

Mark W. Rutherford, Chairman
Indianapolis

Richard Bray
Martinsville
Bernice Corley
Indianapolis
Hon. Mary Ellen Diekhoff
Bloomington
Representative Ryan Dvorak
South Bend
Hon. Kelsey B. Hanlon
Spencer

Public Defender Commission



David J. Hensel
Indianapolis
Senator Eric Koch
Bedford
Representative Ryan Lauer
Columbus
Hon. Steven P. Meyer
Lafayette
Senator Gregory G. Taylor
Indianapolis

309 W Washington Street Suite 501 • Indianapolis, IN 46204

www.in.gov/publicdefender • ph 317-233-6908

September 2019 Volume 11 Issue 4

Commission selects appointees to 17 County Public Defender Boards

Based on the provisions of the newly-enacted [Senate Enrolled Act \(SEA\) 488 \(2019\)](#), the Commission made its first round of appointments to County Public Defender Boards at its September 25 meeting.

Previously, non-exempt County Public Defender Boards were composed of three members: two appointed by the County Judge(s) with criminal and juvenile jurisdiction and one appointed by the County Executive (Board of County Commissioners). As a result of a recommendation by the Indiana Task Force on Public Defense to strengthen the independence of the public defense function in the criminal justice system, SEA 488 altered that board structure to now consist of: one member appointed by the County Judge(s) with criminal and juvenile jurisdiction, one appointed by the County Executive, and one appointed by the Commission.

The statute ([I.C. 33-40-7-3](#)) also directs that the Commission's appointee must be a resident of the county, and all members "must be persons who have demonstrated an interest in high quality legal representation for indigent persons." Members of local boards serve three-year terms, and the Commission's appointment becomes effective upon the first expiration of a current judicial appointment.

In order to seek local input prior to making appointments, Commission staff proactively sought input from: (1) the members of the

General Assembly whose districts include any portion of the county, (2) all County Judges, (3) the President of the County Commissioners, (4) the President of the County Council, (5) the current Chair of the County PD Board, and (5) the Chief or Managing Public Defender. Members of the Commission and staff carefully considered the individuals nominated.

This will be an ongoing, rolling process and the Commission will consider appointments as vacancies occur. Commission members and staff encourage any interested individuals to contact us at any time with comments for improvements to this appointment process, to nominate individuals, or to comment on pending nominees.

We are happy to announce the following new and returning members, who have been appointed for 3-year terms effective September 25, 2019, to September 25, 2022: Adams County: John Minch; Carroll County: Bill Ruch; Cass County: James Austen; Clark County: Anne Pfau; Floyd County: Larry Schad; Fountain County: Cindy Mason; Fulton County: Robert Cannedy; Grant County: Joe Keith Lewis; Hancock County: Michael Adkins; Jasper County: Tim Belstra; Jay County: James Zimmerman; Kosciusko County: John Hall; Lawrence County: Gene McCracken; Parke County: Steve Blain; Pike County: Fran Lewis; Pulaski County: Laura Bailey; and Sullivan County: Jana Johnson.

Indiana Jail Overcrowding Task Force Launches

Indiana's newly constituted Jail Overcrowding Task Force has launched and held its first meeting on September 30.

This group was established due to concerns that have been raised by some county officials regarding increased jail populations. The Task Force is being chaired by Justice Steven David, and Commission Member Bernice Corley has been appointed as a member.

The Task Force website states that the group was established in 2019 pursuant to I.C. 11-12-6.8 "to conduct a statewide review of jail overcrowding and identify common reasons and possible local, regional and statewide solutions. The task force will also study the issue of reducing recidivism for convicted felons in county jails by offering programs that address mental health treatment, drug and alcohol treatment, education, and other evidence-based approaches."

The Task Force is also required to submit a report to the Governor, Chief Justice, and the Legislative Council by December 1, 2019.

Commission staff will be following this issue closely. If you have comments or issues you would like to have raised during this Task Force process, please contact Andrew Cullen with the Commission.

For further information, visit the task force website at <https://www.in.gov/judiciary/iocs/3874.htm>.

In This Issue

Page 2

Legislative Interim Study Committee
New Commission Members
2019 Annual Training

Page 3

Lawrence County Social Worker Program
Demonstrates Cost Savings

Page 4

Upcoming Dates
Commission Meeting Update
New Commission Staff Attorney

Legislative Interim Study Committee Update

At the request of the General Assembly’s Interim Study Committee on Corrections and Criminal Code, Derrick Mason and Andrew Cullen made a presentation entitled “Indigence Findings in Indiana” to the Committee at its August 27 meeting. The presentation covered the factors involved in indigence determinations in Indiana. The committee is considering endorsing legislation to impact indigence findings in Indiana.

Also at the request of the Committee, Derrick and Andrew made a presentation at the September 18 meeting entitled “Current Trends in Public Defense Reimbursement and Caseloads.” The presentation covered: 1. County Participation in PD Commission, 2. County Public Defense Costs, 3. Public Defender Caseloads, 4. Percentage of Defendants represented by a PD, and 5. Availability of Public Defenders.

Both presentations are available on the Commission’s website.

The Commission has requested that the Committee consider endorsing a “Preliminary Draft” of legislation to remove the Commission’s prohibition on misdemeanor reimbursement to be effective July 1, 2021, which coincides with the beginning of the next budget cycle. The Committee will consider that recommendation at its October 8 meeting.

Two New Members Appointed to Commission

Two new members - Bernice Corley and Rep. Ryan Lauer - have been appointed to the Public Defender Commission.



Bernice Corley

Rep. Lauer was elected to represent District 59 of the Indiana House of Representatives in 2018. The district covers most of Bartholomew County. He is now a technical specialist at Cummins, where he has worked for more than a decade.

He previously served on the Bartholomew County Council, when he was elected in 2010. In 2014, he was named council president. He also served on the Bartholomew County Sheriff’s Merit Board and Community Corrections Advisory Board.

Lauer has been involved in the American Chemical Society, the Institute of Electrical and Electronics Engineers, and the National Rifle Association. He is also a skilled violinist and has performed with the Columbus Indiana Philharmonic, the Indiana University Symphony, the LaPorte Symphony and the Valparaiso University Symphony Orchestra.

Lauer and his wife, Blair, live in Columbus with their three daughters, Awyn, Lillian and Sidney, and their son, Isaac. He is a member of Grace Lutheran Church and former president of the Grace Lutheran Church Council.

He was appointed by the Speaker of the House of Representatives to a four-year term.

Ms. Corley currently serves as the Executive Director of the Indiana Public Defender Council. Prior to joining the Public Defender Council, Ms. Corley served four years as General Counsel at the Department of Education and also served as legal counsel for both the Indiana Senate and Indiana House of Representatives.

Her career includes clerking for Hon. Carr Darden. Ms. Corley served as a Marion County Public Defender Agency as trial counsel as well as appellate counsel. She was appointed by the Indiana Criminal Justice Institute.



Rep. Ryan Lauer

Lawrence County Social Worker Program Demonstrates Cost Savings

Early in 2019, the Lawrence County Public Defender Agency (LCPDA) reached out to the commission for assistance in evaluating the impacts of their social work team using data collected in 2018 on all clients that had contact with the social work team. Commission staff worked with Chief Public Defender Dave Shircliff and Social Worker Micki Rushton (now succeeded by John Mess) to assess the potential uses of the data collected, and together we developed an estimate of cost savings from pretrial release to treatment programs after interaction with the social work team.

The LCPDA social work team assists clients with needs related to mental health and addiction connect with the appropriate treatment programs out of incarceration. These clients are identified via a combination of screenings, referrals by public defenders, referrals by the client’s family, and requests by the client themselves. Using information provided by LCPDA on the number of interventions, as well as information on the cost of incarceration in Lawrence County Jail, we conservatively estimate that the social work program saved \$1,134,000 in county incarceration costs in 2018 (for more detail on this analysis, see additional detail to the right). These savings do not include any additional material benefits to the county associated with clients receiving treatment in lieu of being incarcerated, potentially being able to continue working during treatment and maintaining access to their support structure.

The Commission recommends that all member counties consider whether the implementation of a social work team would work for their public defense system. The potential cost savings to your county are significant, and so are the benefits to your clients. Additionally, social work staff can be counted towards adequate staffing, possibly allowing for a higher caseload cap for the attorneys the social work staff supports. And like all public defense expenses, social work support for public defenders is reimbursable at a rate of 40% by the commission.

Helping member counties use data to answer questions and to justify their programs to stakeholders is an important part of the Commission’s mission. If your county has access to data you think could be useful but you aren’t sure how to utilize it, or if you are considering starting to collect data and aren’t sure what to collect to best serve a particular purpose, please contact our Research and Statistics Analyst Torrin Liddell at torrin.liddell@pdc.com.in.gov

Calculating Cost Savings

The cost savings associated with the social work program at LCPDA were estimated using a combination of the available data and conservative estimates of components that were not measurable. This method ensures an estimate that is informed by all available data and represents a reasonable minimum for the true cost saving.

The cost to house a prisoner in the Lawrence County Jail is \$56 per day. That means that a single client receiving an intervention in lieu of a modest three month (90 day) pretrial hold saves Lawrence County \$5,040. Given the potential length of pretrial holds, we believe that an estimate assuming an average hold of three months to be conservative. The number of clients who received an intervention in 2018 is 451. This means that if even half of these individuals would have been held in jail pretrial, Lawrence County is spared the expense of 225 pretrial holds. We believe the assumption that half of these clients would have been released pretrial anyway to be an overestimate, and so again are attempting to provide a conservative estimate by using this number. If, as mentioned previously, those pretrial holds are on average three months long, the savings to Lawrence County were \$1,134,000 in 2018.

Commission to Hold Annual Training October 18

The Commission is holding its annual training on October 18. Registration is open until October 11. The event is free, but as in years past, a \$20 “no-show” fee may be assessed if you do not cancel by October 11.

To register for the training, please contact us at information@pdc.com.in.gov.

The training will cover data collected and its usage

to improve public defense delivery, a legislative update, comprehensive plans, and instructions on completing the new forms.

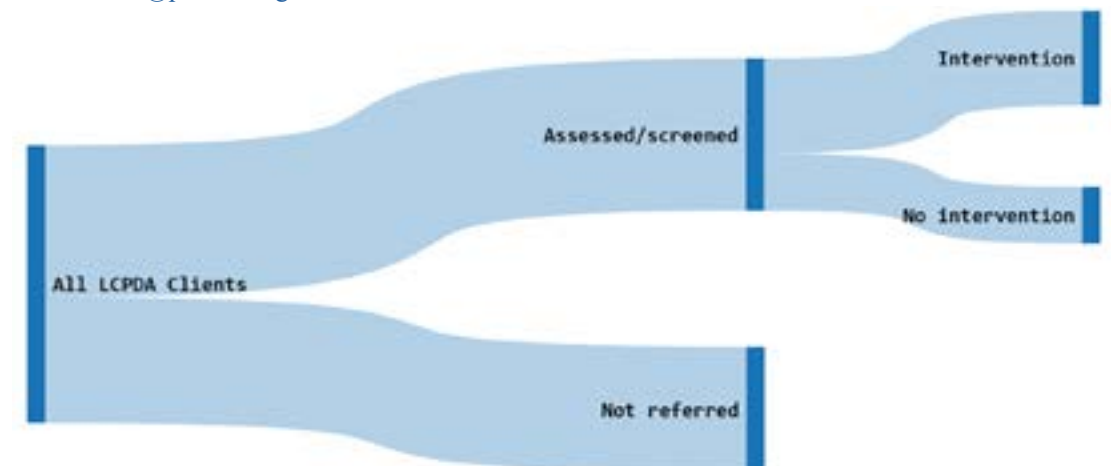
New this year, we will have breakout sessions to go more in depth with specific topics: working with County Councils/ legislative strategies, capital case reimbursement, supplemental fund use, and a new county

orientation.

The new forms will be required for the 1Q2020 submission (due April 2020). At least one representative from each county should plan to attend as the new forms may impact your typical quarterly reimbursement. We have plenty of space, so counties may send more than one person.

Please note the earlier start time! The training will begin at

8:30 a.m. It will again be held in the Government Center, so please remember to allow extra time to park and get through security. We will be in Conference Room B this year, located in the main atrium. A map of the conference center is available here: [https://www.in.gov/idoa/images/Map_Conference_Centers_in_Indiana_Government_Center_South_\(rev11\).pdf](https://www.in.gov/idoa/images/Map_Conference_Centers_in_Indiana_Government_Center_South_(rev11).pdf).



This diagram (right) shows the interaction of Lawrence County Public Defender Agency clients with the social work team in 2018. The size of each band indicates the number of people in each outcome group

Commission Meeting Dates

December 18, 2019

All meetings are scheduled to begin at 2 pm. A brief executive session may precede each meeting. Meetings are scheduled to be held at our offices (309 W. Washington Street, Suite 501, Indianapolis, IN 46204). Updates to meeting dates, times and locations are posted on our website: www.in.gov/publicdefender



Commission Hires Andrew Falk as Staff Attorney



Andrew Falk joined the Commission as a Staff Attorney in September.

Prior to joining the Commission, Andrew worked for the Hendricks County Public Defender as an appellate attorney. He was also the executive director of a non-profit organization helping women obtain employment and housing upon release from prison.

Andrew began his legal career clerking for a federal district judge in Florida. He returned to Indiana and spent two years

clerking for then-Justice Brent Dickson on the Indiana Supreme Court. Andrew entered private practice and spent five years with the firm Kroger, Gardis and Regas. He then joined the Indiana Office of the Attorney General and served in criminal appeals, representing the State and arguing multiple cases before the Indiana Supreme Court and Court of Appeals.

In early 2015, Andrew accepted an assignment as a Senior Fellow with the Sagamore Institute to write the initial reports analyzing the impact of House Bill 1006, Indiana's comprehensive criminal code reforms, on Indiana's criminal justice system. He lead a team working to research and draft the reports analyzing Indiana's criminal justice reforms. Andrew and the team provided annual reports in 2015 and 2016 to then-Governor Mike Pence, the Indiana Criminal Justice Institute, and the General Assembly.

While researching HB 1006, Andrew visited the Indiana Women's Prison to learn more about the volunteer higher education program at the prison. He soon began teaching a public policy class at the prison on the collateral consequences of a felony conviction. Informed both by his HB 1006 research and the evident need for more effective reentry practices, Andrew helped start and became the executive director of an emerging non-profit organization now known as Constructing Our Future. In that role, Andrew collaborated with state officials, non-profit organizations, churches, businesses, and volunteers to facilitate reentry of formerly incarcerated individuals and to reduce recidivism.

Andrew was born and raised in the Midwest. He now lives in Indianapolis with his wife and five children. In his free time, he enjoys spending time with his family, reading, and managing his fantasy football teams.

Commission Meeting Update

The Commission met for its regularly-scheduled quarterly meeting on September 25. As always, issues of county compliance were considered by the members of the Commission. There were no 90-day letters authorized, and all reimbursement requests for capital and non-capital expenses were approved. The members heard updates on several initiatives:

Public Comment on Proposed Salary and Caseload Changes

Staff reported that there were minimal comments received on the Commission's proposed salary and caseload changes that have been publicized. This issue will be discussed in more detail at the upcoming Annual Training, scheduled for October 18. Please visit the Commission's website to read the request for public comment. This issue will likely be discussed at the Commission's December 18 meeting, so any additional comments will be considered then. Reports of the overhead survey will also be presented in December.

Use of New Reporting Forms

The Commission received a staff update on the rollout of the new, electronic reporting forms. As a reminder, those forms are required for the first quarter 2020 submission (due April 2020). Their use will be covered extensively at the upcoming Annual Training Seminar. The Commission expects to consider any changes or exceptions that may need to be considered in reimbursement policy based on the new forms at the December meeting.

Quality Indicators Project

The Commission continues to partner with the Public Defender Council and technical assistance grant providers to develop quality indicators in adult criminal cases. The project is well underway, and staff anticipates that a formal update and a potential draft may be ready for the December meeting. There will be a full opportunity for public comment on the quality indicators draft before the Commission considers final adoption.

Derrick Mason, Senior Staff Attorney
derrick.mason@pdc.com
Andrew Cullen, Policy and
Communications Specialist
andrew.cullen@pdc.com
Paula Diaz, Administrative Assistant
paula.diaz@pdc.com

Andrew Falk, Staff Attorney
andrew.falk@pdc.com
Torrin Liddell, Research and Statistics Analyst
torrin.liddell@pdc.com
Jennifer Pinkston, Fiscal Analyst
jennifer.pinkston@pdc.com

309 West Washington Street,
Suite 501
Indianapolis, IN 46204
ph. 317-233-6908
information@pdc.com
www.in.gov/publicdefender