

Indiana Public Defender Commission Meeting Minutes
March 18, 2015

Chairman Mark Rutherford called the meeting to order at 2:10 p.m. Commission members present for the meeting included: The Honorable Diane Ross Boswell; Larry Landis, Indianapolis; David Hensel, Indianapolis; the Honorable James Ahler; Staff attorneys Derrick Mason and Kathleen Casey, and administrative coordinator for the Commission Linda Hunter. Also present was Deborah Neal, Ray Casanova, and Ruth Johnson of Marion County; Jeff Stonebreaker of Clark County, and Dean Emeritus Norman Lefstein of the IU-McKinney School of Law – Indianapolis, former chairperson of the Indiana Public Defender Commission.

Chairman Rutherford asked present members to begin with meeting without a quorum because of a presentation scheduled by Dean Emeritus Lefstein regarding the Texas indigent defense pilot project. Consent was given.

Norman Lefstein Presentation: TX Voucher System

Dean Lefstein began his presentation by stating that the client selection model currently in a pilot project in Texas is different than a voucher system. Instead, the focus is on client selection of counsel, where the client makes the decision about the lawyer who provides the representation.

Dean Lefstein noted that he spent a great deal of time over in London, England looking at the system of criminal legal aid and wrote a law review piece comparing what transpires in England and Scotland with transpires in US. Thing that impressed him the most was the way in which clients selected their own lawyer. Lawyers were already pre-approved—almost all of them were solicitors who handled cases at the magistrate level before going on to have a barrister handle the case. The lawyers themselves in England were extremely influential in the system, and when an effort was made some years ago to take away client selection, there was an enormous outcry by the British bar. To this day, clients make the decision as to who they want to represent them – the vast majority of whom would be considered assigned counsel. Lawyers are rigorously approved before they are ever allowed to take any cases.

The Hon. Andrew Roesener called into the meeting and a quorum was present. Chairman Rutherford took a brief departure from Dean Lefstein's presentation to address reimbursement requests and matters that required a vote by the Commission.

Clark County Chief PD Non-Compliance

Jeff Stonebreaker addressed the Commission regarding ongoing compliance problems with Clark County. He stated that his county has been in the Commission long time, and that since a lowering of the tax levy in 2007, the county has been unable to recover lost revenue. During that time, other county offices have seen their budgets shrink, yet Mr. Stonebreaker noted that his office had been able to maintain and increase their budget largely because of arguments regarding assistance from Commission. Mr. Stonebreaker noted that county officials are not willing to increase the Chief PD salary to the equivalent of a prosecutor, though at the moment

he is paid ninety (90) percent of the elected prosecutor's salary.

Larry Landis moved to approve recommendation for reimbursement minus the compensation for Chief Public Defender. Motion was seconded by Mr. Hensel. Motion passed with a unanimous vote.

Requests for 40% Reimbursement in Non-Capital Cases

Mr. Mason noted that January elections led to a few issues with county compliance. He suggested a twenty-five (25%) reduction for Sullivan County for a late report. Mr. Mason noted he had to contact Sullivan County three times to even obtain a report for this quarter.

Chairman Rutherford noted that the Commission forgives isolated incidents. Deborah Neal commented she did not remember any compliance issues with Sullivan County and that with election changes comes the requirement to train new people on how to fill out the reimbursement request.

David Hensel moved to approve one-hundred percent reimbursement for Sullivan county and to approve the rest of the reimbursement requests as well. The Hon. Boswell seconded the motion, which passed unanimously.

INDIANA PUBLIC DEFENDER COMMISSION

Fourth Quarter 2014 Requests for Reimbursements in Non-Capital Cases

3/18/2015

COUNTY	Late Factor	2014 Period Covered	Total Expenditure	Adjustment For Non-Reimburse	% of Adjst mt	Eligible Expenditure	40% Reimbursed
ADAMS	0.00	10/1-12/31	\$112,700.16	\$42,400.78	38%	\$70,299.38	\$28,119.75
ALLEN	0.00	10/1-12/31	\$819,128.73	\$26,549.47	3%	\$792,579.26	\$317,031.70
BENTON	0.00	10/1-12/31	\$30,465.97	\$8,462.77	28%	\$22,003.20	\$8,801.28
BLACKFORD	0.00	10/1-12/31	\$69,280.64	\$21,341.58	31%	\$47,939.06	\$19,175.62
BROWN	0.00	10/1-12/31	\$44,451.16	\$13,178.13	30%	\$31,273.03	\$12,509.21
CARROLL	0.00	10/1-12/31	\$51,819.25	\$11,741.04	23%	\$40,078.21	\$16,031.28
CASS	0.00	10/1-12/31	\$123,251.94	\$23,320.00	19%	\$99,931.94	\$39,972.78
CLARK	0.00	10/1-12/31	\$185,038.58	\$43,035.82	23%	\$142,002.76	\$56,801.10

CRAWFORD	0.00	10/1-12/31			0%	\$0.00	\$0.00
DECATUR	0.00	10/1-12/31	\$56,278.11	\$14,523.38	26%	\$41,754.73	\$16,701.89
DELAWARE	0.00	10/1-12/31	\$334,861.42	\$7,324.67	2%	\$327,536.75	\$131,014.70
FAYETTE	0.00	10/1-12/31	\$79,101.52	\$12,337.66	16%	\$66,763.86	\$26,705.54
FLOYD	0.00	10/1-12/31	\$181,603.77	\$38,507.73	21%	\$143,096.04	\$57,238.42
FOUNTAIN	0.00	10/1-12/31	\$34,819.92	\$9,154.80	26%	\$25,665.12	\$10,266.05
FULTON	0.00	10/1-12/31	\$94,137.41	\$28,965.36	31%	\$65,172.05	\$26,068.82
GRANT	0.00	10/1-12/31	\$222,334.00	\$5,388.92	2%	\$216,945.08	\$86,778.03
GREENE	0.00	10/1-12/31	\$104,244.07	\$14,296.10	14%	\$89,947.97	\$35,979.19
HANCOCK	0.00	10/1-12/31	\$198,291.27	\$18,645.03	9%	\$179,646.24	\$71,858.50
HENRY	0.00	10/1-12/31			0%	\$0.00	\$0.00
HOWARD	0.00	10/1-12/31	\$342,777.11	\$47,683.12	14%	\$295,093.99	\$118,037.60
JASPER	0.00	10/1-12/31	\$95,382.44	\$37,254.10	39%	\$58,128.34	\$23,251.34
JAY	0.00	10/1-12/31	\$93,734.66	\$23,922.39	26%	\$69,812.27	\$27,924.91
JENNINGS	0.00	10/1-12/31	\$78,261.66	\$17,934.96	23%	\$60,326.70	\$24,130.68
KNOX	0.00	10/1-12/31	\$210,148.89	\$59,069.21	28%	\$151,079.68	\$60,431.87
KOSCIUSKO	0.00	10/1-12/31	\$220,970.69	\$45,107.71	20%	\$175,862.98	\$70,345.19
LAGRANGE	0.00	10/1-12/31	\$55,558.08	\$13,366.76	24%	\$42,191.32	\$16,876.53
LAKE	0.00	10/1-12/31	\$953,723.69	\$10,785.24	1%	\$942,938.45	\$377,175.38
LAPORTE	0.00	10/1-12/31	\$172,529.84	\$14,373.19	8%	\$158,156.65	\$63,262.66
LAWRENCE	0.00	10/1-12/31	\$174,974.30	\$19,311.33	11%	\$155,662.97	\$62,265.19
MADISON	0.00	10/1-12/31	\$393,983.26	\$14,637.48	4%	\$379,345.78	\$151,738.31
MARION	0.00	10/1-12/31	\$4,636,550. 54	\$475,314.39	10%	\$4,161,236. 15	\$1,664,494. 46
MARTIN	0.00	10/1-12/31	\$72,577.89	\$12,642.78	17%	\$59,935.11	\$23,974.04
MIAMI	0.00	10/1-12/31			0%	\$0.00	\$0.00
MONROE	0.00	10/1-12/31	\$556,482.00	\$89,480.98	16%	\$467,001.02	\$186,800.41
MONTGOMERY	0.00	10/1-12/31			0%	\$0.00	\$0.00
NEWTON	0.00	10/1-12/31			0%	\$0.00	\$0.00

NOBLE	0.00	10/1-12/31	\$159,966.89	\$31,399.64	20%	\$128,567.25	\$51,426.90
OHIO	0.00	10/1-12/31	\$17,722.77	\$3,077.90	17%	\$14,644.87	\$5,857.95
ORANGE	0.00	10/1-12/31	\$47,592.43	\$15,901.33	33%	\$31,691.10	\$12,676.44
PARKE	0.00	10/1-12/31	\$31,140.32	\$11,719.48	38%	\$19,420.84	\$7,768.34
PERRY	0.00	10/1-12/31	\$52,811.78	\$6,840.90	13%	\$45,970.88	\$18,388.35
PIKE	0.00	10/1-12/31	\$63,927.62	\$2,547.98	4%	\$61,379.64	\$24,551.86
PULASKI	0.00	10/1-12/31	\$47,906.82	\$9,937.82	21%	\$37,969.00	\$15,187.60
RIPLEY	0.00	10/1-12/31	\$41,653.73	\$8,379.39	20%	\$33,274.34	\$13,309.74
RUSH	0.00	10/1-12/31	\$69,265.34	\$17,695.52	26%	\$51,569.82	\$20,627.93
SAINT JOSEPH	0.00	10/1-12/31	\$556,207.27	\$86,056.83	15%	\$470,150.44	\$188,060.18
SCOTT	0.00	10/1-12/31			0%	\$0.00	\$0.00
SHELBY	0.00	10/1-12/31	\$108,316.12	\$13,350.90	12%	\$94,965.22	\$37,986.09
SPENCER	0.00	10/1-12/31	\$27,696.95	\$3,662.00	13%	\$24,034.95	\$9,613.98
STEUBEN	0.00	10/1-12/31	\$91,063.51	\$16,223.46	18%	\$74,840.05	\$29,936.02
SULLIVAN	0.00	10/1-12/31	\$20,975.75	\$4,665.13	22%	\$16,310.62	\$6,524.25
SWITZERLAN D	0.00	10/1-12/31	\$50,015.72	\$14,290.21	29%	\$35,725.51	\$14,290.20
TIPPECANOE	0.00	10/1-12/31	\$597,523.26	\$136,978.69	23%	\$460,544.57	\$184,217.83
UNION	0.00	10/1-12/31	\$26,593.75	\$1,899.55	7%	\$24,694.20	\$9,877.68
VANDERBUR GH	0.00	10/1-12/31	\$609,550.48	\$123,123.04	20%	\$486,427.44	\$194,570.98
VERMILLION	0.00	10/1-12/31	\$40,545.26	\$11,594.63	29%	\$28,950.63	\$11,580.25
VIGO	0.00	10/1-12/31	\$449,673.72	\$42,583.81	9%	\$407,089.91	\$162,835.96
WABASH	0.00	10/1-12/31	\$73,796.45	\$15,578.52	21%	\$58,217.93	\$23,287.17
WARREN	0.00	10/1-12/31	\$7,178.00	\$1,829.61	25%	\$5,348.39	\$2,139.36
WASHINGTO N	0.00	10/1-12/31	\$138,859.64	\$14,838.66	11%	\$124,020.98	\$49,608.39
WELLS	0.00	10/1-12/31			0%	\$0.00	\$0.00
WHITE	0.00	10/1-12/31			0%	\$0.00	\$0.00

WHITLEY	0.00	10/1-12/31			0%	\$0.00	\$0.00
TOTAL			\$14,129,446 .55	\$1,814,231. 88		\$12,315,214 .67	\$4,926,085. 87

Requests for 50% Reimbursement in Capital Cases

Mr. Mason reported that there was a new capital case out of Clark County and two new cases out of Marion County. Mr. Mason reviewed a few mathematical adjustments which are reflected in the table below.

Larry Landis moved to approve the reimbursement requests. The Hon. Ahler seconded, and the motion passed unanimously.

INDIANA PUBLIC DEFENDER COMMISSION

Reimbursement Requests in Capital Cases

March 18, 2015

COUNTY	DEFENDANT	TOTAL
Clark	Oberhansley	\$8,104.64
Floyd	Gibson 0919 - Appeal	\$18,711.95
Floyd	Gibson 1145	\$20,084.80
Floyd	Gibson 1145 - Appeal	\$461.56
Lake	Blount	\$10,786.05
Marion	Davis	\$7,957.27
Marion	Rackemann	\$9,576.25
TOTAL		\$75,682.52

Return to Norman Lefstein's presentation

Dean Lefstein noted that client selection is an effective model because it secures in a very significant way the independence of the defense function. He noted that when there is true client selection of counsel, then there is the greatest separation from judiciary possible. Such separation maintains the integrity of the defense bar and criminal justice system. Additionally, lawyers are incentivized to create best representation. Free market principles operate in such a system, in the

same way that one goes about choosing doctors, plumbers and carpenters by who has the best reputation.

However, Dean Lefstein noted, such a system cannot exist without quality controls on the quality of lawyer to be selected by the indigent client. By screening will prevent lawyers from choosing lawyers who aren't adequately trained.

Mr. Lefstein reviewed his current pilot project in Texas, and said that he plans to publish a report of his findings at the conclusion of the study.

Caseload studies

Larry Landis asked Dean Lefstein to comment on caseload studies, as this is an area of his expertise, and to explain the Delphi method for developing caseload standards. Dean Lefstein explained that the Delphi method creates a panel of very experienced criminal defense practitioners who are surveyed on how much time different tasks should take related to legal representation. This group is called the Delphi panel. At the end of the process and multiple rounds of surveys, researchers can make judgments about what types of investigation and preparation should be done on different types of criminal cases, and how much time each task should take.

Dean Lefstein noted that he is very uncomfortable with the current caseload standards used by the Indiana Public Defender Commission. He stated that that they were not based on accurate data when they were first established, and that these standards date to the 1970s. He also stated that he believes the caseloads to be far too high and not justifiable.

Approval of Minutes from December 10, 2014 Meeting

Chairman Rutherford asked if there were any corrections to the minutes. No corrections were heard.

Caseload Reporting Rules

Mr. Mason reported a concern with current caseload reporting rules. At the moment, the Commission is unable to accurately track how many cases each attorney handles because when they are moved, either out of the office or promoted to a new division, his or her existing cases are transferred to a new attorney. That attorney begins in the new division at a zero caseload. Additionally, Mr. Mason noted that part of the problem is that the Commission does not track open and closed cases, only cases assigned per quarter. This creates an issue as the Commission is unable to determine the ongoing caseload of each attorney.

Mr. Landis asked staff attorneys to provide spreadsheets to help clarify the problem.

Ray Casanova of Marion County objected to any changes, noting that such changes would penalize his county and could jeopardize their compliance.

Standard G (Pay Parity)

Mr. Mason reported that pay parity continues to be an issue. Specifically, Standard G states that compensation of contractual public defenders shall be substantially comparable to deputy prosecutors with similar experience. However, a disparity arises between a contractor and a part-time employee, who may be eligible for benefits. Compensation has always been interpreted to mean salary as well as benefits. By applying that to contractors there could be incongruity, as contractors do not receive benefits.

Mr. Mason proposed a standard in which contractors could go up to seventy-five (75) percent of a caseload, and that anything over that caseload would require equivalent benefits for a full-time prosecutor.

Mr. Landis proposed a solution of salary, plus fringe benefits would create a total, and the percentage of that paid would create the percentage of the caseload. He stated it was an oversight about part-time salary and that it should be the same standard as full-time public defenders.

Chairman Rutherford remarked that more time was needed to consider different options and interpretations of this rule.

Staff Report

Mr. Mason noted that this quarter saw some of the best caseload compliance so far in Commission history. He noted that Owen County is up and running in the program, and that Dekalb County has sent a comprehensive plan to review. Jackson County believes with full chief public defender reimbursement it will join the program.

Mr. Mason asked permission to send materials for the quarterly Commission meeting as a PDF rather than a hard copy, which was met with approval from several Commission members. Mr. Mason reported that the 6th Amendment Center continued their evaluation of the state after a meeting in January with stakeholders. Mr. Mason also reported that staff attorneys were working on a grant application to do a true weighted caseload study, using the Delphi method, to modify standards across the state.

Chairman Rutherford noted the his letter included in meeting materials, addressed to Chief Public Defender Bob Hill regarding the Commission's investigation into Marion County's request for increased standards for Domestic Violence Caseloads. The Chairman stated that he hoped any issues could be resolved and matters handled. Ray Casanova stated that Marion County wishes to comply with Commission requirements.

Mr. Landis reported on the status of House Bill 1304, which contained several provisions related to public defense. He also reported that should full funding for Chief Public Defenders pass in this legislative session, the Commission would need to develop standards by which to guide the quality of the chief public defenders and the makeup of the public defender offices

Hensel made a motion to adjourn, and Chairman Rutherford recognized the motion.

Indiana Public Defender Commission Meeting Minutes
June 10, 2015

Chairman Mark Rutherford called the meeting to order at approximately 2:35 p.m. following an Executive Session. Commission members present for the meeting included: State Representative Ryan Dvorak; the Honorable Marry Ellen Diekhoff, Monroe County; Larry Landis, Indianapolis; David Hensel, Indianapolis; the Honorable James Ahler, Jasper County; State Senator Greg Taylor via telephone. Present in the audience were: Steve Owens, Vanderburgh County; Neal Wiseman, St. Joseph County; Jim Abbs, Noble County; Aarti Wolenski, Intern with Public Defender Commission, Elizabeth Lane, Washington County; David Olson and David Schneider, Lake County; Bruce Andis, Lawrence County; Bob Hill and Ray Casanova, Marion County; staff attorneys for the Commission Kathleen Casey and Derrick Mason.

1. Management of Commission Employees

After an executive session, Chairman Rutherford asked IPDC staff attorneys to compile a comprehensive list of duties, how much each task took a percentage of the workday, and to develop a job description for their positions.

2. Approval of Minutes from March 18, 2015 Meeting

Larry Landis moved to approve the minutes. Motion was seconded by David Hensel. Motion passed with a unanimous vote.

3. Amended Comprehensive Plan for Madison County

Mr. Mason outlined several different changes that Madison County has made to their Comprehensive Plan. There were several changes, including rules for problem-solving courts as well as a section on usage of the supplemental funds. Mason recommended approval.

Mr. Landis was concerned as to whether the outline of duties for the head of the Madison County office came close to the point of triggering statutory duties that are required by the title of "Chief." Mr. Mason replied that the requirements for this new position do not come up to level for statutory requirements, and allows the county to avoid the payment of the full pay scale that Commission has mandated for Chief Public Defenders.

Mr. Landis noted that judges are given authority to conduct certain responsibilities pursuant to the plan, and that same authority should be extended to the Public Defender (PD) Board. Mr. Mason replied that one area where judges have authority is in the civil appointment section. The judges never before have had to go through the PD Board for those non-reimbursable cases. Mr. Landis questioned whether this extended grant of authority to the judges was appropriate. Mr. Mason indicated that while Madison County has adopted this plan in the interim, they are open to changes.

Chairman Rutherford noted that this comprehensive plan was a vast improvement over the past submissions but that more time was needed to consider approval. Mr. Landis noted that he wished to know more about how appointments in problem-solving court would be made.

Chairman Rutherford noted that this issue would be put on the next agenda and to for members to review it before the next Commission meeting.

4. Lake County Response to Commission Inquiry RE: Appellate Counsel Issue

Mr. Schneider addressed the Commission regarding the recent Court of Appeals opinion censuring an attorney for failing to use the proper standard of review in his appeals briefs. Mr. Schneider stated that Lake County management met with the attorney and that the original decision was to terminate the attorney, though it was the first problem they had had with this attorney in the 15 years he had worked for the agency. However, after the meeting the Lake County leadership developed an alternative plan to suspend the attorney for 5 pay periods for a total of 10 weeks and require the attorney to attend an appellate seminar. Additionally, this attorney would not be appointed to a death penalty case.

Eventually, this plan was reduced to a suspension of 3 pay periods. The attorney understood that the Disciplinary Commission of the Indiana Supreme Court would possibly respond in a separate inquiry. The Lake County leadership indicated this change was due to the honesty with which the attorney dealt with his shortcomings. There will be several reviews in place to ensure that the attorney's work is sufficient.

David Hensel questioned the Chief Public Defender why it took so long for this issue to come to light. Larry Landis asked whether this has prompted Lake County to institute quality control. Mr. Schneider responded that he was going to review briefs before they are filed.

Mr. Mason noted that this has happened in Allen County in a similar situation. He stated that the Commission wrote a letter to the county. In that instance the attorney was not even qualified under Commission standards. Mr. Mason was not aware of what internal controls were placed in Allen County after the issue arose. David Schneider stated that he would confer with Chief Public Defender of Allen County to see what controls were put in place.

Mr. Landis noted that he believes that every office with an appellate division requires quality control. Mr. Abbs noted that this topic will be discussed at the Chief Public Defender's meeting to be held on June 11, 2015.

Representative Dvorak noted that there needs to be standards across all offices and questioned if this could be occurring in other places. He hopes for feedback across the state to implement more quality procedures. Mr. Landis and David Hensel echoed this sentiment, stating that it reflects poorly on all public defenders as well as the Commission itself.

Mr. Schneider volunteered to return to the next meeting to report on quality control procedures. Chairman Rutherford expressed that it would be welcomed by the Commission.

5. Vanderburgh County Request RE: JC/JT Non-Compliance

Mr. Mason informed Commission members that all counties were to come into compliance in January 2015. All counties have come into compliance on JC/JT cases except Vanderburgh County. Vanderburgh County expressed difficulty complying in other areas. When they came before the county two quarters ago they did not express issues with JC/JT compliance.

Steve Owens from Vanderburgh County addressed the Commission. He stated that were substantial issues with the felony division, Chief Public Defender Salary and CHINS/TPR. Because of some other issues that the Commission had to discuss, it was not possible to further explore the issue at that meeting.

Mr. Owens stated that the county has four part-time lawyers handling JC/JT cases. Based on caseload numbers they would need five full-time lawyers to come into compliance. He expressed budgetary problems that will not allow Vanderburgh County to come into compliance. He is not in a position to

make a recommendation because he had no idea what the Council is going to fund for next year. He also noted that there was pushback from the County Council regarding the Chief Public Defender salary. He noted there is a lack of country revenue that is making the budget difficult for everyone.

Mr. Mason noted that the current Vanderburgh County reimbursement request does not ask for reimbursement for JC/JT cases.

Mr. Landis noted a large increase in CHINS cases filed in the last two years. It has become an unfunded mandate on the counties. This is causing a problem in multiple counties. This is going to push several counties into non-compliance. He stated that there needs to be a change in how funding and representation needs to be structured. Mr. Hill noted that Marion County is facing a similar issue in TPR/CHINS and despite adding five additional employees, he predicted that his county will be out of compliance at the end of the next quarter.

Mr. Hensel questioned whether the TPR/CHINS caseload standard should change. Mr. Hill supported increasing the caseload standards and cited his case studies as support for this change. Mr. Abbs noted that an increase in caseload could be detrimental in his county as his attorneys have more review hearings than in other counties. Chairman Rutherford asked Mr. Mason whether Commission staff attorneys have recommendation. Mr. Mason stated that there are no good concrete numbers upon which to base data, but that staff attorneys have applied for a federal grant to conduct a formal time study for updated standards. Representative Dvorak questioned whether judges should have some responsibility for making TPR/CHINS cases more efficient.

Mr. Landis noted that a legislative solution is necessary to handle the significant increase in filings of TPR/CHINS cases, then simply requiring an unfunded mandate on the counties is currently untenable. Mr. Dvorak stated he would like to see the actual data related to increased filings by the Department of Child Services.

Chairman Rutherford asked if any member had a motion. None were heard.

6. Requests for 50% reimbursement in Capital Cases

Mr. Mason noted a few minor adjustments for Marion County that were corrected. These adjustments did not affect the reimbursement. Mr. Hensel moved to approve the reimbursement, and the Hon. Diekhoff seconded. Motion passed with a unanimous vote.

Mr. Landis noted reimbursements were low. Mr. Mason noted that the amount of reimbursement is low because Harrison County has not submitted reimbursements for two quarters. Mr. Mason has spoken to the new judge and while the issue for the delay is unknown, they believe they will have requests ready next quarter with an explanation.

The following chart lists the capital case reimbursements dispersed this quarter:

<p style="text-align: center;">INDIANA PUBLIC DEFENDER COMMISSION</p> <p style="text-align: center;">Reimbursement Requests in Capital Cases June 10, 2015</p>

COUNTY	DEFENDANT	TOTAL
Clark	Oberhansley	\$16,108.68
Lake	Blount	\$9,503.72
Lake	Vann	\$7,204.30
Marion	Davis	\$15,656.61
Marion	Rackemann	\$9,687.60
TOTAL		\$58,160.91

7. Staff Report, Compliance Report, and Requests for 40% Reimbursement in Non-Capital Cases

Mr. Mason noted the total amount of reimbursement to counties as listed in the chart below. Owen County is now eligible for reimbursement this quarter. Mr. Mason noted that Sullivan County sent in last quarter's reimbursement on the last possible day. He noted that this quarter's request was so repetitive of last quarter's request that Mr. Mason suspected that it was not accurate. He hopes to go visit, train, and ensure that reimbursement request is accurate next quarter. Mr. Landis noted that Sullivan County often has difficulty submitting claims.

Mr. Mason noted that Knox County also has difficulty maintaining compliance, but they had been working with staff attorneys. He noted that there has been no follow through. He recommended that the Commission send a 90-day letter warning the county to ensure compliance.

Representative Dvorak looked at Saint Joseph County's reimbursement amount and had questions as to why Vigo, Tippecanoe, and Madison County were reimbursed at the same level as St. Joseph. He does not understand what occurred given St. Joseph County has a larger population. Mr. Mason explained that reimbursement is tied to expenses, and that a number of different factors could lead to the difference in payment despite population size. Mr. Mason noted that many small counties have hourly attorneys that could have a higher expense. He stated that it is a limitation on the small counties. Rep. Dvorak believes that there is room for improvement – at some point he believes there should be a mechanism to account for the difference of population size.

Rep. Dvorak moves to approve the reimbursements, and Mr. Hensel seconded the motion. Motion passed after a unanimous vote.

INDIANA PUBLIC DEFENDER COMMISSION

First Quarter 2015 Requests for Reimbursements in Non-Capital Cases

6/10/2015

COUNTY	Late Factor	2014 Period Covered	Total Expenditure	Adjustment For Non-Reimbrsbl	% of Adjstmt	Eligible Expenditure	40% Reimbursed
ADAMS	0.00	1/1-3/31	\$94,772.99	\$14,803.35	16%	\$79,969.64	\$31,987.86
ALLEN	0.00	1/1-3/31	\$838,642.07	\$25,818.69	3%	\$812,823.38	\$325,129.35
BENTON	0.00	1/1-3/31	\$17,734.90	\$2,760.37	16%	\$14,974.53	\$5,989.81
BLACKFORD	0.00	1/1-3/31	\$30,888.12	\$9,865.48	32%	\$21,022.64	\$8,409.06
BROWN	0.00	1/1-3/31	\$40,825.10	\$9,353.88	23%	\$31,471.22	\$12,588.49
CARROLL	0.00	1/1-3/31	\$61,245.49	\$13,030.14	21%	\$48,215.35	\$19,286.14
CASS	0.00	1/1-3/31	\$129,725.84	\$23,704.28	18%	\$106,021.56	\$42,408.62
CLARK	0.00	1/1-3/31	\$188,923.34	\$46,319.91	25%	\$142,603.43	\$57,041.37
CRAWFORD	0.00	1/1-3/31			0%		
DECATUR	0.00	1/1-3/31	\$50,574.82	\$13,793.13	27%	\$36,781.69	\$14,712.68
DELAWARE	0.00	1/1-3/31	\$282,683.48	\$1,025.47	0%	\$281,658.01	\$112,663.20
FAYETTE	0.00	1/1-3/31	\$72,765.15	\$14,921.81	21%	\$57,843.34	\$23,137.34
FLOYD	0.00	1/1-3/31	\$141,977.50	\$29,867.21	21%	\$112,110.29	\$44,844.12
FOUNTAIN	0.00	1/1-3/31	\$22,087.82	\$3,289.62	15%	\$18,798.20	\$7,519.28
FULTON	0.00	1/1-3/31	\$59,577.06	\$23,073.20	39%	\$36,503.86	\$14,601.54
GRANT	0.00	1/1-3/31	\$235,110.00	\$7,294.58	3%	\$227,815.42	\$91,126.17
GREENE	0.00	1/1-3/31	\$94,623.93	\$12,484.56	13%	\$82,139.37	\$32,855.75
HANCOCK	0.00	1/1-3/31	\$133,744.25	\$16,836.50	13%	\$116,907.75	\$46,763.10
HENRY	0.00	1/1-3/31			0%		
HOWARD	0.00	1/1-3/31	\$383,094.38	\$54,366.24	14%	\$328,728.14	\$131,491.26
JASPER	0.00	1/1-3/31	\$69,041.02	\$29,507.73	43%	\$39,533.29	\$15,813.32
JAY	0.00	1/1-3/31	\$85,473.35	\$22,162.63	26%	\$63,310.72	\$25,324.29
JENNINGS	0.00	1/1-3/31	\$44,442.23	\$8,958.71	20%	\$35,483.52	\$14,193.41
KNOX	0.00	1/1-3/31	\$239,466.88	\$93,967.24	39%	\$145,499.64	\$58,199.86
KOSCIUSKO	0.00	1/1-3/31	\$167,438.63	\$43,815.72	26%	\$123,622.91	\$49,449.16
LAGRANGE	0.00	1/1-3/31	\$28,082.72	\$5,324.50	19%	\$22,758.22	\$9,103.29
LAKE	0.00	1/1-3/31	\$928,383.10	\$6,315.53	1%	\$922,067.57	\$368,827.03
LAPORTE	0.00	1/1-3/31	\$197,980.75	\$15,774.63	8%	\$182,206.12	\$72,882.45
LAWRENCE	0.00	1/1-3/31	\$164,029.23	\$18,627.97	11%	\$145,401.26	\$58,160.50
MADISON	0.00	1/1-3/31	\$479,157.05	\$18,946.74	4%	\$460,210.31	\$184,084.12
MARION	0.00	1/1-3/31	\$5,080,258.42	\$503,970.03	10%	\$4,576,288.39	\$1,830,515.36
MARTIN	0.00	1/1-3/31	\$92,019.32	\$29,828.42	32%	\$62,190.90	\$24,876.36

MIAMI	0.00	1/1-3/31			0%		
MONROE	0.00	1/1-3/31	\$484,141.61	\$76,586.28	16%	\$407,555.33	\$163,022.13
MONTGOMERY	0.00	1/1-3/31			0%		
NEWTON	0.00	1/1-3/31			0%		
NOBLE	0.00	1/1-3/31	\$137,497.78	\$22,242.60	16%	\$115,255.18	\$46,102.07
OHIO	0.00	1/1-3/31	\$19,465.40	\$1,156.40	6%	\$18,309.00	\$7,323.60
ORANGE	0.00	1/1-3/31	\$58,738.52	\$13,410.99	23%	\$45,327.53	\$18,131.01
OWEN	0.00	1/1-3/31	\$51,232.02	\$12,398.53	24%	\$38,833.49	\$15,533.40
PARKE	0.00	1/1-3/31	\$32,066.58	\$9,866.64	31%	\$22,199.94	\$8,879.98
PERRY	0.00	1/1-3/31	\$98,632.33	\$18,695.02	19%	\$79,937.31	\$31,974.92
PIKE	0.00	1/1-3/31	\$54,603.54	\$3,241.94	6%	\$51,361.60	\$20,544.64
PULASKI	0.00	1/1-3/31	\$70,228.97	\$16,717.66	24%	\$53,511.31	\$21,404.52
RIPLEY	0.00	1/1-3/31	\$42,703.69	\$7,984.93	19%	\$34,718.76	\$13,887.50
RUSH	0.00	1/1-3/31	\$85,129.77	\$23,925.36	28%	\$61,204.41	\$24,481.76
SAINT JOSEPH	0.00	1/1-3/31	\$553,202.66	\$65,040.25	12%	\$488,162.41	\$195,264.96
SCOTT	0.00	1/1-3/31			0%		
SHELBY	0.00	1/1-3/31	\$130,886.87	\$20,525.02	16%	\$110,361.85	\$44,144.74
SPENCER	0.00	1/1-3/31	\$76,467.71	\$17,263.00	23%	\$59,204.71	\$23,681.88
STEUBEN	0.00	1/1-3/31	\$82,531.86	\$17,230.27	21%	\$65,301.59	\$26,120.64
<i>SULLIVAN</i>	<i>0.00</i>	<i>1/1-3/31</i>	<i>\$0.00</i>	<i>\$0.00</i>	<i>#DIV/0!</i>	<i>\$0.00</i>	<i>\$0.00</i>
SWITZERLAND	0.00	1/1-3/31	\$40,243.41	\$11,373.14	28%	\$28,870.27	\$11,548.11
TIPPECANOE	0.00	1/1-3/31	\$598,997.30	\$114,480.18	19%	\$484,517.12	\$193,806.85
UNION	0.00	1/1-3/31	\$10,764.00	\$936.00	9%	\$9,828.00	\$3,931.20
VANDEBURGH	0.00	1/1-3/31	\$608,305.74	\$107,811.78	18%	\$500,493.96	\$200,197.58
VERMILLION	0.00	1/1-3/31	\$40,708.23	\$14,328.10	35%	\$26,380.13	\$10,552.05
VIGO	0.00	1/1-3/31	\$497,868.82	\$48,811.89	10%	\$449,056.93	\$179,622.77
WABASH	0.00	1/1-3/31	\$91,941.48	\$17,096.18	19%	\$74,845.30	\$29,938.12
WARREN	0.00	1/1-3/31	\$7,880.00	\$1,568.00	20%	\$6,312.00	\$2,524.80
WASHINGTON	0.00	1/1-3/31	\$115,963.89	\$10,932.27	9%	\$105,031.62	\$42,012.65
WELLS	0.00	1/1-3/31			0%		
WHITE	0.00	1/1-3/31			0%		
WHITLEY	0.00	1/1-3/31			0%		
TOTAL			\$14,444,971.12	\$1,773,430.70		\$12,671,540.42	\$5,068,616.17

Indiana Public Defender Commission Meeting Minutes
September 16, 2015

Chairman Mark Rutherford called the meeting to order at approximately 2:12 p.m. There was no request for an executive session prior to the meeting. Commission members present for the meeting included: Larry Landis, Indianapolis; David Hensel, Indianapolis; the Honorable James Ahler, Jasper County; the Honorable Diane Boswell, Lake County, Representative William Fine; Representative Ryan Dvorak. Present in the audience were: James Abbs, Noble County; Neil Weisman, St. Joseph County; Ann Sutton and Ray Casanova, Marion County; Geoff Yelton, Madison County; David Schneider, Lake County; Aarti Wolenski, intern for the Public Defender Commission; Grant Achenbach, House Republican Staff Member, Elizabeth Lane, Washington County.

1. Preliminary Findings from Sixth Amendment Center's Evaluation of Indiana's Public Defense System

Derrick Mason informed the Commission that while Indiana was the first state to establish a Commission, the system has never really been assessed by an outside entity. It is for this reason that the Sixth Amendment Center, a non-profit researching the quality of indigent defense throughout the country, approached the Commission and asked for permission to conduct an evaluation of Indiana's system. A final report was expected this fall, and the Commission attorneys were hoping to have the Sixth Amendment Center speak at this meeting. Unfortunately, the Sixth Amendment Center was unable to attend.

Mr. Mason noted that there is a trend across the country of litigation related to the sixth amendment and, specifically, the lawsuits over the quality of public defenders. Lawsuits have included participation from both the ACLU and the American Bar Association. Among the entities that have been sued are Idaho, Fresno County, and some counties in New York.

Staff attorneys have responded to public records requests for Allen County and it has been communicated from chief public defender of Allen County, Randall Hammond, that they are expecting a lawsuit. This lawsuit specifically relates to misdemeanor representation, which the Commission currently does not fund or monitor if the attorney is a misdemeanor-exclusive in his or her representation. Another county facing litigation in the state is Johnson County, though they are not a participating county. A large part of the issue in the Johnson County case relates to the private caseloads of Johnson County public defenders, which is another issue that the Commission currently does not monitor.

Mr. Mason noted the possibility of future litigation and that this is an issue that the Commission should watch closely.

2. Approval of Minutes from June 10, 2015 Meeting

The minutes from the June 10th, 2015 meeting were approved. Mr. Landis called for a vote, which was seconded by Representative Dvorak; motion passed unanimously.

3. Compliance Report

Mr. Mason noted that overall compliance continues to increase, however there are several counties out of compliance this quarter. Blackford County has one attorney out of compliance, but that attorney is now monitoring her own caseload in addition to monitoring by the county. Cass County had an issue with compliance, but it was due to an attorney's death. Decatur County, which has suffered from non-compliance previously, is coming closer to compliance.

Mr. Mason stated that Knox County was sent a letter last quarter warning them that if they are not in compliance by the December meeting that they would risk suspension of their reimbursement. They now have a new active chairman of the public defender board who is working hard on getting raises for the attorneys. He anticipates better news from Knox County in the future. Marion County has five attorneys out of compliance, Mr. Mason noted, though the rest of the agency is in compliance. Steuben County has one attorney out of compliance, though the amount of non-compliance is small.

Jennings faces non-compliance due to extremely low pay for attorneys. Upon further evaluation, Mr. Mason noted, 10 of 12 attorneys are out of compliance based on extremely low pay. That lowers the amount of cases those attorneys can handle. Jennings County recently issued an order that attempts to meet Commission guidelines for pay. At the end of every calendar year, county officials calculate the exact level of caseload that each attorney has handled. After that, they calculate how much has been paid to the attorneys thus far. They then compare that number to the \$30,175 flat fee established by the Commission for counties with no comparable pay scales in the prosecutor's office. The county officials then take the percentage of that base pay and pay the attorneys in an additional lump sum at the end of the year. Technically, Mr. Mason noted, that method of compensation would meet compliance, but he had never seen it handled this way before. Mr. Mason noted that the lump sum payments are paid from the Public Defender Supplemental fund. This fund is usually reserved for excesses, and is not to be used on a regular basis.

Representative Dvorak noted that this is not a method recognized in other counties, and expressed concern with this method of payment. Mr. Landis noted that in this method, the public defenders essentially underwrite the entire system until the end of the year.

Chairman Rutherford asked Mr. Mason if a change in standards was needed. Mr. Mason responded that the Commission could send a letter requiring compliance throughout the year.

Mr. Landis moved for a vote from the Commission to say that the county be instructed to comply with standards, that is: pay the contracts up front and not out of the supplemental public defense fund. Representative Dvorak seconded this motion, and the vote was unanimous.

4. Financial Status of Public Defense Fund

Mr. Mason noted that the Commission has sufficient funds available, in part because it is the beginning of the fiscal year.

5. Re-review of Amended Comprehensive Plan from Madison County

Geoffrey Yelton addressed the commission because the Commission had questions about the proposed changes to Madison County's comprehensive plan presented at the 2Q15 meeting. He understood that there was a question related to allowing the judge of problem-solving court to opt-out of receiving an assigned problem-solving public defender and instead, selecting his or her own public defender on a private contract. Mr. Yelton noted that there is a delicate situation in which the problem-solving public defender has an "odd role" as a member of a treatment team as opposed to the position of a zealous advocate in any other situation.

Mr. Landis noted that if the judge is choosing the lawyer, that would be inappropriate. Chairman Rutherford said that if the portion of the new comprehensive plan allowing the judge to choose the public defender was stricken, it would increase the chances that the Commission would approve the plan. Mr. Landis also noted other changes related to the appointment of appellate attorneys as well as the pay of the chief public defender. Chairman Rutherford thanked Mr. Yelton for his assistance in improving the plan. The plan would be re-submitted at a later date with changes. No vote was taken on this issue.

6. Requests for Reimbursement in Non-Capital and Capital Cases

A. Capital claims

Mr. Mason noted Harrison County has not been sending in capital claims for the second quarter in a row. He spoke to them right before the 1Q15 meeting about this issue, and the county representatives apologized and stated the responsibility for sending in the claims had changed hands several times. Mr. Mason noted that he had to follow up again for the second quarter and just received the requests the day of the meeting. Mr. Mason recommended approval of the reimbursement requests. Mr. Landis moved to approve the capital requests; Mr. Dvorak seconded, and the motion passed unanimously.

The following table contains a list of expenditures in capital cases:

INDIANA PUBLIC DEFENDER COMMISSION

Reimbursement Requests in Capital Cases

September 16, 2015

COUNTY	DEFENDANT	TOTAL
Clark	Oberhansley	\$14,086.22
Floyd	Gibson 1145	\$7,211.67
Lake	Isom	\$1,738.40
Marion	Davis	\$21,201.98
Marion	Rackemann	\$16,963.68
SUB-TOTAL		\$61,201.95
Harrison	Schuler - 4Q 14	\$30,430.52
Harrison	Scott - 4 Q14	\$19,046.98
Harrison	Schuler - 1Q 15	\$41,862.51
Harrison	Scott - 1Q 15	\$33,702.24
SUB-TOTAL		\$125,042.25
TOTAL		\$186,244.20

B. Non Capital Claims

Mr. Mason noted that Benton County did not submit a request, but that they intend to send requests for both the second and third quarters in the next reimbursement cycle. Sullivan County also requested reimbursement for two quarters. Mr. Mason recommended approval of all requests. Mr. Landis moved to approve the requests, Representative Fine seconded the motion, which passed unanimously after a vote.

INDIANA PUBLIC DEFENDER COMMISSION

Second Quarter 2015 Requests for Reimbursements in Non-Capital Cases

9/16/2015

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	\$68,971.26	\$13,778.58	20%	\$55,192.68	\$22,077.07
ALLEN	0.00	4/1-6/30	\$960,330.61	\$31,009.62	3%	\$929,320.99	\$371,728.40
BENTON**	0.00	4/1-6/30	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
BLACKFORD	0.00	4/1-6/30	\$66,820.28	\$11,506.84	17%	\$55,313.44	\$22,125.38
BROWN	0.00	4/1-6/30	\$39,344.63	\$7,230.25	18%	\$32,114.38	\$12,845.75

The following page contains a list of expenditures in non-capital cases:

8. Marion County Request RE: Establish Domestic Violence Division Standards

Mr. Mason explained that Marion County has requested a special Domestic Violence division caseload standard. As it stands in Marion County, attorneys in this division handle only Level 6/FD cases and misdemeanor domestic violence cases.

Mr. Mason outlined the current state of the domestic violence division and that currently, attorneys who stay in the courtroom for over a year carry about 128% of an allowable caseload, though the term in Domestic Violence does not often last much longer than that. Mr. Landis asked if there were any solutions. Mr. Mason responded that Marion County could hire one additional attorney to come into compliance; they could assign one attorney to be misdemeanor-exclusive and relieve some of the caseload compliance burden. Additionally, Mr. Mason suggested that they could come into compliance pending time studies conducted by the Public Defender Commission.

Chairman Rutherford asked Commission members for comment. Mr. Hill reported that in his conversation with Brenda Foglio, supervisor of the Domestic Violence division, she reported that her attorneys could handle more cases.

Mr. Hill stated that he has been counting cases consistently since he started as Chief Public Defender in 2008. He asked for a chance to respond as he just received this information. Chairman Rutherford stated that he would like to give the Commission more time to consider the issue.

9. Caseload Counting Rules

Mr. Mason reported that normally, in any county, when an attorney leaves or is promoted there are open cases left behind. These cases are not transferred to receiving attorney's caseload, nor are they reflected on the accepting attorney's numbers. This makes it difficult to see a total picture of all cases handled by the county at any given time.

Mr. Mason asked the Commission to consider a new way of reporting caseload reporting. He presented two possible amendments to the Commission. First, require the entire caseload to follow the attorney. Second, consider all transferred, open cases that an attorney receives upon hire or promotion are to be counted on the receiving attorney's case assignment in the quarter in which it was received unless the case has been substantially completed prior to transfer.

Chairman Rutherford asked the Chief Public Defenders to provide input on this issue. No vote was held on this issue.

After this final topic, a motion to adjourn was heard and the Commission meeting concluded.

Indiana Public Defender Commission Meeting Minutes **December 9, 2015**

Chairman Mark Rutherford called the meeting to order at approximately 2:05p.m. A quorum was found at 2:27 p.m. There was no request for an executive session prior to the meeting.

Commission members present for the meeting included: Larry Landis, Indianapolis; David Hensel, Indianapolis; the Honorable James Ahler, Jasper County; the Honorable Diane Boswell, Lake County, Representative William Fine; Representative Ryan Dvorak. Present in the audience were: James Abbs, Noble County; Neil Weisman, St. Joseph County; Ann Sutton and Ray Casanova, Marion County; Geoff Yelton, Madison County; David Schneider, Lake County; Aarti Wolenski, intern for the Public Defender Commission; Grant Achenbach, House Republican Staff Member, Elizabeth Lane, Washington County.

1. Request for Approval for Staff to Obtain Bids for Electronic Reimbursement System

Mr. Mason explained the reason for a need for a computerized system to replace the current paper submission system used by counties to request reimbursement. Currently, staff is ill-equipped to conduct paper audits on top of the additional duties of supervising and investigating counties for compliance with Commission standards. More on-site audits are needed. Many times staff attorneys find that the counties could be eligible for more money.

Mr. Mason noted that the upgrade would cost a significant amount, and there would be ongoing expenses. He estimated that it would be under \$500,000, and that the Commission does have the funds to pay for the creation of such a system.

Mr. Mason asked for permission and guidance from the Commission. Mr. Landis clarified that staff attorneys were seeking permission to do a request for proposals. Mr. Hensel noted that nearly all systems are moving to an online/computerized process. Chairman Rutherford noted that the Commission attorneys can investigate the options without Commission permission.

By next quarter, Mr. Mason said he hoped to begin exploring a computerized system and report back to the Commission any progress. Mr. Mason said he would return to the Commission with a detailed outline of expenses and what capabilities the new system would bring prior to any implementation.

2. Staff report and Commission meeting dates

Mr. Mason reported that he continues to see increased interest from counties looking to join the Commission reimbursement program. In fact, there is a backlog of counties for the attorneys respond to that have requested evaluations.

3. Authorization for a Caseload Study

Mr. Mason reported that the Public Defender Commission failed to obtain a grant from the Department of Justice to conduct a caseload study. There were a few factors that prohibited the Commission from gaining the grant. First, Missouri had already piloted the caseload study for the country. Potentially, the fact that the Public Defender Council received a grant for Juvenile Justice may have been a factor in the decision not to award two grants to the same state.

The grant totaled approximately \$400,000, Mr. Mason reported. Should the Commission fund the study itself, he noted there would be savings in that the Commission would not have to pay for expenses to travel and report to the Department of Justice. However, Mr. Mason noted that there is a large fee for the individuals with which the Commission would partner, including an accounting firm, Professor Norm Lefstein, and the American Bar Association.

Mr. Mason noted that in each state in which a caseload is conducted, the members of the study partner with an accounting firm. That firm does the quality control analysis, and also manages the group of attorneys that helps determine not only how much actual time is spent, but the ideal amount of time to be spent on each part of the representative process. Mr. Mason also outlined other expenses that would be required in order to conduct the study.

Mr. Mason advocated compensation to the counties that participate in the program for the additional level of work that would be required for entering the time, especially for counties with no access to Odyssey. They would be required to hand-enter the data as they cannot enter it into Odyssey.

Mr. Landis noted that the Commission does need a caseload study based on time studies. He believed that the cost as estimated by Mr. Mason seemed high. Mr. Mason replied that there is a

Masters-level statistician on staff at State Court Administration, and about half of the cost of the study would go to the accounting agency that would handle that. The Commission currently does not have that expertise on staff.

Mr. Landis asked for a proposal, specificity, how much it would cost, and what the exact details would be. He added that the Commission has been operating for 25 years with caseload standards that are not empirically-based, and not based on data.

David Hensel asked whether the Commission has authority to spend money on a study. Mr. Mason stated that the Commission has authority to promulgate and make recommendations. Both Chairman Rutherford and Mr. Mason noted that under its promulgating statutes, the Commission must set standards, so such studies are inherently authorized.

Mr. Landis asked the staff attorneys to develop a comprehensive plan and to show how the cost justifies the expense. Mr. Mason noted that he can provide that information quickly as the work was already done for the grant proposal.

Chairman Rutherford asked whether there are other grant opportunities available, and suggested that the staff attorneys spend more time looking for funding to save the taxpayers of Indiana money. Mr. Mason noted the possibility of funding opportunities through the state. Chairman Rutherford also noted that private funding sources may also be available.

Mr. Mason proposed presenting the updated numbers at the March meeting, and to look into other funding opportunities.

4. JC/JT Caseloads and Case Counting Rules

Mr. Mason noted that the discussion over CHINS and TPR cases began in June of 2014 when these cases began to be reimbursed. The previous staff attorney was tasked with determining how counties were counting these cases, but no uniform rule was developed. Some counties count the TPR and CHINS as one case, other counties count these hearings as separate cases. Mr. Mason proposal in June of 2014 was to count them separately, but to raise the caseload by 25%.

Mr. Mason noted that there is substantial concern about the increased cases. One of these counties is Marion County, which will not be in compliance in the next quarter, fourth quarter of 2014. Mr. Mason noted that this increase in cases is because of an increase in funding to the Department of Child services.

Mr. Mason noted that his proposed solution would provide: (1) greater accountability by reporting the CHINS and TPRs separately, and (2) a reduction in the caseload burden by increasing the number of cases handled by attorneys.

Mr. Landis moved to support the staff attorney's recommendation with provision of six month review. Should a county fall out of compliance, the consequence could be a lack of reimbursement for the TPR/CHINs cases and not for the entire office or agency. Rep. Dvorak seconded, and the motion passed unanimously.

5. Vanderburgh County

Steve Owens spoke on behalf of Vanderburgh county, noting that allowing Level 6-exclusive attorneys operate under the relaxed Level 6-exclusive Court standards has alleviated the crisis in caseloads that initially brought the county to ask for the variance. He hopes to soon have all felony lawyers keep time on their cases. He encouraged reviewing the amount of weight afforded to level 5 cases, as they are weighed too heavily in his opinion.

Judge Diekhoff said she supports a caseload study, and that the Commission should review how the new felony levels in the new criminal code are affecting the caseload standards.

Judge Diekhoff made a motion to allow Vanderburgh to continue its Level 6 exclusive attorneys reporting as if they work in Level 6 exclusive courts as long as they continue their time study and Vanderburgh County participates in the Commission's caseload study. Mr. Hensel seconded, and the motion passed unanimously.

5. Compliance report

Mr. Mason noted there was eighty-nine (89) percent compliance in the third quarter. He reported working with Lagrange and Blackford Counties to maintain compliance.

Knox County remains out of compliance. They struggled to find chairman of local public defender board. They have frozen all attorneys' caseloads this quarter, but none of the five attorneys received new cases. They are the largest county to have a completely hourly system. As such, they spend a great deal of money. Mr. Mason is looking to help the county revamp their system.

Mr. Mason noted that Tippecanoe had an issue but it has been resolved, the issue was one of communication and he did not anticipate issues in the future. He recommended reimbursement of all amounts.

6. Requests for 50% Reimbursement in Capital Cases

Mr. Mason noted the total reimbursements amounts as reflected in the chart below:

INDIANA PUBLIC DEFENDER COMMISSION

Reimbursement Requests in Capital Cases

December 9, 2015

COUNTY	DEFENDANT	TOTAL
Clark	Oberhansley	\$19,946.66
Lake	Blount	\$22,287.31
Lake	Isom	\$185.50
Lake	Vann	\$41,330.11
Marion	Adams	\$245.00
Marion	Davis	\$19,348.65
Marion	Rackemann	\$9,150.05
SUB-TOTAL		\$112,493.28

Harrison	Schuler - LATE	\$13,523.71
Harrison	Scott - LATE	\$17,516.28
Harrison	Schuler - 3Q 15	\$24,987.77
Harrison	Scott - 3Q 15	\$21,847.02
SUB-TOTAL		\$77,874.78

TOTAL		\$190,368.06
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Mr. Mason noted that Harrison County continues to submit their reimbursement requests late. However, it has become an ongoing basis. Mr. Mason even contacted the county, but he may recommend not reimbursing late requests in the future.

Mr. Landis made a motion to approve the capital case reimbursements. Judge Diekhoff seconded; motion passed unanimously.

7. Requests for 40% Reimbursement in Non-Capital Cases

Mr. Mason noted the non-capital requests made by counties in the chart below:

INDIANA PUBLIC DEFENDER COMMISSION

Third Quarter 2015 Requests for Reimbursements in Non-Capital Cases

12/9/2015

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	\$82,314.78	\$20,669.07	25%	\$61,645.71	\$24,658.28
ALLEN	0.00	4/1-6/30	\$889,876.31	\$33,410.65	4%	\$856,465.66	\$342,586.26
BENTON**	0.00	4/1-6/30	\$31,585.72	\$4,221.08	13%	\$27,364.64	\$10,945.86
BLACKFORD	0.00	4/1-6/30	\$49,228.66	\$11,633.86	24%	\$37,594.80	\$15,037.92
BROWN	0.00	4/1-6/30	\$40,425.06	\$15,554.49	38%	\$24,870.57	\$9,948.23
CARROLL	0.00	4/1-6/30	\$68,987.86	\$20,671.36	30%	\$48,316.50	\$19,326.60
CASS	0.00	4/1-6/30	\$131,938.72	\$26,578.80	20%	\$105,359.92	\$42,143.97
CLARK	0.00	4/1-6/30	\$197,080.78	\$49,382.89	25%	\$147,697.89	\$59,079.16
CRAWFORD	0.00	4/1-6/30			0%		
DECATUR	0.00	4/1-6/30	\$51,621.09	\$16,145.80	31%	\$35,475.29	\$14,190.12
DELAWARE	0.00	4/1-6/30	\$332,997.47	\$3,853.50	1%	\$329,143.97	\$131,657.59
FAYETTE	0.00	4/1-6/30	\$75,615.50	\$18,981.73	25%	\$56,633.77	\$22,653.51
FLOYD	0.00	4/1-6/30	\$177,147.70	\$40,764.85	23%	\$136,382.85	\$54,553.14
FOUNTAIN	0.00	4/1-6/30	\$24,803.50	\$8,401.25	34%	\$16,402.25	\$6,560.90
FULTON	0.00	4/1-6/30	\$62,233.06	\$16,574.63	27%	\$45,658.43	\$18,263.37
GRANT	0.00	4/1-6/30	\$244,506.26	\$3,310.53	1%	\$241,195.73	\$96,478.29
GREENE	0.00	4/1-6/30	\$100,008.61	\$12,484.56	12%	\$87,524.05	\$35,009.62
HANCOCK	0.00	4/1-6/30	\$131,221.85	\$20,581.67	16%	\$110,640.18	\$44,256.07
HENRY	0.00	4/1-6/30			0%		
HOWARD	0.00	4/1-6/30	\$378,701.46	\$51,389.70	14%	\$327,311.76	\$130,924.70
JASPER	0.00	4/1-6/30	\$82,817.47	\$24,527.24	30%	\$58,290.23	\$23,316.09
JAY	0.00	4/1-6/30	\$83,846.44	\$15,513.12	19%	\$68,333.32	\$27,333.33
JENNINGS	0.00	4/1-6/30	\$54,461.58	\$8,977.18	16%	\$45,484.40	\$18,193.76
KNOX	0.00	4/1-6/30	\$278,376.07	\$120,765.97	43%	\$157,610.10	\$63,044.04
KOSCIUSKO	0.00	4/1-6/30	\$167,443.77	\$35,626.33	21%	\$131,817.44	\$52,726.98
LAGRANGE	0.00	4/1-6/30	\$45,891.84	\$4,770.40	10%	\$41,121.44	\$16,448.58

LAKE	0.00	4/1-6/30	\$906,465.49	\$6,694.72	1%	\$899,770.77	\$359,908.31
LAPORTE	0.00	4/1-6/30	\$179,893.95	\$20,668.20	11%	\$159,225.75	\$63,690.30
LAWRENCE	0.00	4/1-6/30	\$171,928.41	\$13,679.75	8%	\$158,248.66	\$63,299.46
MADISON	0.00	4/1-6/30	\$482,112.61	\$20,660.48	4%	\$461,452.13	\$184,580.85
MARION	0.00	4/1-6/30	\$5,051,700.04	\$511,447.54	10%	\$4,540,252.50	\$1,816,101.00
MARTIN	0.00	4/1-6/30	\$51,963.17	\$4,897.07	9%	\$47,066.10	\$18,826.44
MIAMI	0.00	4/1-6/30			0%		
MONROE	0.00	4/1-6/30	\$461,613.17	\$73,630.49	16%	\$387,982.68	\$155,193.07
MONTGOMERY	0.00	4/1-6/30			0%		
NEWTON	0.00	4/1-6/30			0%		
NOBLE	0.00	4/1-6/30	\$142,259.91	\$23,006.78	16%	\$119,253.13	\$47,701.25
OHIO	0.00	4/1-6/30	\$18,528.98	\$5,477.33	30%	\$13,051.65	\$5,220.66
ORANGE	0.00	4/1-6/30	\$36,076.36	\$9,460.02	26%	\$26,616.34	\$10,646.54
OWEN	0.00	4/1-6/30	\$72,239.63	\$16,798.53	23%	\$55,441.10	\$22,176.44
PARKE	0.00	4/1-6/30	\$29,853.92	\$8,824.74	30%	\$21,029.18	\$8,411.67
PERRY	0.00	4/1-6/30	\$41,315.26	\$8,697.95	21%	\$32,617.31	\$13,046.92
PIKE	0.00	4/1-6/30	\$60,008.83	\$3,840.30	6%	\$56,168.53	\$22,467.41
PULASKI	0.00	4/1-6/30	\$46,983.87	\$10,061.93	21%	\$36,921.94	\$14,768.78
RIPLEY	0.00	4/1-6/30	\$53,304.57	\$8,995.65	17%	\$44,308.92	\$17,723.57
RUSH	0.00	4/1-6/30	\$77,280.87	\$14,051.07	18%	\$63,229.80	\$25,291.92
SAINT JOSEPH	0.00	4/1-6/30	\$564,523.42	\$65,040.25	12%	\$499,483.17	\$199,793.27
SCOTT	0.00	4/1-6/30			0%		
SHELBY	0.00	4/1-6/30	\$101,542.13	\$9,525.00	9%	\$92,017.13	\$36,806.85
SPENCER	0.00	4/1-6/30	\$33,874.81	\$5,781.13	17%	\$28,093.68	\$11,237.47
STEUBEN	0.00	4/1-6/30	\$78,109.25	\$22,711.31	29%	\$55,397.94	\$22,159.18
SULLIVAN	0.00	4/1-6/30	\$39,661.35	\$11,706.05	30%	\$27,955.30	\$11,182.12
SWITZERLAND	0.00	4/1-6/30	\$46,383.37	\$11,735.55	25%	\$34,647.82	\$13,859.13
TIPPECANOE	0.00	4/1-6/30	\$656,269.42	\$193,354.94	29%	\$462,914.48	\$185,165.79
UNION	0.00	4/1-6/30	\$25,391.98	\$5,859.69	23%	\$19,532.29	\$7,812.92

VANDEBURGH	0.00	4/1-6/30	\$526,023.62	\$74,445.15	14%	\$451,578.47	\$180,631.39
VERMILLION	0.00	4/1-6/30	\$40,620.23	\$11,868.70	29%	\$28,751.53	\$11,500.61
VIGO	0.00	4/1-6/30	\$517,128.95	\$36,076.95	7%	\$481,052.00	\$192,420.80
WABASH	0.00	4/1-6/30	\$77,577.12	\$11,171.25	14%	\$66,405.87	\$26,562.35
WARREN	0.00	4/1-6/30	\$5,611.00	\$1,683.30	30%	\$3,927.70	\$1,571.08
WASHINGTON	0.00	4/1-6/30	\$129,062.77	\$13,264.77	10%	\$115,798.00	\$46,319.20
WELLS	0.00	4/1-6/30			0%		
WHITE	0.00	4/1-6/30			0%		
WHITLEY	0.00	4/1-6/30			0%		
TOTAL			\$14,508,440.02	\$1,819,907.25		\$12,688,532.77	\$5,075,413.11

****Benton includes \$19,805.94 total exp. + \$2,091.87 non-reimbursable for 2nd Quarter '15**

Mr. Hensel made a motion to approve the reimbursements. Representative Dvorak seconded the motion, which passed unanimously.

8. Proposed meeting schedule

The meeting schedule for 2016 was approved, with meetings scheduled for March 23, 2016; June 8, 2016; September 21, 2016; and December 14, 2016. Mr. Landis moved to approve the schedule, and David seconded the motion, which passed unanimously.

9. Minutes

The Chairman asked if anyone had additions or clarifications to the minutes. Judge Diekhoff moved to approve the minutes, Rep. Dvorak seconded the motion, which passed unanimously.

10. Additional matters

Mr. Landis informed the Commission of suggested language change to the statute defining the Public Defender Commission that would separate it from State Court Administration. Proposed changes were discussed. Mr. Landis noted that this was the original intent of the founders of the Commission, and that it was a staffer of the legislative service agency that put the attorneys for the commission under the state court administration rather than as an independent entity.

Representative Dvorak moved to approve the language, which was seconded by David Hensel. The motion passed unanimously.