
11 that you'll ever find. And so, I think that - my suggestion is - is number one is -  
12 you know - that there are certain - certain contin - well you know we have mandatory  
13 CLE's in Indiana, and so, a lawyer has to go and continue and keep up. And so, a  
14 public defender should have a certain amount of CLE's that exclusively directed to  
15 what we do, and in my opinion, one thing that this state needs is - you know - when I  
16 came on, it was basically - you know - let's throw Marce in Lake Michigan and see if  
17 he can swim. You know - and so - you know - I wasn't wading, I was drowning - you  
18 know - so what happens is we need to have a training for chief public defenders.  
19 Especially if you're new and coming on, we need a state wide type of training where  
20 people have been doing this for a long time can come in and talk about things because  
21 - I mean, let's face it, sure I'm familiar with the law, I'm familiar with how to run  
22 a law office - having done that for years, and so, I try to treat this office as me  
23 being the senior partner of a law firm. But, you know there are some differences, but  
24 - the - the quality of what we do has to be - I think - increased. I think that we do  
25 need more mandatory CLE's.

26 DR. PAPA. That's a good - that's a good thought about the CLE's because we are  
27 required to take a certain number of CLE's but you don't have to take them in your  
28 expertise area.

29 MR. GONZALEZ. I mean - you know it's December and people are scrambling, and - you  
30 know - a guy who's never done a probate is in there for three hours -

31 DR. PAPA. - Right. -

32

1 MR. GONZALEZ. - Because - I mean - what does that do? It does nothing - it does  
2 nothing for your skill level as a lawyer; it does nothing for the clients that you're  
3 going to - that you're going to represent, and so, I think - it needs to be - it needs  
4 to be streamlined for what we do. I mean - I - I - I can't remember taking anything  
5 that wasn't either involving criminal law or ethics in the last thirty years.

6 DR. PAPA. If you want to come, I can teach you some immigration law.

7 MR. GONZALEZ. (Laughs) Well, actually, you know, that's a good point because there  
8 are critical aspects of immigration law that every PD should know because you don't  
9 want to plead somebody into a -

10 DR. PAPA. - That's true. Yeah.

11 MR. GONZALEZ. That's something to think about.

12 DR. PAPA. I was only partially joking.

13 JUDGE TINDER. And, especially in the misdemeanor.

14 MR. GONZALEZ. Right. That's - that's - that is a Pandora's box. You know - we may  
15 think that a class A misdemeanor - I think the distinction was - 364 days or less  
16 wasn't it? Our statute is 365 days, and so all of a sudden, you've knocked down a  
17 huge felony for a person and you want a pat on the back, and the next thing you know,  
18 you're getting a complaint from the disciplinary commission or you're getting sued for  
19 malpractice because of that one thing.

20 JUDGE TINDER. The CLE's that you've talked about - that you do in-house, do you ever  
21 share those opportunities with PD's from nearby counties?

22 MR. GONZALEZ. We do. We offer them to - to - we offer them to attend. We make it  
23 exclusively - for us to be pre-approved for the CLE's in-house it has to be  
24 exclusively public defenders. So, I have - I have reached out to contiguous counties  
25 and asked them - you know - tell them that I'm going to do more of that. I don't see  
26 that going on in - in my neighboring counties. I don't see that going on. We're  
27 doing it - my - my goal is - there's a minimum of CLE's you need every year to keep  
28 current, and my goal is for our PD's to give enough free CLE's related to our practice  
29 so they don't have to pay because of the amount of money that - you know - that - that  
30 we make. And, that's another thing our - our funds. I'm fortunate, and I'm in a keep  
31 - I'm going to keep hitting our council. I'm fortunate in Lake County that our plan -  
32

1 you know - expressly says that we should be paid comparable to our adversaries. Now,  
2 in other counties, they don't have - they don't have that to - to rely upon.

3 JUDGE TINDER. One of the things that we've heard a lot about are the - the appellate  
4 lawyers in your office -

5 MR. GONZALEZ. - Yes. -

6 JUDGE TINDER. - that they do a very fine job. Do you have a particular section of  
7 your office that's devoted to appeals?

8 MR. GONZALEZ. Yeah. I - I - that - I was part of that for - for my thirty-two years,  
9 and in fact that we do is - this is - so le - that's a good point, Judge. So, let me  
10 say this. I'll answer that. Yes we do, and secondly in the event that - that there  
11 would be a state-wide office for appellate, I would ask that Lake County and I think  
12 Marion County - we're the only two counties I believe that have our own appellate  
13 division. You know - I would, at least for myself, I can't speak for Mr. Hill, but  
14 for myself I would ask that we be grandfathered out and we be allowed to continue  
15 ours, and it's very important because what I have is I have a supervising appellate  
16 attorney and then I have three other appellate attorneys, so we have four. And, the  
17 reason they're important to us is for example what I started this year is if a trial  
18 lawyer is going to file a motion to suppress, the contacts are the appel - our office  
19 the appellate will put the - an appellate lawyer on - or if it looks like it's going  
20 to be interlocutory, we'll put the appellate lawyer on while the case is still in the  
21 trial - trial court because that way we know that this lawyer one - is one that's  
22 going to be getting the case in the event that we have to do an interlocutory - the  
23 motion to suppress we can help write it and research it. But, we - so what we have is  
24 we have four appellate attorneys and we always have since the plan - our plan went  
25 back in 2000 - 2001.

26 JUDGE TINDER. So, early intervention.

27 MR. GONZALEZ. Early intervention, and it's important because we get to see - I mean -  
28 we just recently - we - we - in two different cases my first assistant and I kept our  
29 - you know - keep - ears and nose - I mean ears and eyes open, and we found that there  
30 were some great, great issues that ultimately I think that the seventh circuit, and  
31 we've had some success with - not with the Indiana Supreme Court, but seventh circuit  
32 our habeas, we've won. And, we have two great federal constitutional issues, and so

1 we did - we made sure that the - the - the issues were preserved at trial and then we  
2 authored the motion to correct errors and asked - you know - motion to correct errors  
3 - the appellate lawyers authored the motion to correct errors, and then now we're on  
4 appeal right now. And, so that way we - we know that the issue has been properly  
5 raised and - and preserved, and we look down the road to winning. And, so it's  
6 because of that dialogue that we have that I think that it's - it's great to be able  
7 to have the appellate lawyers there and working with the trial lawyers.

8 JUDGE TINDER. And, I appreciate your interest in - not breaking something that - not  
9 trying to fix something that isn't broken -

10 MR. GONZALEZ. - Right. Right. -

11 JUDGE TINDER. - for your office. But, think of some of your colleagues in smaller  
12 counties that don't have the resources to have - lawyers devoted to the appeal  
13 function, and so forth. I'm wondering if there wouldn't be some benefit to - to a -  
14 consolidation - a pooling of resources for appellate - to be able to emulate in many  
15 ways what you have -

16 MR. GONZALEZ. - I would absolutely agree with that. I think that - you know - the  
17 smaller counties are looking for somebody. What experience do you have - what are -  
18 what are -

19 JUDGE TINDER. - There are counties where there are no lawyers who have ever done  
20 appeals, and that's not - that's not unusual.

21 MR. GONZALEZ. My first appeal was a - I was right out of law school, and it's a  
22 murder case, and it's back when the judges - it's a Porter County case where they paid  
23 you a flat fee to do an appeal no matter how much work. And, the judge called me in -  
24 I'll never forget - he was sitting down on the floor looking through the case, and he  
25 says, okay, Marce, I'm appointing you. You ever done an appeal yet? I said, no, your  
26 honor, this is a murder case, I just - out of law school - you know - nine months.  
27 And, he says, Marce, I just tried a two-week murder trial. If you can't find an  
28 error, you ain't looking.

29 (LAUGHING)

30 MR. GONZALEZ. That was my baptism by fire. And - and, I thought to myself even back  
31 then, am I qualified to do this - you know. And, so - you know - when you say, Judge  
32 - I'm a hundred percent with you. I think for many counties - you know - when they're

1 all - they're looking for some warm body that's going to do this appeal, probably  
2 never has filed one before, doesn't know the timing of the Notice of Appeal, doesn't  
3 know what goes into the transcript, doesn't know how to do it, there definitely is an  
4 advantage to having a state-wide source of appellate lawyers.

5 JUDGE TINDER. I'm curious about this fifteen hundred dollar charge back to you on  
6 misdemeanors. Where - where does that money go to? Does it go to the county court?  
7 What - what -

8 MR. GONZALEZ. - No. It just is re - it reduces mine. So, if you - if for example in  
9 a given quarter - let's make this up - I'm supposed to have \$100,000 I would normally  
10 get, and there are fifteen thousand dollars worth of - let's say a hundred thousand  
11 dollars and I'm going to get 40% back of that. And, there are ten misdemeanors at -  
12 you know - fifteen hundred a piece - okay - then you take that fifteen thousand, and  
13 you subtract it from a hundred, and I get forty percent of eighty-five percent. So,  
14 it reduces - it reduces the amount that - that we get from the pool.

15 JUDGE TINDER. I see. I see. So, I - I have to ask you - the Sixth Amendment Report  
16 noted a practice in this county at - at least at one time - that - that if a person  
17 made bail and they were automatically disqualified from having a public defender.

18 MR. GONZALEZ. That's been remedied.

19 JUDGE TINDER. So, that was the fact. It's no longer the fact?

20 MR. GONZALEZ. Let me - let me talk about the Sixth Amendment.

21 JUDGE TINDER. All right.

22 MR. GONZALEZ. I didn't look at that report as chastising me, I looked at it as a - as  
23 a guidance and a godsend. And, Larry will tell you this - when I - I - I started  
24 working two weeks earlier in this job because my predecessor basically was almost on a  
25 rule to show cause to come down to Indianapolis why we shouldn't lose the forty-  
26 percent reimbursement. So, I said, Larry, if you'll give me thirty days, I will have  
27 this in order. So, what I had to do is do a brief for all the judges and the  
28 magistrates and then I - I copied our plan, and in our plan one of the - the - first  
29 two - the first two where it talks about the right to bail, the first thing it says is  
30 "the posting of a bond is not - does not deprive one the - the consideration of - of a  
31 bond - of posting a bond." And there's another one that - that - just it's amazing  
32 what they were doing. And, so I can tell you that it took some time and what I had to



1 do, and wh - wh - what we were doing was - and I think we became the first county that  
2 actually sent a lawyer to the initial hearings, and I know that because it was me.  
3 Okay, so now we have somebody that's there. I have a contract person that I'm paying  
4 to do all the initial hearings, so now we have a lawyer at the initial hearings. But,  
5 what I would have to do is number one get them to recognize me cause they haven't done  
6 this - that I'm there on the record because it was always the prosecutor, and then  
7 secondly, the magistrate would start to say that if you post a bond you likely won't -  
8 and I had to say, "Your honor, I object." And, I mean, I had to go through this, but  
9 I can tell you as of - you know - I had to sit in last week, and that's been cured.  
10 And, I reported that back to Larry because that was so fundamentally flawed that I  
11 couldn't believe it, but it was just a part and a - a part of the culture. That's the  
12 culture we have to change.

13 JUDGE TINDER. I'm impressed. Cultural changes are - can be difficult. -

14 MR. GONZALEZ. - You have to sit there, and you just have to butt heads. I mean -

15 JUDGE TINDER. - So that - so that practice of denying public defenders to those who  
16 make bail has been - has been ended.

17 MR. GONZALEZ. Has been ended. I mean, we had someone who had a nice bail last week,  
18 and they asked me and we look at it, and - you know - again I reminded the particular  
19 - this time it was a sitting judge - and I had to remind the judge of our plan that  
20 says that Indiana Supreme Court has a case that says that the posting of a cash bond  
21 does not necessarily deprive one of being appointed a public defender. I mean - I  
22 told them I want the default - the default position is the appointer office. If you  
23 have any questions about it - the appointer office - and if I ethically see that  
24 somebody has the ability to pay, and I'm discovering that then I have a duty in some  
25 cases to file my motion for hearing on whether that person should continue with our  
26 office or not, but I'd rather be - I'd rather have them - the cases come to us first.

27 JUDGE TINDER. So - we've touched on the excluded courts in Lake County. They have a  
28 very unique system, and you touched on the need for independence in the excluded  
29 courts that public defenders are hired directly by the judges, and that the problems  
30 associated with that are - are pretty - pretty clear. What's the best case to support  
31 the whole idea of excluding the juvenile court, the county courts, the other courts  
32 that don't participate in the reimbursement program?

1 MR. GONZALEZ. The best case is the only case which is politics. It's control. It is  
2 the ability to give friends jobs. It is the ability to - to have control over -  
3 control - you know - like you don't have to necessarily put the best people in, you  
4 put people in that you've known forever. It's - it's just too much patronage if you  
5 ask me. It just smacks of that, and - I mean - can you imagine if - if I wasn't  
6 independent, me sitting in there every day and having to correct a judge about - I  
7 mean - you know - it's very unlikely that someone who's - you're going to shirk that  
8 type of responsibility, and - and in re - and in these courts - you know - I mean - I  
9 - I see in the - in the city and in the town, I would see this and I would see the -  
10 the - the quality - you know - of representation and the amount of cases and - and  
11 the way that they would just run - run people through, and I - and the same thing -  
12 you know - no offense to the current judge, but the same thing that was started by  
13 Judge Bonaventura when she opted out in the juvenile court. And, you just do not have  
14 control over the quality of representation.

15 JUDGE TINDER. Now, who supervises those lawyers that are directly appointed by the  
16 judges?

17 MR. GONZALEZ. They named one of their - they named one of their lawyers as the head  
18 public defender.

19 JUDGE TINDER. Alright. Those are the things I wanted to cover. Thank you so much.  
20 Thank you for what you do. Thank you for the - the point that you've made.

21 MR. LANDIS. May I (INDISCERNIBLE) I may have some more questions for you when we  
22 finish -

23 MR. GONZALEZ. I can't thank you enough.

24 MR. LANDIS. I know the mayor is here and others, so we make sure we get to hear them.

25 JUDGE TINDER. Yes.

26 MR. GONZALEZ. Okay.

27 MR. LANDIS. Thanks.

28 JUDGE TINDER. Very good. Thank you. And, Mayor. We're very privileged to have you  
29 here, Mayor Karen Freeman-Wilson. Would you do us the honor of coming up here. We  
30 have recording devices so that our other Task Force members can get the benefit of  
31 your remarks, so that's why we are using the podium - using those recording devices.  
32 Welcome. Thank you so much for coming.

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**KAREN FREEMAN-WILSON, MAYOR OF GARY, INDIANA**

MAYOR FREEMAN-WILSON. Thank you, Judge, and to the members of the Commission and to the members of the public who are here. I am here as a very interested spectator for a variety of reasons. I can say without fear of contradiction that being a defender in the criminal courts is one of my first professional loves. I've worked with Larry and - in a variety of capacities - certainly worked with Marce and worked in the Lake County Public Defender that was the subject matter of the report or certainly was referenced in the report. I also saw this as a judge at the city court level having served as a Gary city judge, and I am here simply in a - an effort to provide moral support to the work of this Commission to efforts that are currently underway to ensure that not just people in Gary and Lake County but all over the State of Indiana have the defense that they need. And, what I can tell you is that in every county, but particularly in Lake County, we have some of the best attorneys in the bar that are public defenders. The issue has been in the past and remains, although not as - as in the many - in as many areas, resources. Do you have the resources to hire sentencing experts when that becomes necessary? Do you have the resources to have the social workers and other folks that we now know we need to provide an adequate defense? We now know that providing an adequate defense isn't just having a good - and - and - thoughtful and diligent lawyer. It means so much more than that, and so I commend you on your work and simply say that to the extent that I can use my influence both at the local level and the state level, to ensure that you have the resources to support the findings that come out of this commission, I would certainly pledge my ability to do that.

JUDGE TINDER. Mayor, if - if you wouldn't mind I'd like -

MAYOR FREEMAN-WILSON. - Yes. -

JUDGE TINDER. I want to push you just a little bit on that point. So -

MAYOR FREEMAN-WILSON. - Yes. -

JUDGE TINDER. You heard me ask about the excluded courts in Lake County, and you're well familiar with that having - having worked in the system.

MAYOR FREEMAN-WILSON. Sure.

1 JUDGE TINDER. Those courts are walking away - they walk away from forty percent  
2 reimbursement which would be resources that would replace money that's already  
3 expended. What's the best case for having these excluded courts -

4 MAYOR FREEMAN-WILSON. - There is no case, to be frank. And, I think that especially  
5 when you talk about the ability to have re - reimbursement. I'm sure that some might  
6 argue it provides the autonomy, but autonomy is not always good. And, I think that  
7 there should be some type of lever, and I don't know if that lever is a mandate or  
8 something legislative, but there ought to be some type of effort to ensure that  
9 everyone is a part of the same system.

10 JUDGE TINDER. And, of course, if a judge directly employs a public defender, and that  
11 public defender truly messes up.

12 MAYOR FREEMAN-WILSON. Yes.

13 JUDGE TINDER. Not to use a legal term, but is not - not effectively representing  
14 clients, that judge can get rid of that person right away; however, by the same means,  
15 this independence that we've talked about, if that lawyer is doing his or her job, and  
16 the judge is unhappy about the aggravation or what have you or if that public defender  
17 didn't support the right person in the primary or something -

18 MAYOR FREEMAN-WILSON. - Sure -

19 JUDGE TINDER. - they can also be fired.

20 MAYOR FREEMAN-WILSON. And, understand that I've worked on both sides of the system. -

21 JUDGE TINDER. - Right -

22 MAYOR FREEMAN-WILSON. I've been the beneficiary of that autonomy, but at the same  
23 time if you're talking about the Sixth Amendment and insuring that people get the best  
24 representation, and - you know - let's face it at that level it's less likely that a  
25 person will be harmed, but to the extent that any harm can occur then you need to  
26 address that system.

27 JUDGE TINDER. Right, and a perception -

28 MAYOR FREEMAN-WILSON. - Yes -

29 JUDGE TINDER. - a public perception of that -

30 MAYOR FREEMAN-WILSON. - Absolutely -

31 JUDGE TINDER. - weighs very heavily. So, let me take a little jump-shift on you -

32 MAYOR FREEMAN-WILSON. - Sure. -

1 JUDGE TINDER. - and, I'll talk - let's go back, and we recall our prior lives - your  
2 work as attorney general. One of the subjects that's come up often in our listening  
3 sessions, and as well as other discussions, is the notion that I was addressing a  
4 little bit with Mr. Gonzalez, and that is the potential for pooling of resources on  
5 things like the appellate function. With ninety-two counties, there are many counties  
6 that aren't able to have experienced appellate lawyers and so forth, and then we might  
7 see some benefit in the effective representation in the appeal if there were a state-  
8 wide or maybe even a regional appellate function or appellate section concept. As one  
9 who supervised a bunch of appellate lawyers at an earlier part of your career, do you  
10 have any thoughts about that? Could there be gains in terms of the effectiveness of  
11 assistance? Could there be gains perhaps even expense-wise from consolidating the  
12 appellate functions in some way?

13 MAYOR FREEMAN-WILSON. I think there certainly could be gains. I certainly support -  
14 I support Mr. Gonzalez request that Indiana - or that Lake County be grand-fathered  
15 out- you know - because it goes to the point, "if it isn't broke, don't fix it." But,  
16 to the extent that you have a lot of smaller counties who have people who are much  
17 less experienced, but who may be pushed into service or encouraged to serve even if  
18 they don't have that experience, then I think that there - you know - I like the  
19 regional concept. I like the concept of saying that maybe we'll do this on a regional  
20 basis. And, the question remains, how many regions do they have or having a very  
21 strong, as is at the AG's office, a strong group at the State level who can consult  
22 with each other, who can be properly trained, and who can specialize in an area that  
23 certainly would require and does require a specialty. You know - everybody just can't  
24 come in and write an appeal. I've tried it, and after the first two, I referred all  
25 my appeals to more - to Marce.

26 JUDGE TINDER. I supervised a really fine trial lawyer years ago when I was just an  
27 attorney, and he came to me and he said, "John, you know, I'd really love to try these  
28 cases, but I'd rather be hit with a big, ugly stick than write an appellate brief."

29 MAYOR FREEMAN-WILSON. Exactly.

30 JUDGE TINDER. It's just not for everybody.

31 MAYOR FREEMAN-WILSON. Exactly.

32 JUDGE TINDER. All right. Well, those were areas that I wanted to cover. Mr. Landis?

1 MR. LANDIS. Yeah. Well, first of all, thank you very much for coming. Appreciate  
2 it.

3 MAYOR FREEMAN-WILSON. Thank you very much.

4 MR. LANDIS. One of the things we're struggling with is the need for - for mandate for  
5 compliance with State-wide standards. Now, Commission standards are voluntary. And,  
6 the counties can comply choose and seek reimbursement or ignore those standards  
7 completely. Do you think that it would be helpful to have - to mandate either by  
8 statute or court rule that every county must comply with the Public Defender  
9 Commission standards?

10 MAYOR FREEMAN-WILSON. I think that there has to be a court rule. I think that if you  
11 leave it to the legislative process that we will fall short every time. And - and  
12 that's unfortunate, but it's true, and I think that the Supreme Court is in the best  
13 position to see the result when counties don't adhere to the State standards and don't  
14 meet the mandates that are required.

15 MR. LANDIS. Any suggestions for how you enforce those standards?

16 MAYOR FREEMAN-WILSON. Well, I -

17 MR. LANDIS. - With money -

18 MAYOR FREEMAN-WILSON. - you know -

19 MR. LANDIS. - But, now all the Commission can do is withhold that reimbursement -

20 MAYOR FREEMAN-WILSON. - Sure. I think that one of the places where I saw success and  
21 where the court was heavily involved was with the introduction of problem-solving  
22 courts, and they went from county to county and reviewed the courts. And, while there  
23 certainly - you know - it would require a ninety-two county review, it wouldn't  
24 necessarily have to be annually. It could be bi-annually or at some other interval  
25 that would position someone who works for the Supreme Court - who works for the office  
26 of the court administrator to conduct those reviews of files - randomly review files  
27 and say - you know, we think this meets the standard; we think this doesn't.

28 MR. LANDIS. If we - if we maintain a county-based - county-funded system - how do you  
29 - any suggestions for how to - how to make the counties adequately fund the public  
30 defender system?

31 MAYOR FREEMAN-WILSON. You know - I think that one of the ways that you could do it -  
32 you would think that people would support the Sixth Amendment. You know that that's

1 not necessarily the case in all ninety-two counties, but I think that once you've made  
2 the case of the cost of not providing adequate defense when people are not only  
3 successful on appeal but are successful in a civil court, then I think generally when  
4 it impacts a county's pocketbook or just the experience of another county whose  
5 pocketbook was experienced - was impacted, I think you might have the best opportunity  
6 to make a case to the members of the Commission and county council and those counties  
7 that are not in the system.

8 MR. LANDIS. Even if it makes no sense for them not to adequately fund, what's the  
9 mechanism for - for compelling compliance or adequate funding?

10 MAYOR FREEMAN-WILSON. There -

11 MR. LANDIS. - I mean, it's what we're struggling with. I don't mean to put you on  
12 the spot -

13 MAYOR FREEMAN-WILSON. - Well, you know -

14 MR. LANDIS. - You - you could help us -

15 MAYOR FREEMAN-WILSON. - Sure -

16 MR. LANDIS. - cause you've been on a variety of different sides -

17 MAYOR FREEMAN-WILSON. - I've seen this from just about every angle.

18 MR. LANDIS. - right - That's why I'm asking.

19 MAYOR FREEMAN-WILSON. I would say then possibly that's where the NAACP, and we have  
20 our state president, Barbara Bowling-Williams here. That's where the ACLU might have  
21 to come in from a - from the stand point of litigation. I would hope that it would  
22 not rise to that level, but if - if you can't provide the mandate legislatively or at  
23 the Supreme Court level, they might have to be compelled from a judicial process -  
24 through the judicial process.

25 MR. LANDIS. Do you think we should maintain a county-based - county-funded system or  
26 we should go more the state - state authority, state funding, state oversight?

27 MAYOR FREEMAN-WILSON. Well, in my most recent capacity, I'm the first person to say  
28 that I support local government, home-rule, and - you know - I think that it doesn't -  
29 the only time that it's important to have a state-wide system is when you are  
30 convinced that home-rule does not work. I'm not conv - we know it doesn't work in  
31 every county now, but I'm not convinced that it can't work in every county, and I'd  
32

1 like to say if we spent some more time ensuring in those counties - in those pockets  
2 where it doesn't work that it were, then I think we might be better served.

3 JUDGE TINDER. Dr. Papa?

4 DR. PAPA. I don't have any questions for you there, but I appreciate you taking time  
5 to talk to us about -

6 MAYOR FREEMAN WILSON. - Thank you -

7 JUDGE TINDER. And, Mayor, I did have one other area I'd like to cover - it occurred  
8 to me while you were speaking - CHINS/TPR and the activities of DCS, we're hearing  
9 throughout the State is having a big impact on the public defense and of course in the  
10 communities. The numbers are just exploding -

11 MAYOR FREEMAN-WILSON. - They are. -

12 JUDGE TINDER. - You're seeing that here as well, I take it?

13 MAYOR FREEMAN-WILSON. Absolutely. You know - I saw it in my private practice. I am  
14 now seeing it as the mayor, and again, that's an area of specialty that people do  
15 really need help in. So, yeah. It something that has to be addressed, and that might  
16 be something that can be addressed at the state-wide level simply because it's a  
17 specialty area, and it's - at the same time - a narrow area of law.

18 JUDGE TINDER. Very good. Well, I can't thank you enough for taking the time -

19 MAYOR FREEMAN-WILSON. - Thank you. -

20 JUDGE TINDER. - to speak with us, and don't be surprised if we follow back up and ask  
21 additional questions.

22 MAYOR FREEMAN-WILSON. Feel free.

23 JUDGE TINDER. By the way, I forgot to ask Joe Heerens. Joe, did you have any  
24 questions for the mayor or for Mr. Gonzalez that I - that we skipped over? Joe?

25 MR. HEERENS. No. The only - the only question that I'd like to have is the specific  
26 to the Taskforce - what would be - you know - the funding - we talked about the - the  
27 judges and the public defenders being there - but we talked about the social workers  
28 and investigators and things like that. Is there a rank or order of importance to  
29 address the issues that are there? What would that ranking be?

30 MAYOR FREEMAN-WILSON. I'm going to defer to Marce because he has to deal with it  
31 every day on that answer.

32 JUDGE TINDER. Right.



1 MAYOR FREEMAN-WILSON. Not that I don't have an answer, but - it has to be relevant.  
2 Thank you. It's great to see you, Judge.

3 JUDGE TINDER. Mr. Gonzalez, do you have a ranking? -

4 MR. GONZALEZ. I can't - I can't - Again, because - because we have that bizarre  
5 distinction of not being involved with juvenile court, I can say that from - I would  
6 say that simply from a public defender criminal court ranking, the number one need  
7 that we have is for social workers.

8 JUDGE TINDER. All right. And, Joe, don't hesitate to speak up if you - if you do  
9 have other areas you want to cover that we don't. Very good.

10 MR. HEERENS. No, I'm having a little trouble hearing, so I'm sorry for that. On the  
11 funding side, where would you - I mean - where would you put that? It seems funding  
12 is actually critical to almost every part of this process.

13 MR. GONZALEZ. The funding would be number one - I mean - overall. Funding is number  
14 one. We can't go - we can't go to places that we want to. We can't develop and we  
15 can't continue to grow and keep quality representation without - without funding, so  
16 that would be my number one rank.

17 MR. HEERENS. In - in terms of the - the DCS - the TPR/CHINS cases, I've seen the  
18 frenzy on that has been significant in the last couple of years - largely driven by  
19 opioids and other problems. I know the Mayor touched on those questions there  
20 briefly. Do you have some additional thoughts you could share with us? We are having  
21 a consultant, as you've read obviously, work on that issue and work with that agency  
22 to identify areas of concerns and possible areas of improvement. Do you have thoughts  
23 that you could share with - with me about that?

24 MR. GONZALEZ. Again, I think that someone from Marion County or - you know - South  
25 Bend, St. Joe County where they have the - the - where they have the juvenile court as  
26 part of their public defender office, they'd be better equipped because we don't  
27 handle - we don't handle any juvenile court or the type of cases that - that you just  
28 mentioned. With parental rights, they're not within under our office.

29 MR. HEERENS. Okay.

30 JUDGE TINDER. Joe, this is Tinder. It's kind of a unique situation with Lake County.  
31 All of that is in the excluded courts, so poor Mr. Gonzalez doesn't have to worry  
32 about that problem.

1 MR. HEERENS. Sorry. I've been having trouble hearing. All of the conversations have  
2 been in and out a little bit on this cell phone, so just wanted to ask some questions  
3 that I thought would be helpful in terms of how we see things and want to understand  
4 things as best as possible.

5 JUDGE TINDER. Great. So, thank you, Joe.

6 MR. HEERENS. Thank you.

7 JUDGE TINDER. So now, fortunately the Mayor did my introduction of our next speaker.  
8 President of the NAACP here in Indiana, Barbara Boling-Williams, thank you so much for  
9 coming today and being patient. And, we're looking forward to hearing what you've got  
10 to say.

11  
12 **BARBARA BOLING-WILLIAMS, PRESIDENT OF NAACP OF INDIANA**

13 MS. BOLING-WILLIAMS. Thank you so much, Judge. I just want to say that I would have  
14 yielded my position because I was told I was going to be second. I would have wanted  
15 to publicly yield, but you took it away from me. (LAUGHING) Well - I certainly -

16 JUDGE TINDER. - (LAUGHING) That was my - that was my fault. I apologize. -

17 MS. BOLING-WILLIAMS. I certainly always will yield to my - to my mayor. I respect  
18 her so much. Thank you for this opportunity to speak before this - all this  
19 Commission dealing with public defense in the State of Indiana. I am Barbara Boling-  
20 Williams, and I serve as the state president for the Indiana State Conference of the  
21 National Association for the Advancement of Colored People, the NAACP. I'm going to  
22 be speak - and I'm also a practicing lawyer here in the State of Indiana, but I'm  
23 going to be speaking from a public perspective position which - I - believe that I  
24 heard someone mention. And, I had already jotted down policy versus the practical  
25 because Mr. Marce was talking about - I think - Gonzalez was talking - somewhat from  
26 the practical perspective. And, we know money is important. I mean - you know -  
27 making sure that the system is adequately financed and what the discussion is talking  
28 about is how best to finance that sys - that system. From the NAACP standpoint, we  
29 certainly are signed on to an amicus brief in the Alford vs. Johnson County  
30 Commissioner's appeal. And, so we are kind of in there. And I thought about - you  
31 know - we talked about - you know - here - we talked about educating the judges, but  
32 we also need to educate the public as well because it matters not how well you're

1 doing at providing a service but if the public perception is still that a public  
2 defender is not a real lawyer then - you know - they're not going to be able  
3 meaningfully participate in their defense because they're not going to trust them.  
4 It's like - okay I had to get this person, and so I don't think that they're going to  
5 serve me well at all. And, so consequently there may be things that the attorney  
6 needs in order to adequately defend that person that they aren't going to provide.  
7 So, prior to this Commission, there was one dealing with voting rights just an hour  
8 and a half before this one started. Tammy Davis, one of the Commission - the Indiana  
9 Advisory Commission to the US Commission is here, and we're conducting that. Now,  
10 someone made an announcement about this one. And, one person came up to me and said,  
11 I won't be able to make it, but could you make sure that they provide this kind of  
12 information. And, I thought well this is just really telling of the perception. One  
13 of the things that could - you know - could we find out about the procedures for  
14 getting a public defender? What are the policies? What are the fees? And, to get a  
15 public defender should be publicized or printed somewhere. Then they said that - and  
16 what would cost you for not qualifying for a PD? And, I thought that that was very  
17 telling, and I certainly absolutely wanted to bring that before you to say that that  
18 information should be readily available so that it's not a mystery. And, I see - you  
19 know - when I practice in court and I hear the judges questioning a defendant about  
20 their finances as to whether or not they qualify for a public defender, you know it's  
21 that - for many people it's a mystery, this is their first time actually being in  
22 court and it's all - seems like it's all a cookie cutter or a - a line - a  
23 manufacturing line, - you know - and everybody knows what's going on but that person.  
24 You know - then I hear other stories where - you know - we don't need our public  
25 defender, and I know you've heard these too, until they actually get into court, and -  
26 But those are real stories. And, it definitely impacts on that person again in the  
27 quality of defense that they're going to receive. So, those are my perspective -  
28 those are my comments on this area because a lot of times you talk about the Sixth  
29 Amendment right and they probably don't even know what is the Sixth Amendment. And,  
30 the Sixth Amendment says that you have a right to have adequate representation, and if  
31 you cannot afford one that one will be appointed to you. And, so - so we've gotta -  
32 you know - put it in perspective to where people who actually have to avail themselves

1 of the services of a public defender - you know - will feel comfortable about that.  
2 You know - that they will feel - will have confidence in it. Then as a final note,  
3 when you talk about the juvenile system, and here in Lake County where they opt out of  
4 it, you know - that can cause, and does cause some serious problems for people who  
5 didn't know that - that they - that there was a possibility that they may be able to  
6 get a public defender. And, I - and I practiced in juvenile court for probably for  
7 about fifteen years from the DCF side. But, you weren't even afforded one unless you  
8 got to the termination stage, and that wasn't always the case either. But, just  
9 recently that - a complaint came before the Hammond branch of our NAACP where a young  
10 person involved in just a - a typical school fight, the county was working  
11 (INDISCERNIBLE) such a melee, but this person - this young - this young person was  
12 arrested, taken to LCJC, first taken to the Hammond police, and they told them that  
13 when the family arrive, well you'll have to go to Lake County Juvenile Center in order  
14 to - you know - get your child; your child will be released to you. And, it doesn't  
15 work that way, but this is what the police is telling the parent. The parent goes out  
16 there, and this - and nineteen days later, this child is still there. He went to  
17 court before the magistrate, and - you know - at that time the magistrate says we'll  
18 take it under advisement, but again, the child was only suspended for five days from  
19 the school. Yet, she remained in the juvenile system for nineteen days, and at the  
20 time when they said you can be released on a monitor, the juvenile center says we have  
21 no monitor available, so again the child - you know - remains as opposed to being  
22 released to their parent. So, it's important - and I agree that the public defenders  
23 need to be there at the beginning of a syst - at the beginning of a case so that those  
24 rights can be protected and a child won't - a fifteen-year-old child won't find  
25 themselves never having any contact with the law being incarcerated, because that's  
26 the way LCJC is, for nineteen days and away from school. Thank you so much for giving  
27 me this opportunity. Any questions you may have?

28 JUDGE TINDER. Before we let you get away, we're going to have to ask you some  
29 questions.

30 MS. BOLING-WILLIAMS. Okay.

31 JUDGE TINDER. It puts - let's go to this juvenile court and the other excluded courts  
32 that don't participate in the reimbursement where the judges directly hire the PD's

1 and also make determinations as to who gets a PD and how the PD is performing, so  
2 essentially supervising the PD's. What's - that's a long-standing practice here in  
3 Lake County, and that's not unique in that some counties also do that exclusively in  
4 their courts, but Lake County we have the hybrid where we have some courts  
5 participating with the board selecting the PD and so forth. And then we have these  
6 others that are out there on own. What's the best justification for that - that  
7 different - differential court system?

8 MS. BOLING-WILLIAMS. Well, as the Mayor said, when it's working for you - it's - it's  
9 - it's great - you know - there's wide spread - but if it's not working - and I think  
10 that we have now come to a time in not just in this county and in this state, but in  
11 our country where you've got to take some of the decisions out of the hands of - you  
12 know - some of the local government because politics will play an enormous part and if  
13 it's reality that if you are - you know - getting up under the skin of the judge, you  
14 know the judge is going to think twice about - you know - reappointing you. You know  
15 it's reality - it's human nature. And, so you got to sometime - and it's - actually a  
16 protection for the judge. I think if that decision is removed, they don't have to  
17 second guess themselves, they don't have to face the - the allegations that - you know  
18 - they got rid of this person because - you know - this person - you know - was  
19 speaking against or speaking out a little bit too often or this person is their -  
20 their friend or their child's friend or their spouse's friend, so that removes that  
21 appearance of impropriety from the judge.

22 JUDGE TINDER. And, that's a very good point that it could be to the judge's benefit  
23 to get away from that system. Perception is very, very difficult for the public to  
24 understand how it is that the judge can directly employ that person. I'd like to  
25 think that it's done with the best of intent - that the judges intend to be - hire  
26 good, vigorous defense for - for the public - but that needed be - but in reality,  
27 there's that concern that too many motions, too much time, is an interference, so  
28 maybe I should get someone else. That's - that just develops a terrible, terrible  
29 perception problem.

30 MS. BOLING-WILLIAMS. And is that really the role we want our judges to play where now  
31 they have to be - be an HR person -

32 JUDGE TINDER. - Right. -

1 MS. BOLING-WILLIAMS. - because they're going to have to go interview people - you  
2 know - and try to weed them out - you know - and read all the resumes and things. I  
3 don't think that we want - that's the best use of a judge's time.

4 JUDGE TINDER. Mr. Landis?

5 MR. LANDIS. I do have a question. You said you worked - I think - for fifteen years.  
6 Was it for DCS or for - were you appointed for parents?

7 MS. BOLING-WILLIAMS. No. For DCS as a staff attorney.

8 MR. LANDIS. Okay. What did you think of the quality of representation provided to  
9 parents at that point?

10 MS. BOLING-WILLIAMS. And, see the - in - in that system, as I said, the only time  
11 that you had the opportunity to have an attorney appointed for you was on TPR, so all  
12 the while the whole CHINS case is - is moving forward, and that comes from - you know  
13 - getting the case on the back end as opposed to getting it while on the front end.  
14 You know - and it still - you know - is the state of the process today. So I - we  
15 really didn't have a lot of attorneys who - you know - I wasn't involved with any of  
16 the attorneys - who were appointed on the discipline side. Now certainly if it's a -  
17 if it's a juvenile delinquency case, then they have the right to have an attorney  
18 appointed for them as well, but not on the CHINS side.

19 MR. LANDIS. What did you think of the quality of the representation on the TPR cases  
20 when they were appointed?

21 MS. BOLING-WILLIAMS. I thought that they served the clients well, but they - there  
22 were certain attorneys who were regularly appointed, and - yeah - they did serve their  
23 clients well because they - they typically had experience in handling those cases.

24 MR. LANDIS. Would you agree that they would have been much more effective if they  
25 were appointed at the beginning of the CHINS case?

26 MS. BOLING-WILLIAMS. Oh, absolutely. Or even brought in at certain points because  
27 they'd give they're periodically used, and when you look at the case and know that  
28 it's getting ready to head down a certain road - and you know that early on - that if  
29 at that point one is brought in, I think it would be very approp - you know - for all  
30 the people especially when children.

31

32

1 MR. LANDIS. And the other area - I think - when you started you said the difference  
2 between practical and policy - do you have any policy suggestions as to how to improve  
3 the quality of representation?

4 MS. BOLING-WILLIAMS. No. Having, like I said, having been involved now with the  
5 Alford - you know - Reed Johnson case and I see that the system around the state is  
6 not the system that's functioning the way it's functioning here in Lake County - you  
7 know - on some levels, I think that the rest of the state could benefit from - from  
8 the policy change in that we would remove the decision and the hiring from the judge  
9 to some type of counsel. Also, I was going to say that - that - yeah - like I said -  
10 and parents - when they first came to me about the Alford case and then following that  
11 I received contact from your commission and I started to look at - started first with  
12 my - with my county to talk to a few - since I don't do a lot of criminal work and  
13 I've never been a public defender. When I talked with a few people here, they said,  
14 oh, we've got a great system here in Lake County, but I'm state president; I'm not  
15 just president here in Lake County, so I had to start to look at what's happening  
16 around - around the State of Indiana. And, far too often - you know - it's not  
17 working as well in other places and the majority of other places as it is here in Lake  
18 County.

19 MR. LANDIS. How would you go about improving the system in those places where it's  
20 not working so well?

21 MS. BOLING-WILLIAMS. Okay. Well, and I like what the Mayor says that if you do a  
22 periodic review especially - you know - if you institute a minimum level of standards  
23 - and you know the ones that is not working - at least - the ones that are really bad.  
24 So, you get to know the ones - you know - that really are not working for people, and  
25 those are the ones that you go and take - take some remedial action whatever that may  
26 be. But, you focus in on trying to improve the system in those counties that you are  
27 very familiar - and I - and I know as you've done your listening sessions and you know  
28 where those places are. So you start there.

29 MR. LANDIS. That's all my questions.

30 JUDGE TINDER. All right. Dr. Papa?

31 DR. PAPA. Can you clarify your example about the fifteen-year-old student. Can you  
32 explain again how that got to nineteen days?

1 MS. BOLING-WILLIAMS. That's a good question cause that's wh - we're - we're doing our  
2 investigation now trying to find out how it initially - she initially was arrested was  
3 that she was accused of battery on a police officer. Now they're (INDISCERNIBLE) and  
4 there's a melee of - of - of activity going on. There - I - I have questions that -  
5 that there weren't even enough law enforcements there to maintain order. Nobo - there  
6 really were only two with a cafeteria full of children, and everybody had all these  
7 different fights that are going on. There really was no way for this police officer  
8 to even know that - you know - that - you know - who had - struck him. And, even in  
9 striking him, it looks like it may be that a student just fell - just lost - fell -  
10 just lost their balance and fell on this officer. But, clear - it was clear from my  
11 perspective that this wasn't even a child that was involved in it because the child  
12 was on the other side of the room, but nobody - I guess - looked at the tape early  
13 enough. Nobody - because they - everybody else wants to put things later 'til you get  
14 to the evidentiary stage, but you've got to remember that we're talking about  
15 juveniles. We're not talking about adults, and we may need to go into the evidentiary  
16 stage first and that we make sure that a child - you know - is - is not held longer  
17 than need be. And, again, why this child hasn't been - wasn't released to - to - to  
18 their parents - you know - much earlier in this process. Especially when this child  
19 has never had any kind of discipline and everything - either with school and certainly  
20 law - not with the justice system or lack thereof.

21 DR. PAPA. And then there was an issue with they didn't have a monitor so -

22 MS. BOLING-WILLIAMS. - Right. Well they finally, I guess, maybe had been there about  
23 fifteen days, like I said - they were saying well no you can go home on a monitor.  
24 Well, that was a Friday, and I guess nobody wanted to do the paperwork, but they said  
25 that there was no monitors available, so now you got to wait 'til Monday before your  
26 release.

27 MR. LANDIS. Do you know if the child had a - had an attorney appointed?

28 MS. BOLING-WILLIAMS. No. They didn't have an attorney appointed. The family did  
29 hire an attorney, but again, when the judge is not willing to hear any type of  
30 evidence on this whole issue in the beginning, nothing happened.

31 JUDGE TINDER. Is that case a - are you finding other cases like that? Is this an  
32 isolated case or is this a pattern on -



1 MS. BOLING-WILLIAMS. Right now, this is the first one that's come to us, and - so -  
2 so - it's like I say, we're looking at it.

3 JUDGE TINDER. Joe, do you have any questions?

4 MR. HEERENS. No, I don't at this time.

5 JUDGE TINDER. All right. Well, thank you so much.

6 MS. BOLING-WILLIAMS. Thank you.

7 JUDGE TINDER. You know - you know about our website and you can send additional  
8 information there or by call us or what - whatever.

9 MS. BOLING-WILLIAMS. Okay.

10 JUDGE TINDER. Thank you so much for your time.

11 MS. BOLING-WILLIAMS. Thank you.

12 JUDGE TINDER. And, we have Michelle Spangberger?

13

14 **MICHAELA SPANGENBURG, GRADUATE STUDENT AND MENTAL HEALTH PROVIDER**

15 MS. SPANGENBURG. Michaela. Michaela Spangenberg.

16 JUDGE TINDER. Michaela.

17 MS. SPANGENBURG. It's okay.

18 JUDGE TINDER. Sorry.

19 MS. SPANGENBURG. It - it's an awful name to have to write down and it's -

20 JUDGE TINDER. - And - and -

21 MS. SPANGENBURG. - worse to have to try to pronounce.

22 JUDGE TINDER. Do us a favor and spell it so that it's recorded.

23 MS. SPANGENBURG. Okay. Sure thing.

24 JUDGE TINDER. We've got to transcribe that. That would be very helpful.

25 MS. SPANGENBURG. Okay. Last name is S-P-A-N-G-E-N-B-U-R-G. First name is M-I-C-H-A-

26 E-L-A. And, I don't know a lot about the legal system. I'm just a concerned

27 resident, but I also am a graduate student, I'm a mental health provider, and I tend

28 to see clients who are very, very low income, clients who have extensive trauma

29 histories, often serious mental illnesses and often have interactions with the legal

30 system. Originally, I wasn't planning on speaking today, but when I heard the first

31 gentleman from the PD's office come up and talk about the need for social worker

32 that's actually employed by the PD's office, I just had to like jump on board with

1 that because there's definitely a need for that, and I've seen that again and again  
2 and again and again with my clients. Especially Lake County since I've moved here two  
3 years ago, I - I've seen a lot of that. I've seen clients who, frankly, just weren't  
4 even fit to - you know - participate in their own defense, who for instance like had a  
5 cash bail, was never appointed a PD, had no idea what was going on. And, of course,  
6 on the mental health side, here I am in my office trying to figure out from them how I  
7 can help them, but, frankly, as someone who used to work for one of the larger  
8 providers of mental health care in this county, no one has any idea on our side how to  
9 interact with the legal system at all. We don't know how to help these clients with  
10 these issues. On top of it, especially in like juvenile court for instance, where  
11 sometimes there's an attorney appointed - sometimes not, sometimes there's an attorney  
12 who's involved - sometimes not, it's also interesting because even there's logistical  
13 issues. In our courthouse for juveniles down in - down in Crown Pointe for instance,  
14 lawyers are the only ones who can have their phone in the courthouse, so if I have a  
15 client there who needs a referral for something - if I'm there with my client and I'm  
16 there with, for instance DCFS, DCFS w - the case worker can't have his phone - he  
17 can't bring his phone in, I can't bring my phone in, if there's no attorney there with  
18 that client, we now have no ability to provide resources until we get out of the  
19 courthouse, and that's not helpful. There's a lot of non-helpful things about the  
20 system here. And, in terms of me - I just lost my train of thought completely. This  
21 happens to me all the time. I apologize. But, yeah. There's just -

22 JUDGE TINDER. - Wait til you get older.

23 (LAUGHTER)

24 MS. SPANGENBURG. Yeah. When I get older, I'm just going to be standing here blank  
25 like - there won't even be words at that point. So, yeah like there's -

26 JUDGE TINDER. - Let me back you up. -

27 MS. SPANGENBURG. - Sure -

28 JUDGE TINDER. - Maybe this will give you -

29 MS. SPANGENBURG. - sure -

30 JUDGE TINDER. - time to catch that thought that's trying to escape.

31 MS. SPANGENBURG. - Uh huh.

32

1 JUDGE TINDER. The courts that you're dealing with are principally the juvenile  
2 courts, criminal courts, or are these he - clients who are involuntarily committed at  
3 that (INAUDIBLE)?

4 MS. SPANGENBURG. So, not clients that are envi - not clients that are at that moment  
5 are envi - are involuntarily committed, so they don't have a 5150 when they're in  
6 these courts. This is maybe after they -

7 JUDGE TINDER. - A 5150 is -

8 MS. SPANGENBURG. - That's one of the types of involuntary mental. It's basically  
9 like a seven - forty-eight or seventy-two hour hold. I forget; I don't work with in-  
10 patient, so -

11 JUDGE TINDER. - But these are - so these are -

12 MS. SPANGENBURG. - These are clients -

13 JUDGE TINDER. - These are clients who are facing criminal -

14 MS. SPANGENBURG. - Yes.

15 JUDGE TINDER. - juvenile charges?

16 MS. SPANGENBURG. Well, some of it's criminal adult, some of it's juvenile. I - I've  
17 had a smattering of both, but, of course, I don't work with or in the courts all of  
18 the time. Sometimes I get pulled into these cases because I have a client who's  
19 struggling with issues around the court or has been referred for therapy or a case  
20 where it's a juvenile and the family feels that it would be supportive to have the  
21 clinician there or that the judge may have questions for me. So, those are the ways  
22 that I show up in - in a space like that. What I was going to say was - particularly  
23 for Gary - we have - there's a way - the gentleman brought up earlier this idea that a  
24 lot of clients who are homeless often times would rather go to jail because they have  
25 no place else to go. I think that's becoming more and more true, and I think that's  
26 going to become more and more of an issue. In Gary we have a group of - of private  
27 business owners who are pushing more and more for criminalization of homelessness -  
28 who really want these folks to - you know - they're bothered by panhandling, whatever.  
29 These folks have nowhere to go. I mean, when it's thirty degrees or less outside and  
30 someone's standing in front of your business, you'd think people would realize that's  
31 not by choice. But a lot of times these clients have no idea that there's  
32 alternatives to going to jail - that they - you know - that there might be a shelter,

1 that there might be an opening somewhere. And, frankly, like the mental health system  
2 in this county cannot adequately deal with that especially when it's a client that's  
3 in court. We definitely need social workers and people who can provide referrals to  
4 people who are connected and can see if there's any beds here, there or some other  
5 place for our clients so that the client can - you know - adequately represent their  
6 case and not make - you know - these kind of choices based on is sleeping in jail  
7 tonight better than sleeping in an abandoned house or sleeping out in the rough in the  
8 woods cause we have a good number of that and it's something that people aren't often  
9 aware of. And, I think, so - you know - we have a new police chief; I have no idea  
10 what his stance on things is, so we may be seeing more of these cases where homeless  
11 clients - you know - are getting arrested and thinking well, great - you know - I get  
12 to actually have food, I get to sleep in a warm building tonight, and a lot of times  
13 these people have mental health issues and the jail system doesn't really know how to  
14 deal with that either, so. It's a very dangerous situation for people, and whatever  
15 we can do to make sure that social work is part of the public defender's office and to  
16 make sure that public defenders are being appointed when they should be the better.  
17 So - that's all I had to say.

18 JUDGE TINDER. Terrific.

19 MS. SPANGENBURG. Thank you.

20 JUDGE TINDER. Don't go -

21 MS. SPANGENBURG. - Oh. Okay. Not going away.

22 JUDGE TINDER. Mr. Landis?

23 MR. LANDIS. Go ahead. As your question first.

24 JUDGE TINDER. I don't.

25 DR. PAPA. How do - how do you get drawn into a pers - a particular person's case?

26 How does intersect with what's going on in the courts?

27 MS. SPANGENBURG. So - like when - So I generally work in community mental health, so  
28 a lot of times these clients have either been referred for therapy either by like a  
29 judge or by DCS - DCFS. Sometimes it's because they're stressed out about their court  
30 case, they come in - they may come in for other reasons. They may be a person that  
31 was on an involuntary hold and got a referral to be seen outpatient in the community  
32 mental health setting and I discover they have a court case, and obviously out here

1 away - there is very poor communication between the courts and the mental health  
2 system too because I have clients that come in and I don't even know they're court  
3 referred, no one's told us anything, they just show up at the door sometimes. And, a  
4 lot of times it's clients that have an active DCFS case, so often the juvenile but  
5 sometimes the parent as well. So, sometimes I become involved often through DCFS, but  
6 it might be - you know - and sometimes it's even just hearing client's experiences  
7 when they come in to talk to me about everything going on in their lives or their  
8 struggles with - I mean - I've had clients that are very obviously psychotic who will  
9 have no idea what's going on with their court case, and there's not a public defender  
10 involved and there should be, and you're like why is the judge not doing this and  
11 their essentially homeless and their spouse paid their cash bail and - you know - it  
12 just - honestly no one has any idea how the court system works - that's another  
13 problem too. No one has any idea how to get a public defender. When you talk to the  
14 client about a public defender, they have no idea what's going on, so a lot of it is  
15 just folks not knowing too. And, like people on the mental health side are not  
16 trained to know how to deal with courts. I don't know how to deal with courts.

17 MR. LANDIS. All right. And, you work for a community mental health center?

18 MS. SPANGENBURG. I did, and I'm going to. I'm in between two jobs. My next one is  
19 not in this county, but previously I did work in this county. Yes.

20 MR. LANDIS. So, how would you change the public defender system to - to try to bridge  
21 this gap of - and do a better job of representing the people that you're talking  
22 about?

23 MS. SPANGENBURG. I mean - you definitely need social workers present; you need -  
24 because a lot of times I think also public defenders may not know how to identify  
25 which cases are people that may have mental health difficulties that may need extra  
26 support or things like that. I think it's like not always obvious; people think it is  
27 - it's not always obvious. And, social workers generally have - you know - that level  
28 of mental health training where they can assess for things to a degree informally.  
29 Like they can - you know - and they can provide referrals and that's the important  
30 part. The linkage because frankly - like - having worked with some of the people on  
31 the mental health side, even mental health people - I mean - way overloaded system. I  
32 mean - it's awful, but we don't even have linkages between each other. So, it would

1 be very difficult for it to be coming from our side. It definitely needs to be  
2 something in house. It needs to be something that there's funding for. Yeah.  
3 JUDGE TINDER. So, the simple - maybe simple matter of communication from within the  
4 courthouse, it seems to me that if judges were presented with that that they - they  
5 would understand the need for social workers - mental health workers to have that  
6 ability to communicate out as well. Has there been any sort of concerted effort to -  
7 to let the judges know the difficulty that that presents?

8 MS. SPANGENBURG. I mean - like when the DCFS caseworker can't even - you know -  
9 communicate out - yeah like, it's pretty extreme. Like they take your phone at the  
10 door, and it doesn't matter if - if you're not the lawyer, it doesn't matter who you  
11 are. And I have no idea what the mechanism - but especially in juvenile cases - you  
12 know - like the kid may tell you something like really important like their family may  
13 - you know - cause you're sitting there waiting for - you know - to be called in and  
14 they may - you know - we need help with food, we need help with housing - you know -  
15 things that may impact the way that they want their case presented or may present  
16 their case to - you know - an attorney or the judge. You know - I've seen a lot of  
17 people - you know - basically just do what whatever not - you know - to just try to  
18 get housing or - or a warm bed for the night. So, yeah - like - I have no idea how to  
19 go about changing those systems because I - I don't know anything about the legal  
20 system. I'm about in the same boat as my clients when it comes to that, so.

21 JUDGE TINDER. All right. Thank you so much for your -

22 MS. SPANGENBURG. - Sure -

23 JUDGE TINDER. - time and your points. Very - very interesting and very helpful.

24 MS. SPANGENBURG. Thank you.

25 JUDGE TINDER. So, that exhausts the number of people who have indicated - indicated  
26 to us in advance they wanted to speak. Is there anyone who has something they want to  
27 tell us that we need to know about who did not sign up in advance? Come on up. Tell  
28 us who you are and what we need to know.

29

30 **KIMBERLY MCGEE, BLACK LIVES MATTER ORGANIZER FOR GARY, INDIANA**

31 MS. MCGEE. Hi. My name is Kimberly McGee.

32 JUDGE TINDER. Kimberly McGee? Capital M, small c, Capital G, e-e.

1 MS. MCGEE. Right. There's no H.

2 (LAUGHING)

3 JUDGE TINDER. Okay.

4 MS. MCGEE. Sometimes there's an H. And, I volunteer as an organizer here in the area  
5 with the Black Lives Matter Gary, and we had come in contact with a - well, first of  
6 all, a lot of the information here - that's been shared here is really, really useful.  
7 I definitely think there is an issue with people not knowing their rights going into  
8 the system, and I don't think there are enough - you know - resources and information  
9 - you know - for people that are - are charged with a crime. So, a - a young  
10 gentleman we knew - he - the police killed his dog at his home and then I think at  
11 some point invited him to come to the station to talk to them about it here in Gary.  
12 And, he went to the station - I know he had his phone - he was kind of recording the  
13 interaction on his camera and the cops at the front desk or whatever. And, then at  
14 some point the recording stopped. I think they stopped him or whatever - I think they  
15 ended up charging him with some kind of intimidation. So - you know - he was charged  
16 and arrested, and since that, he's had multiple court dates over - it could have  
17 almost been a year by now. And, they keep just pushing the date up. It's like  
18 nothing really happens. I don't know the pre-trial hearings or how long their  
19 supposed to go on. But, I - I'm not sure if they just want him to plead - they just  
20 hope he'll plead guilty which he doesn't plan on doing or just eventually miss a court  
21 date cause nothing really happens as these dates and they keep moving the date up.

22 And, his lawyer, a public defender - there's not much communication between them and I  
23 know that at his last court date in the last couple weeks, I know he was there and he  
24 was going to talk to his lawyer after - you know - they once again pushed his case up.

25 JUDGE TINDER. Do you know which court his case is assigned to?

26 MS. MCGEE. Offhand? No. It's just Lake County in Crown Pointe. And, so - what was  
27 I saying - but so I guess so his - his lawyer has never like asked for a dismissal or  
28 anything of that nature, and there's not much communication between them. And, I  
29 think that - and I guess after the previous - just after that last trial date he  
30 wanted to hang around and just talk to his lawyer, and he said well he'll talk to him  
31 - you know - after all of his cases are done. So, there's really not an opportunity  
32 for them to communicate, and I think this is just an example of - you know - once

1 again people not knowing what's going on with the case, not knowing their rights, and  
2 the public defender not - probably having the time or whatever the issue is - so.

3 JUDGE TINDER. I bet Mr. Gonzalez would like to talk with you to find out some names  
4 and numbers and maybe he can look into this to see what the status of this is.

5 MR. GONZALEZ. You read my mind, Judge.

6 JUDGE TINDER. Okay. He is the Chief Public Defender, and he would be supervising  
7 whoever the lawyer for this. Perhaps. -

8 MR. GONZALEZ. - We don't know. It could be a county court -

9 JUDGE TINDER. - Right -

10 MR. GONZALEZ. - You don't know if it's a county case or a -

11 MS. MCGEE. - No -

12 JUDGE TINDER. - Make your point to get with Mr. Gonzalez before you leave, and he can  
13 follow-up on this. We would certainly appreciate doing that. And, let us know -  
14 perhaps you could get in touch with Katie - let us know where it is. We'd appreciate  
15 that.

16 MS. MCGEE. Okay.

17 JUDGE TINDER. Yeah.

18 MS. MCGEE. And, so yeah I - I don't have an incredible amount of information about  
19 that particular case. I do want to put that out there and if anyone had - you may  
20 have an idea why this process has gone on for so long. You know - people have jobs -  
21 it's just really hard to just continually have court dates where almost nothing is  
22 happening and whoever is coming to testify against you - you know - the police are not  
23 there to testify, so why - why is the case continuing? And, so -

24 JUDGE TINDER. What about - and you mentioned the - important concept that people -  
25 it's important to communicate to people what their rights are -

26 MS. MCGEE. - Yes -

27 JUDGE TINDER. - So that they know about the right to defense if they are indigent and  
28 so on. Are there - other bigger picture issues or general issues that we should know  
29 about relative to public defenders that you've observed or that you've heard talked  
30 about -

31 MS. MCGEE. I mean - I guess just the fact that so many people find themselves in a  
32 situation where they - you know - they plead - they plead to crimes or whatever they



1 may not be guilty of. You know I think that there's - there are structural reasons  
2 why that happens, and so I think it's important I guess that we keep talking about it  
3 and keep seeking answers. I'm glad that you - you know - had this forum here today to  
4 get feedback from folks, and I wish more folks knew about it 'cause I just found about  
5 it in the last couple of days from a relative. So, you know - that's involving the  
6 process, so I think that's about it -

7 MR. LANDIS. - Why do you think people plead guilty to things they're not guilty of?

8 MS. MCGEE. I mean - I - I definitely think that there's pressure from within the  
9 process - you know - to do that. And, I know that if people keep giving you dates and  
10 you keep coming back - I mean - you'll feel pressured to - looks like things aren't  
11 working in your favor. I think there are a lot of reasons that - and a lot of it's  
12 economic, but - so that's it. Thank you.

13 JUDGE TINDER. All right. Very helpful. Thank you. All right, anyone else have  
14 comments for us? Yes, sir. Come on up.

15  
16 **GOJKO KASICH, ATTORNEY AT LAW**

17 MR. KASICH. Alfred please.

18 JUDGE TINDER. Yes.

19 MR. KASICH. Alfred.

20 JUDGE TINDER. Okay.

21 MR. KASICH. My name is Gojko Kasich. G-O-J-K-O K-A-S-I-C-H. I want to thank you for  
22 coming to Northwest Indiana in general, and specifically for coming to this building  
23 that my father-in-law helped build as a bricklayer. I'm very disappointed that with  
24 the lack of participation here today from other lawyers. I was very disappointed to  
25 have Valpo cancelled last week. I'm not blaming you or the Taskforce; it's just an  
26 observation. I've been on the Public Defender Council for I think now for almost six  
27 years, and nothing has frustrated me more than listening to all the - and since I'm  
28 the son of a steel worker, I'm going to talk like the son of a steel worker - all the  
29 bitching I hear from public defenders and lawyers and what have you about we got to  
30 fix this or we got to do this and then nobody shows up to go ahead and say anything.

31 JUDGE TINDER. You know I'd like to think that the Valpo one was merged with this one

32 -

1 MR. KASICH. - Yeah. Well, I'm the only one from Porter - the two of us are from  
2 Porter County.

3 JUDGE TINDER. I'm going to look on it as being merged.

4 MR. KASICH. Yeah, well, you can look on it that way, Judge -

5 JUDGE TINDER. - We - we only had -

6 MR. KASICH. - And, I love you dearly because you were one of my trial practice  
7 professors at IU.

8 JUDGE TINDER. Right. Back in the day -

9 MR. KASICH. - but besides that. Anyway -

10 JUDGE TINDER. That turned out pretty well though, didn't it?

11 MR. KASICH. Oh, yeah. Yeah well. I don't know how I turned out. My boss is here.  
12 Of course, Larry's here.

13 UNIDENTIFIED MALE VOICE. Doing a great job - great job.

14 MR. KASICH. I've attended - I attended the one in Indy and got to meet Dr. Papa there  
15 too. I've read - I read the transcripts -

16 JUDGE TINDER. - And, I've tried to be very transparent -

17 MR. KASICH. - Well, you are!

18 JUDGE TINDER. - and those who haven't been to any - of our sessions or haven't - they  
19 can go on our website and see everything that we've done and - and we're making -

20 MR. KASICH. - Marce probably didn't see me, but I was one of the ones who read all  
21 the transcripts too. I was disappointed that we didn't have the last two posted yet.  
22 We just had the first two.

23 JUDGE TINDER. Soon - soon.

24 MR. KASICH. Well, it doesn't help me today.

25 JUDGE TINDER. Right, right.

26 MR. KASICH. I'm curious, how many e-mails and comments and letters have you received?

27 JUDGE TINDER. Well. Not nearly as many as we would have hoped.

28 MR. KASICH. Uh huh. Uh huh. Yeah.

29 JUDGE TINDER. Only a handful at this point, but we've had - we've had pretty vigorous  
30 participation at some of the other listening sessions, and really lots of  
31 information's come in that way.

32 MR. KASICH. Well -

1 JUDGE TINDER. - And, we have done a pretty large survey effort where nearing four  
2 hundred survey responses already to various groups including - there's community  
3 groups, judges, even prosecutors, public defender, and so on. So, we're - and we're  
4 doing focus groups talking with clients and former clients and public defenders, so  
5 there are lots of sources that we're pursuing. This is but one, and the scheduling is  
6 not ideal, but - and we're doing the best we can.

7 MR. KASICH. You're right. And, again, that's why I wanted to thank you. I'm a son  
8 of Eastern European immigrants. I was born here in Gary, I grew up here in Gary, I  
9 went to school here in Gary, then I moved to Porter County. I had the distinct  
10 pleasure in - in trading life experience in working for Jim Wetsinger for a couple of  
11 years as his - as a court-appointed public defender, and then later I slid right into  
12 the office as we created it - I believe - in the year 2000 when David Schneider took  
13 over. Having said that just kind of as an introduction, it came to the top of the  
14 list basically - kind of what Marce said and what some of the other individuals said -  
15 we need a bridge in mental health. You know - we have recovery works, and to me to  
16 this day - and I'm on the Public Defender Council - recovery works is a mystery to me.  
17 I don't know how it operates. I don't know where that damn money goes, but it sure as  
18 hell isn't getting to where it should be enough in my opinion. Maybe we have someone  
19 appointed as a liaison in the Public Defender Commission or - or whatever we create to  
20 work with recovery works, monitor it, make sure its services are being delivered. I  
21 have a couple of quick stories regarding anecdotally I had a client who had severe  
22 mental issues, charge with - coming - he was a work release, he came back late from  
23 looking for a job, they wouldn't go ahead and feed him because it was - the kitchen  
24 was closed there in work release, he got upset, he punched the water cooler, and she  
25 told one of the workers there - security officers there - told - said something to  
26 him, and he says you know I'm going to get out and I'm going to kill you. Everybody  
27 knows he's mentally ill, and he gets charged with intimidation. And, it got to the  
28 point where it was winter, and ethical or not, I delayed things to make sure he didn't  
29 get out because he had nowhere to go. He had an aunt and a cousin that would take him  
30 in. He refused to go live with them. He wanted to walk out the doors of Lake County  
31 Jail in a short - in shorts and a t-shirt and walk forty-five blocks to his uncle's  
32 house who he had not talked to in years who was a convicted sex offender and a

1 convicted drug dealer. And - and I couldn't get help for him. And, I tried and I  
2 tried. I had him examined for competency. He was found to be competent. Finally, I  
3 went to the judge, I filed a sp - special motion with the judge. And this is the  
4 second story - we have our own mental health division in jail that the sheriff runs,  
5 and I still don't know how that operates myself. Apparently they do a good job most  
6 of the time, but there's a lady in charge there and she calls herself a doctor, and my  
7 particular judge once asked her what are you a doctor of and she said theology.  
8 Theology. So, he doesn't really respect her. So, when you have a judge not really  
9 respecting the person who's doing the operations in the mental health division of the  
10 jail, you're kind of having some problems. So, I'd - would just like to ask that we  
11 go ahead and try to - I know you guys have a broad purview here to consider and a lot  
12 of things to discuss, but at least at some length there between the millions that are  
13 in recovery works that I keep getting told about and the public defender system.  
14 State-wide oversight, and we talked about - you know - not fixing what isn't broken  
15 and we've talked about coordinating counties and maybe doing a state-wide thing for  
16 appellate or maybe doing a regional thing for appellate. It has to be done. I've  
17 lived in Porter County since 1974. They look at me like I'm some kind of pariah  
18 because I was born in Gary, so I'm really not embraced very well by the lawyers there.  
19 I've tried to go ahead and communicate with the Porter County Public Defender, and  
20 whenever I ask him - and Ken's a nice guy - and whenever I ask him do you need  
21 anything, yeah, just tell Larry to leave us alone. Tell Larry to leave us alone.  
22 We're fine like we are. I have no idea what they're doing. Maybe it's none of my  
23 business, but I am on the board. I kind of would think that maybe they would go ahead  
24 and give me some input. Never get anything. I emailed them a couple days ago asked  
25 them are you coming Saturday. If not, is there anything you want me to throw out for  
26 you. I got no response. Maybe forty-eight hours wasn't enough notice for him; he's  
27 in Florida. I don't know, but it's - it's been a pattern. And, I think that the only  
28 way you get around that is requiring every county to opt into a state program.  
29 JUDGE TINDER. So, you pay your property taxes in Porter County?  
30 MR. KASICH. Yes, I do.  
31 JUDGE TINDER. And, Porter County -  
32 MR. KASICH. - And usually on time too. -

1 JUDGE TINDER. - Porter County spends how - how much a year on -  
2 MR. KASICH. - I have no idea -  
3 JUDGE TINDER. - public defense services? -  
4 MR. KASICH. - I have no idea. They don't tell me.  
5 JUDGE TINDER. Hundreds of thousands of dollars.  
6 MR. KASICH. And, there - you know - again, the four ju - the judges there appoint the  
7 public defenders.  
8 JUDGE TINDER. Right. Yeah. Of all the money they spend on public defense, forty  
9 percent of it can come back to them.  
10 MR. KASICH. I think they are getting reimbursed.  
11 JUDGE TINDER. No.  
12 MR. KASICH. They're not getting anything?  
13 JUDGE TINDER. They're not in the system.  
14 MR. KASICH. They don't want to be -  
15 JUDGE TINDER. - Why not? -  
16 MR. KASICH. - They don't want to be involved.  
17 JUDGE TINDER. Why not?  
18 MR. KASICH. I - I would - If I'm the Chief Public Defender and the judge gave me the  
19 job, I sure as hell don't want someone else interrupting and looking over my shoulder  
20 when the judges have given me free reign to hire whoever I want. It's kind of a cool  
21 thing to be. Right? That's my personal thought. I have no idea if that's what Mr.  
22 Ellett does over there, but I think it would be difficult if I was the pet choice of  
23 the judges to go ahead and now - kind of lean back and let someone else come in and  
24 tell me what to do and look over my shoulder. That's just my impression.  
25 JUDGE TINDER. Those standards are important, don't you think?  
26 MR. KASICH. Well, I - they (INDISCERNIBLE)  
27 JUDGE TINDER. As a public defender  
28 MR. KASICH. As - and as - as a former judge, that was one of the things I was going  
29 to come up to. At some point in time, someone's got to step in and say there's a  
30 sixth amendment thing and we have this bulletin that came out, we have this whole  
31 review that came out, and again - maybe I'm easily shocked - I just don't understand  
32 how few people aren't as concerned as some of us are about some of those findings and

1 about where we have come from and where we're going. And, maybe I'll jump to that  
2 right now. We talk about sometime about - we've talked about several times here how  
3 do we go ahead and get counties to participate? How do we get them to comply? Well,  
4 our - our jail's been under a federal - federal monitor many times over the past  
5 twenty-five years. Well, the seventh circuit finally said, just shut-up. We're going  
6 to appoint someone, they're going to monitor it, and they're going to report to us,  
7 and here are the standards you have to maintain, and if not, we're taking over. And,  
8 maybe we can do something like that with the Public Defender Commission or maybe we  
9 can sign a consent decree with the Seventh Circuit and have the federal courts come in  
10 and tell - or tell the counties if you don't want to do this, we're going to go ahead  
11 and piggy back on the lawsuits that have been filed, and we'll get a decree of some  
12 sort from the federal courts, and you're not going to be happy then. You know - if  
13 you're not happy with what we're planning, it could be much worse if the Seventh  
14 Circuit comes in and says okay, fine guys - now we're going to do it this way. I  
15 don't know. How to make counties comply - I mean - I guess I didn't jump too far  
16 ahead. Fifty percent reimbursement I think helps. Maybe the forty percent's not  
17 enough for Porter County. Maybe once we get to fifty percent, now they say gosh, we  
18 can't really give that up. That could be it. I don't know - that - that could be it,  
19 and I - I've been here almost thirty-four ye - I've lived here my whole life. But,  
20 I've been a lawyer since July 5<sup>th</sup>, 1984, and in the last twenty years - seventeen  
21 years, I'm being baffled at how the juvenile court has their public defenders and the  
22 misdemeanor courts have their public defenders. I - Early on when I was an eager  
23 young board member of the boar - of the Public Defender Commission - even though I was  
24 probably fifty years - fifty-two-years old since I'm fifty-eight now - I put together  
25 an e-mail list of lawyers in Lake County and Porter County, Jasper, Newton, tried to  
26 get LaPorte County, and maybe some of the other outlying counties. I had a list of  
27 like a hundred people who I had been told were public defenders. And, I go ahead and  
28 ask them for their input or any questions, and besides Mark Bates who's the head of  
29 our appellate office and maybe one other lawyer, I never get any responses. I have no  
30 idea what's going on in juvenile court in Crown Pointe. I have no idea - unless I'm  
31 in misdemeanor courts - what's going on. I know someone observed the - the - you come  
32 to one of those courts, and the justice - the perceived justice is almost non-existent

1 because it's just running them through, and the public defenders have no time as if  
2 they spent five minutes with each of their clients and if they have fifty clients in  
3 one day, it would be impossible for them to spend five minutes with each of their  
4 clients. So, the juvenile court, anecdotally I heard that Judge Steffaniac was going  
5 to go the State and ask the State to fund his public defenders. Why are we  
6 reinventing the wheel? Why when we have a system already in place is that allowed to  
7 happen? Now, I know initially Larry was eager to have Lake County Felony Division at  
8 least involved, so I think we made some compromises there. But, enough's enough. I  
9 think it's time to stop those compromises and let's get in line with the twentieth  
10 century if not twenty-first century and go ahead and do it right. And, again there's  
11 no rational reason that defenders in those systems - the juvenile and misdemeanor  
12 courts in Lake County shouldn't be part of the system. Hybrid delivery system - I  
13 think it would be an easy thing to do and it's probably the right thing to do. We  
14 talk about home rule. We talk about don't fix what ain't broke. Okay, so - we leave  
15 Lake County, we do Porter County, we do St. Joe County, and Allen County, whoever else  
16 who has a system that's working, we'll leave them alone. The other ones, we give them  
17 six months to go ahead and combine two, four, six, eight counties, and the ones that  
18 don't - we just have a State office that go ahead and run those counties, and if they  
19 don't like it, too bad. You know - so - are we going to have a bastard system? Yeah.  
20 But we're going to go ahead and deliver indigent services the way they should be  
21 delivered. How do we fund this? I know Dr. Papa brought that up in Indianapolis a  
22 month or two ago and brought it up again, and he has to bring it up again. Increase  
23 court costs. We already have a public defender fee in court costs. Let's increase  
24 it. Do we increase property taxes? I don't know, but we have to do something. I  
25 mean it has to be funded somehow. I don't think it's going to be up to the  
26 legislature to decide how it's going to be funded, but what - what are our sources?  
27 Well, we can't have bake sales - well, I mean - I guess we could, but we're not going  
28 to raise a lot of money. So, we're going to either increase the cost to the people  
29 who use the system or we're going to increase the costs from everybody because it's  
30 important for all of us to go ahead and have a system that works. So, I think those  
31 are two suggestions - property taxes, but increase court costs certainly. Increase  
32

1 that PD portion of the fee. And, I think that's it. Those are some things that  
2 popped up into my head -

3 JUDGE TINDER. Very - very notable performance for us. I'd like to see what you could  
4 do when you're actually prepared to make a presentation.

5 MR. KASICH. I never prepare. I'm too old to prepare.

6 JUDGE TINDER. So, I asked you about Porter County's non-participation. I think we're  
7 both mystified by that.

8 MR. KASICH. Well, no. I've been told. And, I flat out asked him. And, it's - you  
9 know - I just don't want Larry bugging me, and we think we're doing a fabulous job and  
10 we don't want you gu - anybody looking over our shoulder. And, I don't think that's  
11 right myself, but I'm just a - I'm just a taxpayer in Porter County.

12 JUDGE TINDER. I think you - you'd really rather have Larry bug you than have a  
13 federal judge devise your system.

14 MR. KASICH. Well, Larry bugs me enough, but over the years - yes, I would. I'd much  
15 prefer to have a Larry Landis - you know - take me off to the side and -

16 JUDGE TINDER. Federal judges can get some crazy ideas sometimes.

17 MR. KASICH. So I hear. Present company excluded of course.

18 JUDGE TINDER. Of course. Of course. I'm a recovering judge.

19 MR. KASICH. That's right. It's a process.

20 JUDGE TINDER. Do you have some - ?

21 LARRY LANDIS. Who should appoint chief public defenders? Any idea?

22 MR. KASICH. Not the judges. Not the politicians.

23 LARRY LANDIS. Alright. That's going to be one of the issues that we're struggling  
24 with. How do we make them more accountable?

25 MR. KASICH. In some - in some states they're elected.

26 JUDGE TINDER. Like county - just like a prosecutor is. What do you think of that?

27 MR. KASICH. It worked out real well in Cook County, Illinois. I - I mean - again,  
28 you might have to go to some hybrid mish-mash of the Council. Our - Our - I like our  
29 system because at least our office gets one guy on - you know. But, it should be  
30 lawyers with some knowledge, but it shouldn't exclude laypers - laypeople either  
31 because sometimes we have blinders as lawyers and to have a council of all or have a  
32 commission or group whatever of all lawyers appointing a chief public defender might



1 not be the wisest thing. I - I don't have - that I didn't give any thought to, and  
2 off the cuff I can't really - I mean I'd given thought to it over the past few months,  
3 but I don't know what the answer is because of the political problem that you have,  
4 the judges pushing back. That's something you guys can go ahead and hash out I guess  
5 in committee.

6 JUDGE TINDER. If you have a stairwell thought about that later -

7 MR. KASICH. - I'll send it to you -

8 JUDGE TINDER. - send it to us.

9 MR. KASICH. I - It would have to be - you know - I think a five person committee is  
10 going to have - you know - one person a layperson, the other four people lawyers with  
11 some experience and at least one of those people being voted on by the people who  
12 actually provide the services - the public defenders. But then again, who are the  
13 public defenders going to be until the public defender is chosen. So, maybe that  
14 initial appointment might just come from the Commission. A local lawyer from the  
15 Commission and then subsequent ones will be voted on by the public defenders who are  
16 in that office.

17 JUDGE TINDER. You know what a stairwell thought or an elevator thought is, right?

18 MR. KASICH. I think.

19 JUDGE TINDER. It's after you're out of the courtroom and you're going back to your  
20 office -

21 MR. KASICH. - I usually get mine -

22 JUDGE TINDER. - and you think of the best story you could have -

23 MR. KASICH. - it's usually a bathroom thought for me.

24 JUDGE TINDER. - or a driving thought down. Dr. Papa?

25 DR. PAPA. Any suggestions on how to - what's the - what's the enforcement mechanism  
26 on how to make the counties comply with State standards?

27 MR. KASICH. The fed - the monitor thing was one. I had like Marce's concept to make  
28 the Supreme Court might act more quickly. If someone's not doing something and a  
29 complaint's filed and there's some mechanism there where the Supreme Court looks at it  
30 and might issue a temporary monitor to come in and take a look at it or temporarily  
31 take over. That might be the best process, but again, ultimately a federal monitor  
32 gets appointed by the Seventh Circuit and says this is a Sixth Amendment right. That

1 may be down the line, but again if you hold that over their heads and suggest that  
2 that might be something you're looking at. And, I guess we can't put that in a  
3 statute or rule, but at least we can - you know - "nudge, nudge, wink, wink" like we  
4 sometimes do - you know - or maybe all too often do.

5 JUDGE TINDER. Okay. Thanks for the thought (INAUDIBLE) - Do we still have Joe with  
6 us?

7 MR. KASICH. Joe?

8 MR. HEERENS. Yes, I'm still here.

9 JUDGE TINDER. Do you have any questions?

10 MR. HEERENS. Not at this time.

11 MR. KASICH. Thanks, Joe.

12 JUDGE TINDER. Very good. Alright. We have this impromptu presentation. Anyone else  
13 like to speak to us before we adjourn for the day? Our website will remain open and  
14 our office - the phone number is available. And you're welcome to fol - we'd be  
15 delighted to follow up on anything if you think of something later like driving home  
16 or walking home or in the elevator or wherever - bathroom - in the shower. Thank you  
17 all for your time and participation and your thoughts. Very - very helpful to us.  
18 Have a great day. Have a great Easter.

19 (ADJOURNED)

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