

**Indiana Public Defender Commission Meeting Minutes**  
**March 19, 2014**

Chairman Mark Rutherford called the business meeting to order at 2:01 PM. Commission members in attendance were Larry Landis, Dave Hensel, Brent Steele, Rep Ryan Dvorak, and Honorable James Ahler. Representative Jud McMillan was present by teleconference. Also present were Lawrence County Chief Public Defender Lorinda Youngcourt, Madison County Chief Public Defender Geoff Yelton, Mike Cunningham (legislative assistant), and Marion County Ray Casanova.

**Approval of minutes from 12/11/13 Meeting:** Chairman Rutherford asked for any changes or additions to the minutes. Senator Steele made the motion to approve the minutes as presented and Larry Landis seconded the motion. The minutes were approved.

**Owen county Comprehensive Plan:** Elana Salzman reported that Owen County has requested to be a part of the Public Defense Fund reimbursement program. She and Deborah Neal looked over their comprehensive plan and stated that it meets requirements for a comprehensive plan. Larry wanted to advise them that they might want to think about a conflict policy, if they will be operating as an office with support staff. Larry Landis moved to approve the comprehensive plan submitted by Owen County, Dave Hensel seconded the motion. Motion passed unanimously.

**Floyd County:** Elana Salzman reported that the attorney assigned to represent David Camm was paid. Elana Salzman passed out an accounting of the money that had been disputed as a result of the Camm case, and which were Camm expenses. At the hearing on February 26, 2014, the auditor was ordered to pay all but \$385.34. Elana Salzman that the 3<sup>rd</sup> quarter be reimbursed minus that amount. Senator Steele asked for the breakdown of the expenses, which Elana Salzman read. Larry Landis moved to approve Floyd County's 3<sup>rd</sup> quarter reimbursement, Dave Hensel seconded. Motion passed unanimously.

**Montgomery County Reimbursement:** County council has voted to not seek reimbursement anymore. But they submitted 4<sup>th</sup> quarter reimbursement. Elana met with Public Defender Administrator and worked the numbers. It costs the county about the same to be in the program and not be in program. Mark Rutherford wanted to know if there was any improvement from last quarter to this quarter, and Elana Salzman replied that there was not; the county is in fact more out of compliance. Senator Steele moved that we don't reimburse Montgomery County for the 4<sup>th</sup> quarter, and Larry Landis seconded. Motion passed unanimously. Larry Landis suggested that someone talk to the county to try to convince them to stay in and give them some more information, and perhaps make contact with retired Judge Milligan, who was in support of the program.

**Proposed Change in Standard E:** Some of the smaller counties are requesting that trial practice training be allowed in lieu of a jury trial in order to meet the Standard E Qualification for Class A and B felonies. Elana did some investigation into some of the national programs which are longer than the Public Defender Council's Program. She presented a chart of some of

these programs. Many of the national ones are two or three weeks and involve an actual mock trial, while the Public Defender Council's program is 3 ½ days. Discussion ensued about the merits of these programs versus making attorneys sit through a full length trial. Some felt that there is no substitute for a full length trial, and that larger counties should help attorneys in the smaller counties get qualified. Judge Ahler said that it has been very difficult in his county to get attorneys qualified. He has tried to send them up to Lake County and the jury trials get pleaded out right before the trial. He had one attorney try to get qualified six or seven times before he was finally able to sit in on a jury trial.

Larry Landis asked how often we have heard from counties having trouble with this, and Elana Salzman replied that it has not come from many. Chairman Mark Rutherford asked if this would be better addressed on a case by case basis. Larry Landis felt that a uniform standard is better. He also indicated that possibly some of the trainings might be better preparation for trial work than just sitting as cocounsel. Larry Landis felt that the 2 or 3 week training programs should clearly qualify, but the Public Defender Council program is shorter. Dave Hensel wondered if there would be a rush to do the training programs if we allowed it, but Larry Landis didn't think so because it is not that convenient. Ahler: People will probably opt for the Jury trial experience but at least they have an option. I had no jury trials in 2013. Senator Steele made the motion that staff counsel write up a standard that would allow attorneys to qualify for A and B felonies if they have done one jury trial plus a training approved by the Commission. Its final form will be approved at the next meeting. Judge Ahler seconded. Motion passed unanimously.

**Changes to Criminal Code:** Elana Salzman presented a preliminary proposed change of Standards E, F, and J to reflect the changes in the Criminal Code. Elana would like to begin writing up a proposed standard but wanted to begin discussion of what such a standard should look like. She presented charts showing that Level 6 felonies might be treated as Level D, and Level 5 felonies as Level c. Larry suggested that we may want to create a new caseload standard for Level 5 felonies, but thought Ms. Salzman's proposal looked pretty reasonable. Elana Salzman will write a proposed new Standard E and J, and then possibly look at a different caseload for Level 5s. Larry Landis will run the changes by his board and make suggestions. Elana Salzman will also work on updating the reimbursement forms to reflect the new felony levels.

**Approval of Staffing Changes:** Mark Rutherford reported that he and Brenda Rodeheffer interviewed a lot of candidates to replace Deborah Neal as staff counsel. They narrowed the field to four candidates, and second interviews were attended by him, Brenda Rodeheffer, Lilia Judson, and Larry Landis. They were in the process of recommending that Elana be the new staff attorney and Derrick Mason be the 2<sup>nd</sup> employee. However, due to Elana Salzman's recent news that she is moving, Derrick will be recommended for the 1<sup>st</sup> choice staff position, and his name will be submitted to the Chief Justice as our staff attorney. We will likely reopen the search for the second person. Mark Rutherford explained that the Division of State Court Administration provides our overhead, place for attorneys, hiring, and so forth. It seemed like a good time to go to two full time staff attorneys. There are many things the legislature authorizes us to do that we don't do and there's also stuff we don't do regarding, how good are our public

defender offices? We're guessing a lot of the time but we'd rather know more. Chairman Mark Rutherford explained that we use very little of our funds for overhead, partly because the Division of State Court Administration provides it, but we may be too frugal in spending money to achieve our mission. So the question is do we go to another full time person and if so what does that person do? Larry Landis said that we need to do a lot more outreach to counties, and training to public defender boards so that they know what their function is, especially in the smaller counties. We should do more meeting, training auditing, making sure everyone is counting cases in same way. Mostly what staff has done is review quarterly reports. Chairman Mark Rutherford stated that money for the full time staff attorney would come out of what is reimbursed to the counties, but financially the fund is stable, even with the addition of the CHINS cases. There was 9 million left over from last year, which does not revert. Judge Ahler asked whether this new person also go to counties and explain the public defender program to them. He said that he has gotten complaints from judges saying that the Commission is making it too hard to comply because there are too many rules. It would be good to have someone who can sell the program and also to find out if some of our rules need to be changed. Concern about some counties not being consistent in how they count cases, so need to sit down and figure out what is going wrong and well. Staffing would still be under 1 percent of our total budget, still under 200000. Motion on whether seek a 2<sup>nd</sup> full time attorney. Larry Landis moves, Judge Ahler seconds it. All in favor. Mark and Brenda will work on job descriptions.

**Compliance report:** Elana Salzman reported that 89 percent of counties are in compliance. Those that just 1 or 2 attorneys in each county. Elana has talked to all but Washington County. Jennings County is the only one really worried about because they are up from last quarter. But she has been assured that the high attorneys have not been assigned any new cases. Kosciusko, one went down, but they were here at the last meeting and will probably go down. None concerned me except Montgomery, but we are not reimbursing them.

### **Staff Report:**

**Supplemental Public Defense Fund;** A question arose in Madison County regarding who can order funds from supplemental public defense fund. Chief Public Defender Geoff Yelton explained that 5 of 6 judges believe that expenditures out of this fund should be made at direction and authority of the public defender board, but one judge believes that he can order it himself. This makes it impossible for the public defender board to budget. Mr. Yelton requested that the commission say that the money ought to be administered by the established public defender board. Hensel: I though county council accesses sup fund by statute. Statute is pretty clear. Geoff: yes, but this commission does make rules out of use of fund. If we have to do this on council level there will be a blood bath. This judge is trying on his own to convince the commissioners that we shouldn't be in program anymore. Larry Landis stated that the statute says the fiscal body of the county appropriates funds, and if the Commission does something, we are usurping our authority. The issue must be decided at the county level. The board needs to go to its county council and ask that nothing be spent unless the board authorizes it. Dave: We did decide that if a county does not properly spend the fund that we would

view that as a standard of ours that they're not in compliance with and it could threaten all their reimbursement. Larry: maybe also take a look at your comprehensive plan and see if that addresses it. Geoff: we will be looking at it. Larry: You may want to modify the ordinance with some specificity to deal with procedures

**Monroe County:** Elana Salzman reported that there has been some dispute in Monroe County about the public defender raises. My understanding is that what some on the council would like to do is reduce retirement benefits in order to compensate for the raise in salaries. They are asking whether retirement benefits need to be equal as well as salaries. Does the commission want to say anything about this? Larry says salary has to be equal, but we made an exception for PERF and PARF. He spoke to the Monroe County councilperson, she wanted to stop paying the 3 percent PERF for the chief public defender because of the raise. Larry told the county that you can't cut back on the PERF. Larry Landis stated that PERF is part of the compensation package, with the exception of the value of a pension, because that is too hard to figure out. The other council people said they understood it.

**CHINS/TPR reimbursement:** Elana Salzman reported that counties are not being consistent in how they are counting CHINS that turn into TPRs. Some are counting them as one case and some as two. Tippecanoe and some other counties have asked about this. Does the Commission want to give some guidance on this? Rep McMillan pointed out that with meth being what it is, the CHINS numbers are exploding and the Commission should address this. Judge Ahler asked how many are doing it one way or the other. Elana Salzman reported that Tippecanoe County was going to count them separately, but some counties are counting them as one. Larry Landis said that originally they were intended to be separate, especially since some counties have a different attorney assigned when a case becomes a TPR. He said that they ought to be counted as a separate case or the weight of these cases should be changed. Lorinda Youngcourt, Lawrence County Chief Public Defender, said that she feels they need to be separate because to do differently would work the lawyers much too hard. Their lawyers already do a lot of things that don't get counted like problem solving courts. She also felt that CHINS cases are a lot different from TPR cases, and mentioned that her attorneys go to every family team meeting with parents because that improves the outcomes. Doing the TPR is a whole different investigation and presentation, and is really two cases' worth of work. Madison County Chief Public Defender Geoff Yelton stated that before the reimbursement CHINS and TPR cases were counted separately in their county, but with the massive increase of CHINS cases, they started counting them as one because otherwise their numbers were too high. He said that in Madison County, the same public defender handles both the CHINS and the TPR cases. They are counting them as one until the Commission tells them to do otherwise. Ray Casanova of Marion County stated that the same lawyers that handle the CHINS case also handles TPR and that by the time the cases get to TPR, they have done most of the investigation work already. He feels that it is similar to an attorney representing someone on a probation violation that goes to contested hearing. Representative McMillan wanted to know whether the amount of

court time was more involved when it goes to a TPR? Mr. Casanova indicated that yes, they have to appear for the termination hearing, but the big issue in preparing for any hearing is investigating the background information, and if an attorney has done that already, and been at the CHINS status hearings, then they have done a lot of the work. Larry Landis asked if Marion County had previously counted them as separate cases. Mr. Casanova said yes, but it changed—the past year have been counting them as one, after presenting their proposal to the Commission last summer that they be counted that way. He said that counting them separately would present problems for their case numbers. Ms. Youngcourt said that there may be a difference in how smaller counties handle CHINS and TPR cases, and that CHINS cases in smaller counties can take longer. They also have a large number of CHINS clients who are incarcerated and must be visited in jail. She suggested that if the Commission wants to count it as one case it needs to weigh more. Dave Hensel stated that this problem sounded similar to the handling of D felony only courts. Mr. Casanova stated that Marion County CHINS attorneys only do CHINS cases, and the court processes them faster. Mr. Yelton state that he was put in charge of a chiefs committee to analyze these CHINS and TPR caseloads, and it turned out larger counties, the hours spent by CHINS attorneys were lower, but in smaller counties the hours doubled and tripled, so the committee couldn't make a recommendation. Mark: Maybe we don't have enough information. Larry Landis says that the Commission should stick with its decision that it counts separately, and make the burden on Marion County that it should convince us that it should be one. Ray Casanova reminded the Commission that he did present that last summer, when the Marion County Public Defender Agency did the time study. He stated that they have 10 CHINS attorneys and 4 paralegals and 4 social workers. , and that based on their time study they felt that they should be counted as one case. He offered to present that information again. Larry Landis stated that the discomfort was with the solution being that they just count as one case and thought maybe it should be somewhere in between. Elana Salzman suggested that maybe what the Commission wants is delineation of when they should be counted as one case, such as with D felony court efficiency. Judge Ahler stated that he would like to see more information from some of the other counties. Mark Rutherford stated that we need to identify the counties that are counting them as one and ask them why, and how would they justify counting them as one to the Commission. Larry Landis has been telling them to count them as two, so they have to justify why they are counting as one. Elana Salzman will survey the counties, and this will be on the agenda for June.

**Other News:** Elana Salzman reported that two new capital cases have been filed in Harrison County: one is with private counsel and the other is with appointed counsel Chris Sturgeon and Amie Newlon. Also Ripley County is interested in coming into the program.

**Financial status of Public Defense Fund:** The Financial status of the Public Defense Fund is as follows:

**INDIANA PUBLIC DEFENDER COMMISSION**  
**FISCAL REPORT AT 03/01/2014 (07/01/2013 to 02/28/2014)**

						AMOUNT	TOTALS
Funds Encumbered on Purchase Order to be used in SFY2014 (07/01/2013 to 06/30/2014)						\$ 9,691,266.06	
<b>Fund Balance on 06/30/2013</b>							<b>9,691,266.06</b>
<b>SFY2014-APPROPRIATION</b>							
Court Fees - \$7.4 million:						7,400,000.00	
General Fund - \$14.850 million:						14,850,000.00	
<b>Distribution for SFY2014 (July2013 to June 2014)</b>							<b>22,250,000.00</b>
<b>Available funds on 07/01/2013</b>							<b>31,941,266.06</b>
<b>SUMMARY OF EXPENSES</b>							
DESCRIPTION	July -Sept2013	Oct-Dec2013	Jan-Mar2014	Apr-June2014	Yearly Totals		
<b>NON-CAPITAL AND CAPITAL CASES</b>	9,084,430.55	3,086,003.98	1,543,768.75		13,714,203.28		
<b>PAYROLL</b>	48,548.17	54,930.12	28,773.89		132,252.18		
<b>OTHER EXPENSES</b>	940.80	1,987.66	1,040.28		3,968.74		
<b>TOTAL Expenses</b>	<b>9,133,919.52</b>	<b>3,142,921.76</b>	<b>1,573,582.92</b>	<b>-</b>	<b>13,850,424.20</b>	<b>13,850,424.20</b>	
<b>Balance in FUND-02/28/2014</b>							<b>18,090,841.86</b>
<b>DETAIL OF EXPENSES</b>							
DESCRIPTION	July -Sept2013	Oct-Dec2013	Jan-Mar2014	Apr-June2014	Yearly Totals		
Non-Capital Cases-40% April-June 2013	4,483,356.04				4,483,356.04		
Capital Cases-50% April-June 2013	208,503.71				208,503.71		
Non-Capital Cases-40% July-Sept 2013	4,345,134.64				4,345,134.64		
Capital Cases-50% July-Sept 2013	47,436.16				47,436.16		
July2013 Payroll	21,537.42				21,537.42		
Aug2013 Payroll	14,145.25				14,145.25		
Sept2013 Payroll	12,865.50				12,865.50		
Other Expenses	940.80				940.80		
						<b>9,133,919.52</b>	
Non-Capital Cases-40% Oct-Dec 2014		2,897,790.96			2,897,790.96		
Capital Cases-50% Oct-Dec 2014		188,213.02			188,213.02		
Oct2013 Payroll		17,465.13			17,465.13		
Nov2013 Payroll		14,348.46			14,348.46		
Dec2013 Payroll		23,116.53			23,116.53		
Other Expenses		1,987.66			1,987.66		
						<b>3,142,921.76</b>	
Non-CapCases-Oct-Dec 2014-MarionCty			1,543,768.75		1,543,768.75		
Jan2014 Payroll			18,070.85		18,070.85		
Feb2014 Payroll			10,703.04		10,703.04		
Mar2014 Payroll			-		-		
Other Expenses			1,040.28		1,040.28		
						<b>1,573,582.92</b>	
Non-Capital Cases-40% Jan-Mar 2014					-		
Capital Cases-50% Jan-Mar 2014					-		
April2014 Payroll					-		
May2014 Payroll					-		
June2014 Payroll					-		
Other Expenses					-		
						<b>-</b>	
<b>TOTAL EXPENSES BY QUARTER</b>	<b>9,133,919.52</b>	<b>3,142,921.76</b>	<b>1,573,582.92</b>	<b>-</b>	<b>13,850,424.20</b>		

**Reimbursement of Capital Cases.** Elana recommends that the following capital reimbursements be approved. Dave Hensel moves that they be approved, Larry Landis seconds. Passed unanimously.

<b>INDIANA PUBLIC DEFENDER COMMISSION</b>		
Reimbursement Requests in Capital Cases		
March 19, 2014		
COUNTY	DEFENDANT	TOTAL
Clark	Hooten	\$10,709.31
Floyd	Gibson 919	\$61,358.29
Floyd	Gibson 1145	\$10,830.25
Lake	Isom appeal	\$6,052.60
Vanderburgh	Weisheit	\$16,750.65
Vanderburgh	Weisheit appeal	\$6,605.00
<b>TOTAL</b>		<b>\$112,306.10</b>

**General reimbursement on noncapital cases:** The Commission having already decided on Montgomery County and Floyd County's noncapital reimbursements, Elana Salzman recommends that the other noncapital reimbursements be approved. No comments, questions or concerns. Larry Landis moves, Rep. Steele seconds. Motion passed unanimously.

**INDIANA PUBLIC DEFENDER COMMISSION**

Fourth Quarter 2013 Requests for Reimbursements in Non-Capital Cases

**3/19/2014**

COUNTY	Late Factor	2013 Period Covered	Total Expenditure	Adjustment For Non-Reimbrsl	% of Adjstmt	Eligible Expenditure	40% Reimbursed
ADAMS	0.00	10/1-12/30	\$85,182.91	\$25,035.16	29%	\$60,147.75	\$24,059.10
ALLEN	0.00	10/1-12/30	\$768,215.25	\$25,264.89	3%	\$742,950.36	\$297,180.14
BENTON	0.00	10/1-12/30	\$20,034.37	\$7,127.49	36%	\$12,906.88	\$5,162.75
BLACKFORD	0.00	10/1-12/30	\$56,372.93	\$14,093.23	25%	\$42,279.70	\$16,911.88
BROWN	0.00	10/1-12/30	\$38,817.48	\$11,008.75	28%	\$27,808.73	\$11,123.49
CARROLL	0.00	10/1-12/30	\$51,367.21	\$27,073.12	53%	\$24,294.09	\$9,717.64
CASS	0.00	10/1-12/30	\$166,240.99	\$29,451.77	18%	\$136,789.22	\$54,715.69
CLARK	0.00	10/1-12/30	\$188,810.69	\$20,624.64	11%	\$168,186.05	\$67,274.42
CRAWFORD	0.00	10/1-12/30			0%	\$0.00	\$0.00
DECATUR	0.00	10/1-12/30	\$59,143.56	\$12,058.48	20%	\$47,085.08	\$18,834.03
DELAWARE	0.00	10/1-12/30	\$303,409.01	\$852.27	0%	\$302,556.74	\$121,022.70
FAYETTE	0.00	10/1-12/30	\$78,135.39	\$5,944.62	8%	\$72,190.77	\$28,876.31
FLOYD*	0.00	10/1-12/30	\$178,184.60	\$21,561.06	12%	\$156,623.54	\$62,649.42
FOUNTAIN	0.00	10/1-12/30	\$35,343.82	\$9,639.22	27%	\$25,704.60	\$10,281.84
FULTON	0.00	10/1-12/30	\$91,412.39	\$23,301.20	25%	\$68,111.19	\$27,244.48
GRANT	0.00	10/1-12/30	\$197,723.00	\$4,801.22	2%	\$192,921.78	\$77,168.71
GREENE	0.00	10/1-12/30	\$122,934.94	\$14,188.44	12%	\$108,746.50	\$43,498.60
HANCOCK	0.00	10/1-12/30	\$120,844.67	\$26,424.50	22%	\$94,420.17	\$37,768.07
HENRY	0.00	10/1-12/30			0%	\$0.00	\$0.00
HOWARD	0.00	10/1-12/30	\$364,227.09	\$79,579.29	22%	\$284,647.80	\$113,859.12
JASPER	0.00	10/1-12/30	\$73,949.61	\$23,058.43	31%	\$50,891.18	\$20,356.47
JAY	0.00	10/1-12/30	\$91,573.83	\$23,603.84	26%	\$67,969.99	\$27,188.00
JENNINGS	0.00	10/1-12/30	\$65,437.04	\$11,265.72	17%	\$54,171.32	\$21,668.53
KNOX	0.00	10/1-12/30	\$177,828.69	\$32,237.95	18%	\$145,590.74	\$58,236.30
KOSCIUSKO	0.00	10/1-12/30	\$186,462.25	\$65,929.17	35%	\$120,533.08	\$48,213.23
LAGRANGE	0.00	10/1-12/30	\$54,163.59	\$12,027.13	22%	\$42,136.46	\$16,854.58
LAKE	0.00	10/1-12/30	\$914,762.30	\$5,257.25	1%	\$909,505.05	\$363,802.02
LAPORTE	0.00	10/1-12/30	\$153,614.32	\$22,749.46	15%	\$130,864.86	\$52,345.94
LAWRENCE	0.00	10/1-12/30	\$172,267.02	\$13,639.43	8%	\$158,627.59	\$63,451.04
MADISON	0.00	10/1-12/30	\$426,699.65	\$19,811.91	5%	\$406,887.74	\$162,755.10
MARION	0.00	10/1-12/30	\$4,499,647.38	\$646,032.40	14%	\$3,853,614.98	\$1,541,445.99
MARTIN	0.00	10/1-12/30	\$53,879.01	\$25,440.23	47%	\$28,438.78	\$11,375.51
MIAMI	0.00	10/1-12/30			0%	\$0.00	\$0.00
MONROE	0.00	10/1-12/30	\$515,170.59	\$74,477.19	14%	\$440,693.40	\$176,277.36
MONTGOMERY*	0.00	10/1-12/30	\$95,058.97	\$36,255.05	38%	\$58,803.92	\$0.00
NEWTON	0.00	10/1-12/30			0%	\$0.00	\$0.00
NOBLE	0.00	10/1-12/30	\$157,520.76	\$25,146.54	16%	\$132,374.22	\$52,949.69
OHIO	0.00	10/1-12/30	\$21,341.27	\$5,478.19	26%	\$15,863.08	\$6,345.23
ORANGE	0.00	10/1-12/30	\$55,679.78	\$12,159.95	22%	\$43,519.83	\$17,407.93
PARKE	0.00	10/1-12/30	\$35,000.04	\$6,250.01	18%	\$28,750.03	\$11,500.01
PERRY	0.00	10/1-12/30	\$76,713.89	\$18,546.22	24%	\$58,167.67	\$23,267.07
PIKE	0.00	10/1-12/30	\$43,423.71	\$9,082.74	21%	\$34,340.97	\$13,736.39
PULASKI	0.00	10/1-12/30	\$32,768.49	\$18,117.80	55%	\$14,650.69	\$5,860.28
RUSH	0.00	10/1-12/30	\$60,774.96	\$12,337.77	20%	\$48,437.19	\$19,374.88
SAIN'T JOSEPH	0.00	10/1-12/30	\$558,809.34	\$85,701.38	15%	\$473,107.96	\$189,243.18
SCOTT	0.00	10/1-12/30			0%	\$0.00	\$0.00
SHELBY	0.00	10/1-12/30	\$119,842.34	\$9,483.53	8%	\$110,358.81	\$44,143.52
SPENCER	0.00	10/1-12/30	\$14,876.00	\$3,503.00	24%	\$11,373.00	\$4,549.20
STEUBEN	0.00	10/1-12/30	\$99,494.87	\$24,808.30	25%	\$74,686.57	\$29,874.63
SULLIVAN	0.00	10/1-12/30	\$28,906.50	\$5,235.04	18%	\$23,671.46	\$9,468.58
SWITZERLAND	0.00	10/1-12/30	\$54,723.22	\$11,520.68	21%	\$43,202.54	\$17,281.02
TIPPECANOE	0.00	10/1-12/30	\$553,271.96	\$198,901.52	36%	\$354,370.44	\$141,748.18
UNION	0.00	10/1-12/30	\$21,917.75	\$5,218.51	24%	\$16,699.24	\$6,679.70
VANDERBURGH	0.00	10/1-12/30	\$659,308.08	\$123,421.54	19%	\$535,886.54	\$214,354.62
VERMILLION	0.00	10/1-12/30	\$41,158.97	\$13,586.10	33%	\$27,572.87	\$11,029.15
VIGO	0.00	10/1-12/30	\$439,917.45	\$42,089.98	10%	\$397,827.47	\$159,130.99
WABASH	0.00	10/1-12/30	\$70,384.71	\$9,679.85	14%	\$60,704.86	\$24,281.94
WARREN	0.00	10/1-12/30	\$8,467.25	\$3,004.50	35%	\$5,462.75	\$2,185.10
WASHINGTON	0.00	10/1-12/30	\$89,220.55	\$16,524.91	19%	\$72,695.64	\$29,078.26
WELLS	0.00	10/1-12/30			0%	\$0.00	\$0.00
WHITE	0.00	10/1-12/30			0%	\$0.00	\$0.00
WHITLEY	0.00	10/1-12/30			0%	\$0.00	\$0.00
<b>TOTAL</b>			<b>\$13,650,436.44</b>	<b>\$2,029,612.57</b>		<b>\$11,620,823.87</b>	<b>\$4,624,807.98</b>

NOTES: \*At the 3/19/14 Commission meeting, the Commission voted to suspend payment for Montgomery County

Third Quarter 2013 Requests for Reimbursements in Non-Capital Cases (suspended last quarter, and approved this meeting, minus \$385.34 in disputed expenses)

FLOYD	0	7/1-9/30	\$589,233.55	\$42,009.02	0%	\$547,224.53	\$218,889.81
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<b>TOTAL</b>							<b>\$4,843,697.79</b>
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**Other matters.** Larry Landis stated that the budget request will need to be considered after next meeting, so consider requests. The first priority will be to have state fully fund the chief public defenders and take that issue off of the counties. Doing so might also encourage counties to have a chief public defender instead of an administrator.

1. Dave Hensel move to adjourn, Larry second.

## **Indiana Public Defender Commission Meeting Minutes**

**June 18, 2014 at 2:00 p.m.**

Chairman Mark Rutherford called the meeting to order at 2:01 when a quorum was present.

**Approval of 3-19-14 meeting minutes.** Motion to approve minutes presented, which was seconded. After a vote, motion passed.

Chairman Rutherford welcomed Derrick Mason and introduced him to the Board. The Chairman then introduced the members present: David Hensel, Indianapolis; Larry Landis, Indianapolis; State Senator Brent Steele; the Honorable Mary Ellen Diekhoff, Bloomington; Andrew Roesener, Franklin County; State Representative Ryan Dvorak. The Honorable Diane Ross Boswell and Honorable James R. Ahler joined telephonically. Also present were the Honorable Les Shively of Vanderburgh Superior Court; Jeff Ahlers, Mike Goebel, and Tom Shetler of the Vanderburgh County Council; Tyler Murrell of the Indiana House Republicans; the Honorable Bob Pigman of the Vanderburgh Superior Court; Steve Owens, Chief Public Defender of Vanderburgh County; Geoffrey Yelton, Madison County; Deborah Neal, Ray Casanova, and Chief Public Defender of Marion County Robert Hill; Chief Public Defender Lorinda Youngcourt of Lawrence County.

**Floyd County Amended Comprehensive Plan.** Derrick Mason reported that the Floyd County Comprehensive Plan was amended to incorporate changes regarding Child in Need of Services/Termination of Parental Rights (CHINS/TPR). Mr. Mason believed the Floyd County Plan meets the required standards. However, the Floyd County plan requires more training that is strictly necessary under the rules. Under current Commission rules, standards for CHINS attorneys require completion of a 6-hour CHINS/TPR training. To meet standards for representation in a TPR proceeding, an attorney must have not only the training course, but also fully litigate a TPR or have one year of experience. Under the plan submitted by Floyd County, all three training components are required before an attorney can be appointed in either a CHINS or TPR case.

Proposed clarifying language would distinguish the different training requirements for CHINS and CHINS/TPR attorneys. Larry Landis asked if Mr. Mason recommended approval subject to proposed new language. Mr. Mason agreed. Chairman noted this is a stricter standard than required by Commission rules. Mr. Mason stated he thought it was not Floyd County's intention to increase the standard about the requirement.

Mr. Landis made a motion to approve plan as submitted and to ask Floyd County for clarification on the language regarding the standard for CHINS/TPR training. Andrew Roesener seconded it. Motion submitted to a vote. The motion passed, and Chairman Rutherford noted that Floyd County may revise its standard to reflect current standards if they did not intend a higher training standard.

**Ripley County Comprehensive Plan.** Mr. Mason reported on Ripley County's Comprehensive Plan, stating that the agreement is in line with current standards. Chairman asked for questions or comments. Larry Landis inquired into the assigned counsel system that Ripley County proposes to use. Mr. Mason explained Ms. Salzman was the exclusive consultant on that issue. Mr. Landis suggested that Mr. Mason look into how the list is prepared to ensure that the plan will prevent favoritism by judges. Landis noted on paper it appears to comply, but hoped that Mr. Mason will look into the issue.

Motion by David Hensel to approve Ripley County plan, which was seconded. Chairman Rutherford asks for further comments or questions. After a vote, the motion passed.

**Changes to Criminal Code.** Mr. Mason reported that there seemed to be a general consensus at the previous meeting that the crimes enumerated in the new criminal code as Level 6 Felonies should be given the equivalent weight of a D Felony. Level 5 felonies under the new code will be given the weight of a C Felony. Level 1-4 felonies will be classified as either A or B felonies. Mr. Mason's recommendation was the adoption of the framework in which the current letter framework is replaced with the numbered levels.

Mr. Mason noted there was discussion from Mr. Landis at a previous meeting about changing the weight of a Class C felony. Currently, Class C Felonies are given the same weight as A and B felonies. Mr. Mason noted that time studies may be a possibility to determine if the weight of the lower-level felony should be changed to allow for an increase in caseload requirements.

Chairman Rutherford noted that there will be mixed caseloads in this interim period in which the courts will carry charges filed under both the old and new systems. He asked how best to manage this caseload. Mr. Mason responded that the commission already monitors mixed caseload systems. If the Commission adopts rule as proposed, it would be merely a matter of transferring the current standards from letters to numbers.

Senator Steele stated that he would like more information on the level of skill and time required to complete cases under the new system. He asked why it was not a requirement of the counties to track this metric. Mr. Mason noted that there are some time studies being conducted. Mr. Mason noted that making time studies a mandate could present a difficulty both for those counties joining and those already in the system. Mr. Landis asked Mr. Hill whether Marion County could complete a time study using the new Public Defender Information System, which has the capability to track both time and expense with cases. Mr. Hill stated that the system is still very new, and that there was some difficulty in training the staff to enter their time.

Mr. Mason recommended that the Commission approve what was discussed at the last meeting in classifying the new system of felonies, and also indicated that more research into time studies

was needed. Motion to approve revised Standard E, F, and J to reflect the changes in the criminal code and to instigate time studies. Senator Steele moved to adopt, Mr. Landis seconded the motion. Chairman called for a vote. Motion passed.

### **CHINS/TPR Caseload Counting and Progress of Survey**

Mr. Mason reported at the previous meeting there was a request to follow up with other counties to find out how TPR cases were counted when counsel was already appointed in the underlying CHINS case. Mr. Mason provided a chart of counties that provided results and the statements. Mr. Mason reported that there is no consensus on how to count the cases. Some counties reported that the caseloads would become overwhelmed, while on the other hand, some counties reported that the attorneys would be overwhelmed should the numbers be considered together.

Mr. Hill spoke as to the time study conducted by Marion County. He stated that in the average of CHINS/TPR cases, it was about 6.5 hours per case. The most recent time study reported 6.9 hours per case. Mr. Hill noted Marion County has four courts dedicated to TPR/CHINS. Mr. Hill noted that the time has not changed over the three years that they have conducted the time study. Mr. Hill requested that the standard change to allow the allocation for more cases per lawyer to 150 cases per year.

Mr. Hill stated that a higher caseload would allow Marion County to handle the natural ebb and flow of cases throughout the season without the risk of falling out of compliance. Mr. Mason raised the question of whether a case that originates as a CHINS that becomes a TPR should be counted as one continuous case, or whether each proceeding should be counted separately. Mr. Mason noted that there is a split of opinion on this matter, and that different counties approach the matter with different methods.

Mr. Mason proposed that cases be counted separately, but if a county is exclusive in its courts and its attorneys (meaning that they specialize) that perhaps the caseloads could be raised. This was raised as a compromise in that it would raise the overall number of cases but also recognize the extensive amount of time that certain TPR proceedings may take. Mr. Hill responded that Marion County counts CHINS/TPR as the same case because he views the TPR as an extension of the CHINS proceeding. He stated that he does not believe it would be efficient to count the cases twice. He predicted that Marion County would have to hire five more attorneys and three additional social workers to meet the requirements.

Chief Public Defender Lorinda Youngcourt suggested the analogy that the Commission does not separate out cases that plead immediately from those that proceed to jury trial, but rather all cases are counted the same. Mr. Mason responded that a CHINS/TPR actually consists of two separate “trials” with different standards of proof.

Chairman Rutherford suggested that the Commission table the discussion temporarily pending Vanderburgh County’s presentation.

## **Vanderburgh County: Their Concerns on Caseload and JC/JT Compliance**

Judge Robert Pigman, Vandeburg Superior Court, spoke on behalf of the County, whose county is experiencing a great internal debate about the feasibility of staying in the program. According to the presentation, Vanderburgh County has faced layoffs and severe budget constraints, and the current system has become unworkable.

The first proposal was to ask that case limits for part-time public defenders, who are paid at 65 percent of full-time public defenders, be raised from 50 percent of a full-time case load to 65 percent of a full-time caseload. The second proposal regarded seeking recognition that Vanderburgh County has a D-Felony Court, and to implement the increased caseload standards available to exclusively D-Felony courtrooms. The third proposal regarded asking for the ability to designate one or more lawyers to handle nothing but D-Felonies and give them the same cap limits as an attorney assigned to one D-Felony court, even though they would be working in three different courts.

Mr. Landis noted that regarding the third proposal could be problematic. Mr. Mason noted that the first two proposals do not require Commission approval and that many counties who pay more than the minimum may assign more cases than the minimum.

Judge Diekhoff noted that Level 6 felonies will be considered a lower standard under the new system and that they will be more streamlined and that there may be less pressure on the system. She stated that the proposals by Vanderburgh County are worth trying out. She moved to approve the request that the D-Felony lawyers who only represent D-Felonies, are treated as if it is a D-Felony Court. She clarified that this is an experiment with Vanderburgh County only for six months. Mr. Landis asked that time studies be conducted to compare the attorneys' work in different courtrooms, both in exclusive D-Felony and multiple-level felony courts. A proposal was discussed to change the timeframe for the experiment through fiscal year of 2015 rather than six months. Senator Steele seconded the motion. The motion passed and was approved.

## **Returning to the CHINS/TPR discussion**

Judge Diekhoff made a motion made to gather more information and directed the Staff Attorney to conduct a report, including the opinion of the Chief Public Defenders, which was seconded by Senator Steele. The motion passed to find more information on the CHINS/TPR issue, including the definition of what constitutes a "dedicated court" for purposes of standards.

## **Chief Public Defender's Compensation in Vanderburgh County**

Mr. Landis raised the issue of the compensation of the Chief Public Defender in Vanderburgh County, which had been out-of-compliance. A representative from Vanderburgh County explained that the operating revenue has dropped significantly and that other department heads earn around \$65,000 per year. Vanderburgh County representatives said they felt that 90 percent compliance was fair, given the lack of increases to other employees.

David Hensel noted that the salary requirement is an absolute rule. Mr. Landis recognized the political difficulties facing the Vanderburgh County officials, and explained the history of trying to achieve pay equity, which was over a two-year process to bring the standard about. Mike Goebel explained that circumstances in Vanderburgh County are difficult enough that there isn't even enough money in the budget to repair the roads. Mr. Landis sympathized with the budget struggles but also emphasized the need for uniform enforcement of the rules. Mr. Landis stated that he will make a motion at the next meeting to suspend reimbursement if the County is not in compliance by the next meeting.

Mr. Landis made a motion to approve Vanderburgh's reimbursement with the qualification that by the September 14 meeting the pay standards for the Chief Public Defender are met. Judge Diekhoff seconded the motion. The motion passed.

**Requests for 50% Reimbursement in Capital Case**

Mr. Mason recommended that the reimbursement requests be approved. This meeting held the first request for Harrison County's *Scott* defendant. There are two co-defendants, but one has private counsel. *Hooten* in Clark County was resolved and sentenced to Life Without Parole. A motion to approve by David Hensel, Rep. Ryan Dvorak seconds. The motion passed.

<b>INDIANA PUBLIC DEFENDER COMMISSION</b>		
Reimbursement Requests in Capital Cases		
June 18, 2014		
COUNTY	DEFENDANT	TOTAL
Clark	Hooten	\$44,272.08
Floyd	Gibson 1145	\$18,050.55
Harrison	Scott	\$1,763.94
Lake	Isom appeal	\$2,806.68
Vanderburgh	Weisheit appeal	\$7,086.96
<b>TOTAL</b>		<b>\$73,980.21</b>

**Requests for 40% Reimbursement in Non-Capital Cases**

Mr. Mason will schedule a meeting with the judges in Kosciusko County to discuss non-compliance. Chairman Rutherford noted that Washington County is out of compliance. Mr. Mason stated he had a meeting set up with Washington County, because he suspects the issue is one of accounting. Mr. Mason noted that the request from Floyd County's numbers are higher because of the payment related to the *Camm* case. A motion was brought to approve the

recommended requests for reimbursement by David Hensel, and Senator Steele seconds it. The Motion passes.

## INDIANA PUBLIC DEFENDER COMMISSION

First Quarter 2014 Requests for Reimbursements in Non-Capital Cases

**6/18/2014**

COUNTY	Late Factor	2014 Period Covered	Total Expenditure	Adjustment For Non-Reimburse	% of Adjstmt	Eligible Expenditure	40% Reimbursed
ADAMS	0.00	1/1-3/31	\$85,865.97	\$13,725.77	16%	\$72,140.20	\$28,856.08
ALLEN	0.00	1/1-3/31	\$755,973.56	\$31,907.90	4%	\$724,065.66	\$289,626.26
BENTON	0.00	1/1-3/31	\$9,389.25	\$4,642.43	49%	\$4,746.82	\$1,898.73
BLACKFORD	0.00	1/1-3/31	\$52,621.40	\$11,653.56	22%	\$40,967.84	\$16,387.14
BROWN	0.00	1/1-3/31	\$35,708.54	\$9,004.44	25%	\$26,704.10	\$10,681.64
CARROLL	0.00	1/1-3/31	\$72,615.10	\$18,216.91	25%	\$54,398.19	\$21,759.28
CASS	0.00	1/1-3/31	\$125,186.26	\$18,460.00	15%	\$106,726.26	\$42,690.50
CLARK	0.00	1/1-3/31	\$183,674.85	\$6,300.56	3%	\$177,374.29	\$70,949.72
<b>CRAWFORD</b>	<b>0.00</b>	<b>1/1-3/31</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
DECATUR	0.00	1/1-3/31	\$52,549.00	\$10,041.33	19%	\$42,507.67	\$17,003.07
DELAWARE	0.00	1/1-3/31	\$271,893.27	\$1,632.99	1%	\$270,260.28	\$108,104.11
FAYETTE	0.00	1/1-3/31	\$80,023.89	\$7,892.66	10%	\$72,131.23	\$28,852.49
FLOYD	0.00	1/1-3/31	\$531,803.75	\$44,991.54	8%	\$486,812.21	\$194,724.88
FOUNTAIN	0.00	1/1-3/31	\$17,077.28	\$3,700.08	22%	\$13,377.20	\$5,350.88
FULTON	0.00	1/1-3/31	\$62,696.78	\$10,449.46	17%	\$52,247.32	\$20,898.93
GRANT	0.00	1/1-3/31	\$256,582.00	\$1,329.44	1%	\$255,252.56	\$102,101.02
GREENE	0.00	1/1-3/31	\$85,844.12	\$12,253.80	14%	\$73,590.32	\$29,436.13
HANCOCK	0.00	1/1-3/31	\$117,238.28	\$16,463.25	14%	\$100,775.03	\$40,310.01
<b>HENRY</b>	<b>0.00</b>	<b>1/1-3/31</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
HOWARD	0.00	1/1-3/31	\$336,449.93	\$57,897.41	17%	\$278,552.52	\$111,421.01
JASPER	0.00	1/1-3/31	\$46,170.52	\$10,751.22	23%	\$35,419.30	\$14,167.72
JAY	0.00	1/1-3/31	\$86,296.96	\$6,816.81	8%	\$79,480.15	\$31,792.06
JENNINGS	0.00	1/1-3/31	\$34,441.74	\$4,787.87	14%	\$29,653.87	\$11,861.55
KNOX	0.00	1/1-3/31	\$173,109.47	\$41,450.30	24%	\$131,659.17	\$52,663.67
KOSCIUSKO	0.00	1/1-3/31	\$136,721.29	\$44,009.00	32%	\$92,712.29	\$37,084.92
LAGRANGE	0.00	1/1-3/31	\$27,953.98	\$3,946.95	14%	\$24,007.03	\$9,602.81
LAKE	0.00	1/1-3/31	\$933,202.80	\$1,446.83	0%	\$931,755.97	\$372,702.39
LAPORTE	0.00	1/1-3/31	\$157,404.22	\$22,614.53	14%	\$134,789.69	\$53,915.88
LAWRENCE	0.00	1/1-3/31	\$152,717.00	\$11,248.57	7%	\$141,468.43	\$56,587.37
MADISON	0.00	1/1-3/31	\$435,557.16	\$21,846.72	5%	\$413,710.44	\$165,484.18
MARION	0.00	1/1-3/31	\$5,121,549.42	\$590,263.98	12%	\$4,531,285.44	\$1,812,514.18
MARTIN	0.00	1/1-3/31	\$46,791.95	\$10,007.39	21%	\$36,784.56	\$14,713.82
<b>MIAMI</b>	<b>0.00</b>	<b>1/1-3/31</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
MONROE	0.00	1/1-3/31	\$441,911.24	\$61,286.96	14%	\$380,624.28	\$152,249.71
<b>MONTGOMERY</b>	<b>0.00</b>	<b>1/1-3/31</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>NEWTON</b>	<b>0.00</b>	<b>1/1-3/31</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
NOBLE	0.00	1/1-3/31	\$136,562.86	\$25,044.79	18%	\$111,518.07	\$44,607.23
OHIO	0.00	1/1-3/31	\$19,477.70	\$2,154.60	11%	\$17,323.10	\$6,929.24
ORANGE	0.00	1/1-3/31	\$56,042.91	\$9,598.51	17%	\$46,444.40	\$18,577.76
PARKE	0.00	1/1-3/31	\$27,364.97	\$6,721.22	25%	\$20,643.75	\$8,257.50
PERRY	0.00	1/1-3/31	\$148,156.11	\$20,435.33	14%	\$127,720.78	\$51,088.31
PIKE	0.00	1/1-3/31	\$71,429.43	\$17,720.10	25%	\$53,709.33	\$21,483.73
PULASKI	0.00	1/1-3/31	\$46,054.34	\$17,218.50	37%	\$28,835.84	\$11,534.34
RUSH	0.00	1/1-3/31	\$65,635.87	\$9,988.07	15%	\$55,647.80	\$22,259.12
SAINT JOSEPH	0.00	1/1-3/31	\$503,562.98	\$77,581.95	15%	\$425,981.03	\$170,392.41
<b>SCOTT</b>	<b>0.00</b>	<b>1/1-3/31</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
SHELBY	0.00	1/1-3/31	\$121,135.41	\$12,072.52	10%	\$109,062.89	\$43,625.16
SPENCER	0.00	1/1-3/31	\$70,235.36	\$7,225.95	10%	\$63,009.41	\$25,203.76
STEUBEN	0.00	1/1-3/31	\$96,701.68	\$20,860.32	22%	\$75,841.36	\$30,336.54
SULLIVAN	0.00	1/1-3/31	\$17,850.90	\$4,328.75	24%	\$13,522.15	\$5,408.86
SWITZERLAND	0.00	1/1-3/31	\$32,560.26	\$9,302.93	29%	\$23,257.33	\$9,302.93
TIPPECANOE	0.00	1/1-3/31	\$549,767.90	\$82,160.89	15%	\$467,607.01	\$187,042.80
UNION	0.00	1/1-3/31	\$10,846.00	\$943.13	9%	\$9,902.87	\$3,961.15
VANDERBURGH	0.00	1/1-3/31	\$639,616.12	\$120,809.62	19%	\$518,806.50	\$207,522.60
VERMILLION	0.00	1/1-3/31	\$41,414.40	\$10,580.61	26%	\$30,833.79	\$12,333.52
VIGO	0.00	1/1-3/31	\$512,421.31	\$47,491.04	9%	\$464,930.27	\$185,972.11
WABASH	0.00	1/1-3/31	\$79,947.75	\$8,326.92	10%	\$71,620.83	\$28,648.33
WARREN	0.00	1/1-3/31	\$4,475.00	\$1,491.67	33%	\$2,983.33	\$1,193.33
WASHINGTON	0.00	1/1-3/31	\$119,051.67	\$15,629.73	13%	\$103,421.94	\$41,368.78
<b>WELLS</b>	<b>0.00</b>	<b>1/1-3/31</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>WHITE</b>	<b>0.00</b>	<b>1/1-3/31</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>WHITLEY</b>	<b>0.00</b>	<b>1/1-3/31</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>TOTAL</b>			<b>\$14,297,331.91</b>	<b>\$1,638,727.81</b>		<b>\$12,658,604.10</b>	<b>\$5,063,441.64</b>

## **Staff Report**

Mr. Mason stated he followed up with Montgomery County. They did not submit a request for reimbursement after contact from Mr. Mason and Mr. Landis. In Owen County, the comprehensive plan has not yet approved. Lake and Dekalb County also present new opportunities for reimbursement.

Mr. Rutherford noted a second staff attorney search had commenced and that interviews would start soon.

## **Financial Status of Public Defense Fund**

Mr. Mason noted the current status of the Public Defense Fund as outlined in Section 10 of the 1<sup>st</sup> quarter report.

## **Other Matters**

Mr. Landis stated that it appeared that the current appropriation was adequate to cover the reimbursement requests currently submitted. Mr. Mason stated he hoped to do more outreach and bring in more counties. Since it is a goal of the commission to increase the number of participating counties, more money may be necessary in the future to cover new reimbursements. Mr. Landis stated that most budget requests are submitted in September or October. Mr. Landis recommended to ask for \$22.25 million, and that increases if necessary could be done in Fall. Mr. Landis moved to ask that the Chief's Budget include the same amount as in the previous year, and that the number may change if additional counties are added. The motion was seconded, and the motion passed.

**Motion to adjourn was seconded, and the motion passed. Meeting adjourned.**

## **Indiana Public Defender Commission Meeting Minutes September 17, 2014**

Meeting convened when a quorum was present at 2:08 p.m. Present for the meeting were Chairman Mark Rutherford, Indianapolis; Larry Landis, Indianapolis; State Representative Ryan Dvorak; the Honorable Mary Ellen Diekhoff, Bloomington; Andrew S. Roesener, Franklin; Chief Public Defender Lorinda Youngcourt of Lawrence County; State Senator Gregory G. Taylor, Indianapolis; Chief Public Defender Geoffrey Yelton of Madison County; Chief Public Defender Robert Hill of Marion County, and Deborah Neal and Ray Casanova of Marion County; David Carroll, Jon Mosher of the Sixth Amendment Center; Colette Tvedt of the National Association of Criminal Defense Lawyers; Derrick Mason and Kathleen Casey, Staff Attorneys for the Commission.

### **1. Approval of Minutes from June 18, 2014 Meeting**



Chairman Rutherford introduced the first agenda item, approving the minutes from the last meeting. Larry Landis moved to approve the minutes, and Representative Dvorak seconded the motion. Motion passed after a vote.

## **2. Hancock County Amended Comprehensive Plan**

Staff Attorney Derrick Mason explained the cosmetic changes made to the Hancock County plan. Mr. Mason saw no reason to disapprove of the changes. Mr. Landis noted that he encouraged other counties to do what Hancock did by including a list of attorneys and their contact information and considered it a model. Mr. Roesener moved to approve the plan, and Judge Diekoff seconded the motion. Motion passed after a vote.

## **3. David Carroll of the 6<sup>th</sup> Amendment Center**

David Carroll presented a report to the Commission on why his organization, the Sixth Amendment Center, wanted to evaluate the quality of indigent defense services in Indiana. He described his organization as a non-partisan, non-profit entity that measures public defense services versus nationally established standards. He noted that his group receives a large portion of funding through the Department of Justice. They recently received funding to conduct a state-wide assessment, and Indiana was at the top of their list to study. He said they picked Indiana because his state has been a leader in trying to formulate a model, starting in 1989 with the founding of the Commission. He noted that there would be no cost to the State as the funding for the project was already secured.

Since 1989, Mr. Carroll said, there has been no assessment of Indiana's system, even though several other states have adopted the Indiana model. Mr. Carroll said he hopes for this study to be a partnership with the state so that the information gathered by the study can be used by the Commission to improve services.

Mr. Carroll said that the Sixth Amendment Center would look at the following factors in evaluating quality: (1) early appointment of counsel (2) independence of defense function (3) sufficient time to prepare cases and (4) proper supervision, among other factors.

Mr. Landis noted that the information gained from this type of study would be useful not only by Indiana, but by the states that have adopted the Indiana model. Rep. Dvorak noted he would like to see an outside perspective on the system to judge its effectiveness.

A question was raised about the timeframe and scope of the report. Mr. Carroll said the report would encompass seven or eight counties, and take seven to eight months of site work with three to five months of analysis and report writing.

Mr. Mason asked what information was needed from the Council, and Mr. Carroll replied that a letter announcing the Sixth Amendment Center's presence, as well as the creation of a board of advisors would be useful to the study.

Mr. Landis made a motion to invite the Sixth Amendment Center to study the State. Andrew Roesener seconded it. Motion passed after a vote.

#### **4. Introduction of new staff member to Commission**

Kathleen Casey was introduced as the new staff attorney for the Commission.

#### **5. Compliance Report**

Mr. Mason reported an increase in compliance since the last report, up to 94% compliance up from 85% percent compliance in the previous quarter. He reported most counties have improved, and that Kosciusko County is completely overhauling their system with the aim to improve. He noted it would take some time for Kosciusko to come into compliance, but that they are now on the right track.

Mr. Mason noted that the non-compliance issue in Lawrence County was addressed and that he anticipated the County coming into compliance shortly.

The Chairman asked how the county visits have been going, and Mr. Mason said that his visits had been going well and that the counties are receptive to learning how to improve and increase their compliance.

Mr. Mason noted that Ripley County just submitted their first report, and that in Owen County the County Council passed the comprehensive plan and that they should be submitted their first quarterly report in the next quarter.

#### **6. Staff Report**

Mr. Mason noted that Vanderburgh County increased the salary of the Chief Public Defender, so the issue from the previous meeting has now been resolved.

##### *Capital cases*

Mr. Mason noted that the Capital case hourly pay must be updated every two years for newly filed cases effective January 1, 2015 will be \$117 and hour versus the previous rate of \$113 per hour.

He noted that several counties have multiple counties. Floyd County's Gibson case is resolved to a murder plea agreement without the death penalty in June, sentencing has yet to occur. Marion County had two new capital case filings. Harrison County also has two capital cases, and Lake County anticipated the filing of another capital case.

##### *Time studies*

Mr. Mason reported that he has contacted counties and that they are conducting time studies on TPR/CHINS cases and that more time is needed for accurate numbers. Vanderburgh County is just now starting to use the time studies as they use the new increase caseloads that were approved at the last meeting.

## **7. Financial Status of Public Defense Fund**

Mr. Mason noted that there was an error with the reported figures in the second quarter figures, and that there is an additional \$1.5 million dollars encumbered funds for the Commission. He stated that the figures should read approximately \$11.5 total amount in the fund, and an additional \$1.5 million in encumbered funds, and that this error would be corrected on the next quarter's sheet.

Mr. Landis noted that it appears to be a surplus, but Mr. Mason noted that full compliance with the TPR/CHINS reimbursement has not yet been realized, as well as the increase in the number of capital cases. He noted that every quarter the expenses have increased, and that a surplus is not likely to be seen in the future, especially as the Commission adds counties to the program.

Representative Dvorak and Mr. Landis asked for a projection from the staff attorneys to provide estimates and projections in order to put together a budget request. Chairman Rutherford and Mr. Landis noted that the Commission does not want to return to pro-rating counties.

### *State funding of Chief Public Defender Salary*

Mr. Landis presented a proposal to take a vote to support one-hundred percent state-funding of the Chief Public Defender's salary. Mr. Landis noted that the prosecutor's salary and judges' salaries are state funded. He noted that many counties in fact are reluctant to join the Commission's program because they do not have either the funding or political support to fund the Chief Public Defender at the same salary as the prosecutor. He noted that Henry County left the Commission's program because of this issue.

Mr. Landis said there were options to either have the salary paid up-front through state funding, or possibly through a reimbursement model, but that either way it would be state-funded to remove the burden from the county.

Mr. Landis presented a motion for one-hundred percent state pay for the salary of the Chief Public Defender, with the particulars how this funding to be dispersed left up to the legislature. Senator Taylor seconded the motion.

Judge Ahler asked for clarification for what this motion for counties without full-time staff. Mr. Landis noted that this would only apply to counties with full-time Chief Public Defenders. Mr. Taylor noted that there is precedent to tie the salary of certain positions to other positions.

Deborah Neal noted this would encourage counties to adopt a Chief, and Mr. Landis noted that standards would need to be adopted to clarify the duties of the Chief Public Defender. Mr. Mason noted that there are statutory obligations for the Chief Public Defender, but that many counties avoid these duties by creating alternate positions. He noted that many counties he has spoken to are interested in having a Chief to help centralize and streamline the reporting obligations of the counties. Mr. Mason noted that it would be impossible to fund through the current budget of the Commission.

After a vote, the motion passed unanimously.

## 8. Requests for 50% Reimbursement in Capital Cases

Mr. Mason noted that he would add the \$9,879 added to Floyd County non-capital case requests in the next quarter. He noted that according to Commission standards, they no longer pay for expenses once the capital case aspect is gone. He noted that in Clark County *Hooten* case, the plea hearing dismissed the capital component before the sentencing. Based upon the standards, approximately two thousand of attorney's fees were denied. However, the County could still recoup forty percent of its expenses through the non-capital expense request process.

Andrew Roesener moved to approve the capital case requests, Senator Taylor seconded it. Motion passed unanimously after a vote.

<b>INDIANA PUBLIC DEFENDER COMMISSION</b>		
Reimbursement Requests in Capital Cases		
September 17, 2014		
COUNTY	DEFENDANT	TOTAL
Clark	Hooten	\$20,769.69
Floyd	Gibson 1145	\$14,975.72
Floyd	Gibson 0919	\$5,123.00
Harrison	Scott	\$14,672.56
Lake	Isom appeal	\$3,260.88
<b>TOTAL</b>		<b>\$58,801.85</b>

## 9. Requests for 40% Reimbursement in Non-Capital Cases

Mr. Mason reviewed the requests for reimbursement, noting that Knox County was late in their request and that the county was penalized 10 percent for the late filing. Chairman Rutherford asked Mr. Mason if he had looked into the reason for the delay, and suggested that Mr. Mason follow up with the county in case the submission was delayed inadvertently.

Representative Dvorak moved to approve the requests, and Judge Diekhoff seconded the motion. Motion passed unanimously after a vote.

**INDIANA PUBLIC DEFENDER COMMISSION**

Second Quarter 2014 Requests for Reimbursements in Non-Capital Cases

**9/17/2014**

COUNTY	Late Factor	2014 Period Covered	Total Expenditure	Adjustment For Non-Reimburse	% of Adjstmt	Eligible Expenditure	40% Reimbursed
ADAMS	0.00	4/1-6/30	\$70,563.27	\$10,130.43	14%	\$60,432.84	\$24,173.14
ALLEN	0.00	4/1-6/30	\$826,033.10	\$27,566.06	3%	\$798,467.04	\$319,386.82
BENTON	0.00	4/1-6/30	\$22,602.75	\$5,664.35	25%	\$16,938.40	\$6,775.36
BLACKFORD	0.00	4/1-6/30	\$52,062.83	\$17,047.12	33%	\$35,015.71	\$14,006.28
BROWN	0.00	4/1-6/30	\$55,804.47	\$16,687.16	30%	\$39,117.31	\$15,646.92
CARROLL	0.00	4/1-6/30	\$58,303.92	\$19,434.64	33%	\$38,869.28	\$15,547.71
CASS	0.00	4/1-6/30	\$122,682.16	\$20,728.75	17%	\$101,953.41	\$40,781.36
CLARK	0.00	4/1-6/30	\$177,290.43	\$10,696.07	6%	\$166,594.36	\$66,637.74
<b>CRAWFORD</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
DECATUR	0.00	4/1-6/30	\$49,614.49	\$9,760.23	20%	\$39,854.26	\$15,941.70
DELAWARE	0.00	4/1-6/30	\$253,074.97	\$3,520.36	1%	\$249,554.61	\$99,821.84
FAYETTE	0.00	4/1-6/30	\$83,354.00	\$3,730.64	4%	\$79,623.36	\$31,849.34
FLOYD	0.00	4/1-6/30	\$172,564.69	\$34,185.98	20%	\$138,378.71	\$55,351.48
FOUNTAIN	0.00	4/1-6/30	\$26,841.74	\$7,063.62	26%	\$19,778.12	\$7,911.25
FULTON	0.00	4/1-6/30	\$96,566.66	\$25,641.99	27%	\$70,924.67	\$28,369.87
GRANT	0.00	4/1-6/30	\$233,850.00	\$6,770.71	3%	\$227,079.29	\$90,831.72
GREENE	0.00	4/1-6/30	\$113,314.23	\$14,296.10	13%	\$99,018.13	\$39,607.25
HANCOCK	0.00	4/1-6/30	\$112,140.57	\$11,626.00	10%	\$100,514.57	\$40,205.83
<b>HENRY</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
HOWARD	0.00	4/1-6/30	\$370,990.14	\$57,320.20	15%	\$313,669.94	\$125,467.98
JASPER	0.00	4/1-6/30	\$71,854.48	\$28,452.69	40%	\$43,401.79	\$17,360.72
JAY	0.00	4/1-6/30	\$96,033.45	\$12,819.84	13%	\$83,213.61	\$33,285.44
JENNINGS	0.00	4/1-6/30	\$53,878.45	\$10,252.17	19%	\$43,626.28	\$17,450.51
KNOX	0.10	4/1-6/30	\$191,656.14	\$42,749.16	22%	\$148,906.98	\$53,606.51
KOSCIUSKO	0.00	4/1-6/30	\$156,361.20	\$52,120.40	33%	\$104,240.80	\$41,696.32
LAGRANGE	0.00	4/1-6/30	\$50,847.47	\$5,982.62	12%	\$44,864.85	\$17,945.94
LAKE	0.00	4/1-6/30	\$958,444.56	\$2,555.85	0%	\$955,888.71	\$382,355.48
LAPORTE	0.00	4/1-6/30	\$164,186.60	\$24,230.72	15%	\$139,955.88	\$55,982.35
LAWRENCE	0.00	4/1-6/30	\$151,153.84	\$11,931.37	8%	\$139,222.47	\$55,688.99
MADISON	0.00	4/1-6/30	\$441,596.67	\$14,851.25	3%	\$426,745.42	\$170,698.17
MARION	0.00	4/1-6/30	\$4,535,078.12	\$523,715.89	12%	\$4,011,362.23	\$1,604,544.89
MARTIN	0.00	4/1-6/30	\$49,486.42	\$7,194.22	15%	\$42,292.20	\$16,916.88
<b>MIAMI</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
MONROE	0.00	4/1-6/30	\$589,725.21	\$83,862.06	14%	\$505,863.15	\$202,345.26
<b>MONTGOMERY</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>NEWTON</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
NOBLE	0.00	4/1-6/30	\$163,058.52	\$32,309.73	20%	\$130,748.79	\$52,299.52
OHIO	0.00	4/1-6/30	\$17,474.85	\$2,499.00	14%	\$14,975.85	\$5,990.34
ORANGE	0.00	4/1-6/30	\$60,765.81	\$7,523.39	12%	\$53,242.42	\$21,296.97
PARKE	0.00	4/1-6/30	\$37,535.60	\$9,652.01	26%	\$27,883.59	\$11,153.44
PERRY	0.00	4/1-6/30	\$71,189.79	\$10,019.30	14%	\$61,170.49	\$24,468.20
PIKE	0.00	4/1-6/30	\$72,965.67	\$5,507.18	8%	\$67,458.49	\$26,983.40
PULASKI	0.00	4/1-6/30	\$31,168.11	\$9,938.00	32%	\$21,230.11	\$8,492.04
RIPLEY	0.00	4/1-6/30	\$42,381.26	\$4,760.47	11%	\$37,620.79	\$15,048.32
RUSH	0.00	4/1-6/30	\$73,791.42	\$14,919.58	20%	\$58,871.84	\$23,548.74
SAINT JOSEPH	0.00	4/1-6/30	\$561,738.93	\$86,056.83	15%	\$475,682.10	\$190,272.84
<b>SCOTT</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
SHELBY	0.00	4/1-6/30	\$113,071.35	\$16,145.40	14%	\$96,925.95	\$38,770.38
SPENCER	0.00	4/1-6/30	\$25,616.58	\$6,048.00	24%	\$19,568.58	\$7,827.43
STEUBEN	0.00	4/1-6/30	\$100,193.01	\$22,303.53	22%	\$77,889.48	\$31,155.79
SULLIVAN	0.00	4/1-6/30	\$23,932.35	\$8,028.00	34%	\$15,904.35	\$6,361.74
SWITZERLAND	0.00	4/1-6/30	\$42,560.15	\$9,457.81	22%	\$33,102.34	\$13,240.94
TIPPECANOE	0.00	4/1-6/30	\$557,122.54	\$120,950.11	22%	\$436,172.43	\$174,468.97
UNION	0.00	4/1-6/30	\$20,159.49	\$3,023.92	15%	\$17,135.57	\$6,854.23
VANDERBURGH	0.00	4/1-6/30	\$760,744.37	\$133,349.07	18%	\$627,395.30	\$250,958.12
VERMILLION	0.00	4/1-6/30	\$35,348.35	\$11,058.11	31%	\$24,290.24	\$9,716.10
VIGO	0.00	4/1-6/30	\$463,197.97	\$43,889.58	9%	\$419,308.39	\$167,723.36
WABASH	0.00	4/1-6/30	\$71,801.67	\$16,311.02	23%	\$55,490.65	\$22,196.26
WARREN	0.00	4/1-6/30	\$13,337.50	\$4,144.40	31%	\$9,193.10	\$3,677.24
WASHINGTON	0.00	4/1-6/30	\$115,014.48	\$12,024.96	10%	\$102,989.52	\$41,195.81
<b>WELLS</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>WHITE</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>WHITLEY</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>TOTAL</b>			<b>\$13,882,126.80</b>	<b>\$1,712,508.05</b>		<b>\$12,169,618.75</b>	<b>\$4,861,891.22</b>

## **10. Other Matters**

Representative Dvorak noted that his county, St. Joseph, receives less reimbursement than other counties with significantly smaller populations. He noted that this discrepancy has occurred each quarter. Mr. Mason noted that there are a number of factors are included into the calculation, and that different counties request reimbursement on different aspects of their public defender system. Because of the variable nature of the counties' systems, there are differences in the amount each county requests from the Commission.

Representative Dvorak believed that there should be a "check" in the system to make the reimbursement model commensurate to population size. The Chairman agreed that consistency in the model is important. Mr. Landis stressed the importance of audits of each system.

After discussion, Representative Ryan Dvorak moved to adjourn the meeting. Andrew Roesener seconded the motion. Meeting adjourned after motion passed.

### **Indiana Public Defender Commission Meeting Minutes**

**December 10, 2014**

Chairman Mark Rutherford called the meeting to order at 2:00 p.m. when a quorum was present. Commission members present for the meeting included: David Hensel, Indianapolis; The Honorable Diane Ross Boswell; Larry Landis, Indianapolis; Representative Ryan Dvorak; The Honorable James Ahler; The Honorable Marry Ellen Diekhoff; Senator Brent Steele; Andrew S. Roesener, Franklin County; Staff attorneys Derrick Mason and Kathleen Casey. Also present are Robert Hill and Deborah Neal of Marion County; Elizabeth Lane from Washington County; Geoffrey Yelton, Madison County.

**Approval of 9-17-14 Meeting Minutes:** Chairman Rutherford asked for corrections to the minutes from the previous meeting. Seeing none, David Hensel moved to approve, Larry Landis seconding the motion. Motion passed unanimously.

**Owen County Amended Comprehensive Plan:** Derrick Mason reported that Owen County originally planned to have a fully staffed office, but that there was concern about hiring enough attorneys to meet Commission standards for a fully-staffed office. Because of that concern, the County instead went with a partially staffed plan and hired an additional contract attorney, therefore bringing the total staff to one full-time attorney and three contract attorneys. No other changes of note were reported by Mr. Mason, and he recommended approval of the plan. Mr. Mason reported Owen County hopes to have their plan implemented by January.

Chairman Rutherford asked for questions. Mr. Mason clarified that this is the first plan that will be implemented by Owen County, thus making the plan technically amended from what the Commission approved previously. Senator Steele made a motion to approve the plan, which was seconded by Rep. Dvorak. Motion passed unanimously.

**Selection of 2015 Meeting Dates:** Meeting dates were proposed as follows: 4Q14: Wednesday, March 18, 2015; 1Q15: Wednesday, June 10, 2015; 2Q15: Wednesday, September 16, 2015; 3Q15: Wednesday, December 9, 2015. Larry Landis made a motion to approve, David Hensel seconded. Motion passed unanimously.

**Marion County: Domestic Violence Courts:** Mr. Mason reported that it had been brought to his attention that in their reports, Marion County had grouped Domestic Violence Court case counts in the same category as Misdemeanor Court case counts. Using this technique gives certain attorneys who handle mixed misdemeanor-and-felony caseloads the ability to go over their caseload limits.

Mr. Mason reported that if this exception was allowed by the Commission, Marion County would be the only county in the state that has a mixed caseload and is allowed to go over that limit of a 1.0 Full Time Equivalent (FTE) on a routine basis. He reported that approximately 10 public defenders have a caseload between 1.1 and 2.2 FTE. Mr. Mason proposed several options. The first option was to allow an exception to Marion County to not abide by the traditional caseload standards. Mr. Mason noted that there are other counties concerned that the Commission is prone to allow exceptions. The second option was to raise caseload maximums for domestic violence courts, similar to what Marion County requested and received as an exception for raising the D-Felony caseload limits. This may raise a problem in that there is no uniformity to Domestic Violence Courts across the state, so establishing a statewide standard would be difficult given the variety of ways in which the Domestic Violence Courts are set up. The third option was to possibly divide caseloads between misdemeanor and felony attorneys. Currently, misdemeanor attorneys are not bound by caseload standards because they are not reimbursed by the Commission. The fourth option was for Marion County to have to hire additional staff.

Mr. Rutherford asked Marion County and Deborah Neal to present.

Mr. Hill reported that his county has not changed the way they report domestic violence cases this past quarter as opposed to any other quarter since 2008. Mr. Hill stated that Marion County's Domestic Violence Court is a specialty court where the public defenders work only in domestic violence matters. The Domestic Violence public defenders have full-time support staff, access to the deposition unit at the Agency, and access to investigators, and access to social workers should the need arise.

Mr. Hill stated that because of the uniqueness of the caseload, and because of the uniqueness of the efficiency with which their courts have organized the system, Marion County Domestic Violence Courts have a very high dismissal rate. Mr. Hill stated that these cases just do not go to trial. He is waiting on data from the Public Defender Information System will provide more information. He stated his agency has been functioning under this system because of (1) dismissal rate (2) special practice (3) efficiency (4) manner in which the Marion County Public

Defender Agency office is set up.

Deb Neal, former staff attorney for the Public Defender Commission, stated she started when Mike Murphy was still counsel. Both she and Mike Murphy served in Marion County's Domestic Violence Division and were very well aware of how those courts operated. Marion County was allowed to go over the caseload standards for the Domestic Violence Courts—they were counted as misdemeanor courts because of the unique nature of the court. She also noted that when the county has the volume Marion County has, then they can create such a specialized court. Ms. Neal stated there was a seventy-five percent dismissal rate for her cases, and that this narrowed the workload.

Senator Steele asked which proposals would be best. Deb Neal said that she wasn't provided with the literature that was provided with the report that was given to them today. Mr. Mason said that the proposals included in the handouts to the Commission were merely starting points for discussion. He noted that Marion County would need approximately 6 more attorneys to handle volume, and they have approximately 10 attorneys right now. If caseloads were raised, Mr. Mason stated he would have to do the analysis.

Mr. Hill requested time to study the issue and return in the next quarter asking for a specialized standard for Domestic Violence Court.

Judge Ahler noted that he had many questions, but that it was better to wait a quarter, because high dismissal rates does not equate with better legal practices. He also expressed a concern that this may lead to every specialized court asking for an exemption from the standards.

Mr. Hill expressed a request for a new standard for mixed caseloads, but that more time was needed to collect data before he could make a formal request.

Senator Steele noted that dismissal rates may not show how many hours the defense attorney actually worked if the case was dismissed on the date of trial. Mr. Landis asked for more indicators as to the actual workload of the attorney, rather than just the dismissal rate.

Chairman Rutherford noted a concern to look into how other counties around the state are handling this issue, and how a new variance by Marion County may be perceived by other member counties. The Chairman noted that perhaps the staff members could study the Marion County issue, and Mr. Mason noted that he would be happy to help study the Domestic Violence courts. Mr. Mason asked if he should meet with the Domestic Violence Public Defenders and the Chairman instructed him to do so.

Senator Steele moved to table this matter to give Mr. Hill an opportunity to put together his numbers and research and get a better grasp on where problem lies. Rep. Dvorak seconded the motion. Motion passed after a unanimous vote.



## **Compliance Report**

Mr. Mason reported that compliance did go down this quarter. Decatur County has 2 attorneys out of compliance, but as of the time of the meeting did not have a response from them yet as to what happened. He did recommend reimbursement while staff attorneys follow up on the issue. Delaware County had one attorney out of compliance, but that the county is aware that another attorney needs to be hired. Howard County was out of compliance because of one attorney handling large appeals, but that the county has now fixed the way they are reassigning cases. Jennings County had one attorney now out of compliance, but should be in compliance next quarter. Mr. Mason reported that Kosciusko County still was working to get attorneys into compliance, and that they were working with a new tracking system that should resolve many issues. Steuben County has 1 out of 13 out of compliance, but that they have room with their other attorneys to come into compliance next quarter.

Mr. Mason recommended that Commission approve all county reimbursement requests for non-capital cases.

### **Staff Report:**

Mr. Mason reported that DeKalb County had considered joining the Commission program, and that the county will hopefully make a decision around the end of the year. The addition of JC/JT reimbursement is why they are considering joining the program.

Mr. Mason noted that inroads had been made to Jackson County as well. He also reported that he had a message out to Clark County, as at the Dec. 8 County Council meeting they still hadn't decided what to do with Chief pay.

Mr. Mason also reported that the Public Defender Annual Report had been submitted. Staff attorneys had redesigned it and tried to make it more readable and accessible. Additionally, staff counsel were in the process of re-launching a Public Defender Commission newsletter to reach out to people that are drafting reports so that we can get a better system.

Mr. Mason reported that the Sixth Amendment Center was set to host a selection committee to select the jurisdictions they will be analyzing for their report on the state of indigent defense in Indiana. The Center wishes to select counties that will encompass current members, members fallen out of the program, and counties that have never been a part of our program. The meeting was set for January 8, 2015 at 1:30.

Larry Landis reported that he and Chairman Rutherford met with Chief Justice Rush and discussed projected costs for the increase in requests for reimbursement because of the mandatory appointment in JD cases, the 100% reimbursement for Chief Public Defenders, and finally because of more expenditures in CHINS cases from the counties just now coming into compliance.

### **Financial Status of Public Defense Fund**

Mr. Mason reported that costs continue to increase for the Commission. He pointed out that the July/September quarter of 2014 was the highest quarter for record spending, and that this current quarter exceeded even that. He reported that the trend is to increase because of increases costs from CHINS and termination, as well as bringing in new counties.

### **Requests for 50% Reimbursement in Capital Cases**

Mr. Mason reported on the requests for reimbursement in current capital cases. David Hensel moved to approve the requests, and Representative Dvorak seconded the motion. Motion passes unanimously.

<b>INDIANA PUBLIC DEFENDER COMMISSION</b>		
Reimbursement Requests in Capital Cases		
December 10, 2014		
COUNTY	DEFENDANT	TOTAL
Floyd	Gibson 1145	\$28,528.52
Floyd	Gibson 0919	\$6,801.90
Harrison	Schuler	\$10,072.57
Harrison*	Scott	\$23,072.80
Lake	Blount	\$2,682.35
Lake	Isom appeal	\$4,378.20
<b>TOTAL</b>		<b>\$75,536.34</b>

**Requests for 40% Reimbursement in Non-Capital Cases** – Mr. Mason reported that compliance was slightly higher than 2 quarters previously. Andrew Roesener moved to approve the requests, and David Hensel seconded the request. Motion passed unanimously.

**INDIANA PUBLIC DEFENDER COMMISSION**

Third Quarter 2014 Requests for Reimbursements in Non-Capital Cases

**12/10/2014**

COUNTY	Late Factor	2014 Period Covered	Total Expenditure	Adjustment For Non-Reimbrsbl	% of Adjstmt	Eligible Expenditure	40% Reimbursed
ADAMS	0.00	4/1-6/30	\$56,953.66	\$7,968.69	14%	\$48,984.97	\$19,593.99
ALLEN	0.00	4/1-6/30	\$787,652.80	\$34,980.43	4%	\$752,672.37	\$301,068.95
BENTON	0.00	4/1-6/30	\$5,094.47	\$462.99	9%	\$4,631.48	\$1,852.59
BLACKFORD	0.00	4/1-6/30	\$49,984.02	\$17,187.59	34%	\$32,796.43	\$13,118.57
BROWN	0.00	4/1-6/30	\$32,008.90	\$8,396.50	26%	\$23,612.40	\$9,444.96
CARROLL	0.00	4/1-6/30	\$61,187.66	\$13,326.71	22%	\$47,860.95	\$19,144.38
CASS	0.00	4/1-6/30	\$124,319.25	\$20,380.00	16%	\$103,939.25	\$41,575.70
CLARK	0.00	4/1-6/30	\$195,966.34	\$12,057.18	6%	\$183,909.16	\$73,563.66
<b>CRAWFORD</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
DECATUR	0.00	4/1-6/30	\$48,645.76	\$11,635.73	24%	\$37,010.03	\$14,804.01
DELAWARE	0.00	4/1-6/30	\$291,966.37	\$19,222.63	7%	\$272,743.74	\$109,097.50
FAYETTE	0.00	4/1-6/30	\$61,853.18	\$8,703.75	14%	\$53,149.43	\$21,259.77
FLOYD	0.00	4/1-6/30	\$326,290.06	\$38,392.49	12%	\$287,897.57	\$115,159.03
FOUNTAIN	0.00	4/1-6/30	\$25,810.00	\$6,381.71	25%	\$19,428.29	\$7,771.32
FULTON	0.00	4/1-6/30	\$74,368.27	\$25,093.59	34%	\$49,274.68	\$19,709.87
GRANT	0.00	4/1-6/30	\$258,668.00	\$5,482.37	2%	\$253,185.63	\$101,274.25
GREENE	0.00	4/1-6/30	\$109,350.92	\$12,253.80	11%	\$97,097.12	\$38,838.85
HANCOCK	0.00	4/1-6/30	\$103,061.25	\$21,764.75	21%	\$81,296.50	\$32,518.60
<b>HENRY</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
HOWARD	0.00	4/1-6/30	\$350,011.35	\$49,380.05	14%	\$300,631.30	\$120,252.52
JASPER	0.00	4/1-6/30	\$74,360.66	\$26,556.66	36%	\$47,804.00	\$19,121.60
JAY	0.00	4/1-6/30	\$80,844.92	\$18,189.42	22%	\$62,655.50	\$25,062.20
JENNINGS	0.00	4/1-6/30	\$59,980.24	\$12,279.42	20%	\$47,700.82	\$19,080.33
KNOX	0.00	4/1-6/30	\$204,571.65	\$56,897.58	28%	\$147,674.07	\$59,069.63
KOSCIUSKO	0.00	4/1-6/30	\$171,676.87	\$58,049.01	34%	\$113,627.86	\$45,451.14
LAGRANGE	0.00	4/1-6/30	\$43,870.06	\$7,244.01	17%	\$36,626.05	\$14,650.42
LAKE	0.00	4/1-6/30	\$801,153.66	\$6,621.10	1%	\$794,532.56	\$317,813.02
LAPORTE	0.00	4/1-6/30	\$159,862.61	\$13,568.79	8%	\$146,293.82	\$58,517.53
LAWRENCE	0.00	4/1-6/30	\$160,295.75	\$11,418.72	7%	\$148,877.03	\$59,550.81
MADISON	0.00	4/1-6/30	\$496,997.47	\$15,604.74	3%	\$481,392.73	\$192,557.09
MARION	0.00	4/1-6/30	\$5,258,909.04	\$531,186.94	10%	\$4,727,722.10	\$1,891,088.84
MARTIN	0.00	4/1-6/30	\$82,115.57	\$11,690.49	14%	\$70,425.08	\$28,170.03
<b>MIAMI</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
MONROE	0.00	4/1-6/30	\$484,439.95	\$71,282.74	15%	\$413,157.21	\$165,262.88
<b>MONTGOMERY</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>NEWTON</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
NOBLE	0.00	4/1-6/30	\$142,973.24	\$29,610.54	21%	\$113,362.70	\$45,345.08
OHIO	0.00	4/1-6/30	\$20,195.50	\$5,116.20	25%	\$15,079.30	\$6,031.72
ORANGE	0.00	4/1-6/30	\$41,724.95	\$10,000.19	24%	\$31,724.76	\$12,689.90
PARKE	0.00	4/1-6/30	\$30,427.32	\$8,168.41	27%	\$22,258.91	\$8,903.56
PERRY	0.00	4/1-6/30	\$60,025.06	\$12,418.98	21%	\$47,606.08	\$19,042.43
PIKE	0.00	4/1-6/30	\$51,854.21	\$4,721.81	9%	\$47,132.40	\$18,852.96
PULASKI	0.00	4/1-6/30	\$47,610.84	\$10,988.50	23%	\$36,622.34	\$14,648.94
RIPLEY	0.00	4/1-6/30	\$40,874.49	\$6,512.22	16%	\$34,362.27	\$13,744.91
RUSH	0.00	4/1-6/30	\$71,351.13	\$14,430.57	20%	\$56,920.56	\$22,768.22
SAINT JOSEPH	0.00	4/1-6/30	\$488,983.30	\$77,581.95	16%	\$411,401.35	\$164,560.54
<b>SCOTT</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
SHELBY	0.00	4/1-6/30	\$103,732.13	\$11,588.07	11%	\$92,144.06	\$36,857.62
SPENCER	0.00	4/1-6/30	\$48,920.00	\$6,390.69	13%	\$42,529.31	\$17,011.72
STEUBEN	0.00	4/1-6/30	\$92,970.99	\$14,904.88	16%	\$78,066.11	\$31,226.44
SULLIVAN	0.00	4/1-6/30	\$21,075.75	\$7,777.25	37%	\$13,298.50	\$5,319.40
SWITZERLAND	0.00	4/1-6/30	\$46,094.24	\$8,864.28	19%	\$37,229.96	\$14,891.98
TIPPECANOE	0.00	4/1-6/30	\$591,923.74	\$138,600.51	23%	\$453,323.23	\$181,329.29
UNION	0.00	4/1-6/30	\$17,690.00	\$0.00	0%	\$17,690.00	\$7,076.00
VANDERBURGH	0.00	4/1-6/30	\$669,755.48	\$111,149.48	17%	\$558,606.00	\$223,442.40
VERMILLION	0.00	4/1-6/30	\$43,931.23	\$13,357.20	30%	\$30,574.03	\$12,229.61
VIGO	0.00	4/1-6/30	\$510,363.29	\$58,585.71	11%	\$451,777.58	\$180,711.03
WABASH	0.00	4/1-6/30	\$82,194.98	\$14,645.91	18%	\$67,549.07	\$27,019.63
WARREN	0.00	4/1-6/30	\$9,898.05	\$2,329.25	24%	\$7,568.80	\$3,027.52
WASHINGTON	0.00	4/1-6/30	\$126,984.85	\$15,814.20	12%	\$111,170.65	\$44,468.26
<b>WELLS</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>WHITE</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>WHITLEY</b>	<b>0.00</b>	<b>4/1-6/30</b>			<b>0%</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>TOTAL</b>			<b>\$14,403,825.48</b>	<b>\$1,737,217.38</b>		<b>\$12,666,608.10</b>	<b>\$5,066,643.24</b>

**Other Matters**

Hon. Boswell moved to adjourn the meeting, and David Hensel seconded the motion. Motion passed unanimously.