

**INDIANA PUBLIC DEFENDER COMMISSION**

**March 27, 2024**

**2:00 PM**

**101 West Ohio, 18<sup>th</sup> Floor, Commission Conference Room  
Indianapolis, Indiana 46204**

**Members in attendance:**

Mark W. Rutherford, Chair (in person)  
Ms. Bernice Corley (remote)  
Ms. Samantha DeWester (in person)  
Hon. Kelsey B. Hanlon (in person)  
Rep. Ragen Hatcher (remote)  
Mr. David J. Hensel (remote)  
Sen. Eric Koch (remote)  
Rep. Ryan Lauer (in person)  
Sen. Gregory G. Taylor (remote)

**Members absent:**

Hon. Mary Ellen Diekhoff  
Hon. Steven P. Meyer

**Staff in attendance:**

Derrick Mason (in person)  
Andrew Cullen (in person)  
Andrew Falk (remote)  
Linda Hunter (in person)  
Torrin Liddell (remote)  
Tristan Snell (in person)

**Audience members:**

Jim Abbs, Noble County Chief Public  
Defender and President, Chiefs  
Association (remote)  
Bryan Behgam, member of public  
(remote)  
Ray Casanova, Marion County Public  
Defender Agency (in person)  
Gretchen Etling, Vigo County Chief  
Public Defender (remote)  
Sabra Stevens, Hallowell Consulting (in  
person)

At 2 p.m., Chair Mark Rutherford called the meeting to order. Introductions were made and it was established that a quorum was present.

**1. Approval of Minutes of the December 13, 2023 Meeting**

There were no changes to the minutes. Ms. DeWester moved to approve the minutes. Judge Hanlon seconded the motion. The minutes were approved unanimously.

**2. Financial Status of Public Defense Fund & Title IV-E Reimbursements**

Mr. Mason stated that there were sufficient funds to pay all reimbursement requests. He noted that for the first time in several quarters, the non-capital reimbursement requests did not set a record high.

**3. Status of County Compliance**

*a. 90-Day Update: Steuben & LaGrange Multi-County*

Mr. Mason reminded the Commission that following the December meeting, 90-day letters were sent to Steuben and LaGrange counties regarding multi-county attorneys. Both counties responded very well and indicated that they are working together to reduce the caseload of the attorney taking cases in both counties. The counties expressed concerns that their efforts to reduce this attorney's caseload may impact other county attorneys but they will continue to address the issue. Considering the counties' responses and immediate efforts, Mr. Mason recommended approval of their plans.

Ms. Corley inquired whether Steuben and LaGrange had considered creating a multi-county district. Mr. Mason responded that they had not because when he had spoken with LaGrange last year, they very much wanted their own office—both the judges and the prosecutor wanted a full-time public defender. He does think it could be an option but the primary focus now is LaGrange seeking a full-time public defender.

Ms. DeWester moved to accept the plans submitted by LaGrange and Steuben County in response to their 90-day letters. Ms. Corley seconded the motion. There were no objections. The motion passed.

*b. Other County Updates: Carroll, Jasper, & Warrick*

Mr. Mason reminded the Commission that at the last meeting, there was a long discussion about the Delphi murder case in Carroll County and the county's failure to submit reimbursement requests. The Commission sent letters to all parties and the county did submit an amended third quarter reimbursement request. No fourth quarter expenses were submitted. The Delphi murder case reimbursement request did not distinguish between attorney fees and expert, investigative, and other expenses, but because it was all lumped together for the two Delphi attorneys (who have only this one case in Carroll County), the actual amount for the Delphi case was readily apparent. Mr. Mason recommended that the Commission accept and approve the amended reimbursement request.

The Chair inquired whether the county's request violated the Commission's rules for reimbursement requests. Mr. Mason stated that it did not. Ms. DeWester asked whether the amounts had been approved by the court and had already been paid, which Mr. Mason affirmed. She argued that since the court had approved them, there should be no concerns. Ms. Corley wondered whether there were still outstanding expenses in front of the court that needed to be approved. Mr. Mason said he had spoken to one of the attorneys and in fact, learned there are certain expenses that still need to be paid. He told them that the county's comprehensive plan requires monthly payments where payments are requested. The attorneys have not been submitting monthly bills. Mr. Mason advised the attorneys that they should submit monthly bills and cite the Commission Standards and the county's comprehensive plan when submitting. If payment does not occur, then there could be reimbursement issues. That was the last conversation Mr. Mason had, and to his knowledge, the attorneys had not attempted to submit monthly bills.

Ms. Corley asked whether the county public defender board had been involved in the discussion. Mr. Mason said they have not. Ms. Corley stated that she was not comfortable with the court denying the request for additional information about categories for reimbursement and asked for examples of data not given. Mr. Mason reiterated that the court was not breaking out information about experts and investigators, transcripts, and copies. At the same time, because all the expenses are

lumped under the attorneys, Commission staff can distinguish how much is being paid in public defender fees for this case. Ms. DeWester stated that since Indiana law does not require greater detail, and because the information would be confidential, she did not believe the Commission should insist on greater detail. Mr. Mason said that the Commission does require more data in death penalty cases but not in non-capital cases such as this one. He also noted that a greater level of detail is likely not possible due to the court's gag order.

Ms. Corley asked if the Delphi case fees had been submitted timely, would all the non-attorney expenses have been lumped in with the rest of the county non-attorney expenses, to which Mr. Mason confirmed that they would have been. She then asked if the Carroll County comprehensive plan were due to be updated soon, since it was adopted in 2000. Mr. Mason responded that the county's plan is a relatively simple one, requiring only hourly compensation, so no update is needed. He noted that plans are not always required to be updated at certain times, but the understanding is that if the Commission does update its standards, the latest standards apply, and when counties need to update their plans, the Commission works with them to comply with the Commission's latest standards.

Mr. Mason stated that with the new forms, it is easy to track attorneys who consistently receive cases for which they are not qualified. In Jasper county, despite his lack of qualifications, one attorney has received CHINS and TPR cases for four quarters. The same attorney has started receiving felony cases for which he is not qualified. Mr. Mason recommended sending a 90-day letter to the county warning that the county's reimbursement would be in jeopardy if they county does not bring their assignments into compliance. Ms. DeWester moved to send the letter. Judge Hanlon seconded the motion. There were no objections. The motion carried.

In Warrick County, Mr. Mason said that the Chief has been taking cases for eight quarters in which he is unqualified. The Chief could take a free, digital class offered on demand by the Public Defender Council to become qualified. Mr. Mason again recommended sending a 90-day letter to the county warning that the county's reimbursement would be in jeopardy if the county does not bring their assignments

into compliance. Sen. Taylor asked if this was occurring due to a shortage of public defenders. Mr. Mason answered that there has been no explanation, and that despite warnings and time given to correct the county's assignments, it has continued and it has significantly impacted their reimbursement since it reduces the payment to their Chief.

Judge Hanlon clarified that it is not an onerous training process; it is a six-hour training. Mr. Mason agreed. Sen. Taylor asked if the trainings are recorded and available any time, and Mr. Mason stated that they are. Ms. Corley affirmed that they are available on demand. Sen. Taylor recommended sending a letter asking why the county has not certified their attorneys. It was clarified that every quarter the Commission has contacted the county about this issue and has received assurances that the problem is being addressed, yet nothing has been done. Ms. DeWester moved to send a 90-day letter to the county. Mr. Hensel seconded the motion. There were no objections. The motion carried.

*c. Individual and Multi-County Compliance Updates*

Mr. Mason observed that 96% of the counties were in caseload compliance, which was excellent. Nevertheless, with new standards taking effect January 1, 2024, he did not expect that level of compliance to continue. Counties have been sent new forms and for the last two years, have seen what their compliance levels would be under the new standards.

Allen County had improved their situation and plan to continue working on caseload compliance. In Floyd County, two of 15 attorneys are out of compliance; it recently adopted an amended comprehensive plan that integrated another court previously excluded. The county asked for patience as it worked through that challenge. Commission staff have been concerned about St. Joe's 2024 compliance. It has several attorneys out of compliance who were not before; it seems the county is shuffling compliance. But the county seems to have a plan, so Mr. Mason recommended patience.

Mr. Mason called the Commission’s attention to a few additional multi-county issues. Most seemed to be resolving. Nevertheless, Calvin Miller carried a 137%-caseload between six counties. A second attorney is out of compliance for the first time in four of those counties. Mr. Mason recommended that the six counties who contract with Mr. Miller be sent 90-day letters, and that the second attorney issue be addressed in the relevant four counties. Judge Hanlon moved to send the letters. Ms. DeWester seconded the motion. There were no objections. The motion carried.

**4. Requests for Reimbursement**

*a. 50% Reimbursement in Death Penalty Cases*

Mr. Mason reported there were \$45,756.92 in death penalty requests for which he would be seeking approval for reimbursement (see table below). Included in that amount was \$225 for Marion County, submitted later than the Commission’s 120 day Guideline. He explained that the Commission traditionally allows a one-time exception for a late claim, so he recommended approving the claim. He also mentioned that Marion County submitted another request too late to be considered at this meeting, so it will be added to the June meeting agenda. In reviewing the Madison County request, staff found two double-paid bills. He recommended reimbursement for all requests, as adjusted. Ms. DeWester moved to approve the death penalty reimbursement requests. Mr. Hensel seconded the motion. There were no objections. The motion carried.

**Reimbursement Requests in Capital Cases  
March 27, 2024**

COUNTY	DEFENDANT	TOTAL
Madison	Boards	<b>\$24,152.79</b>
Marion	Dorsey	<b>\$106.34</b>
Wayne	Lee	<b>\$21,272.79</b>
<b>TOTAL</b>		<b>\$45,531.92</b>

**LATE CLAIMS**

Marion	Dorsey	<b>\$225.00</b>
<b>TOTAL</b>		<b>\$45,756.92</b>

*b. 40% Reimbursement in Non-Capital Cases*

Mr. Mason explained that some counties, such as Carroll, Jackson, Jefferson, and Martin, had various additions due to new information or reductions due to desk audits. The total reimbursement request for the fourth quarter of 2023 was \$8,916,119.67 (see Appendix 1). Ms. Corley moved to approve the reimbursement request. Sen. Taylor seconded the motion. The motion carried unanimously and the reimbursements were approved.

**5. Local Public Defender Board Appointments**

Mr. Cullen reported that the Commission’s appointee to the LaPorte county public defender board expired in the prior quarter. When Commission staff requested nominations or comments, Commission staff received varying comments from local officials regarding the appointment and the operation of the local PD Board. Thus, Commission staff waited to make the appointment while Commission staff, particularly Mr. Mason, met with the new county chief, some board members, and members of the judiciary. After these meetings, Commission staff believe issues have been resolved and improvements have been made. The current appointee was willing to continue to serve on the board, Commission staff recommend that Dale Brown be reappointed. Ms. Corley moved to reappoint Mr. Brown. Rep. Lauer seconded the motion. There were no objections. The motion carried.

**6. Legislative & Policy Updates**

Mr. Cullen reported the success of the Commission’s legislation before the Indiana General Assembly. He started by thanking and praising the work of Sen. Koch. He also recognized the invaluable contributions from Sabra Stevens. He

observed that for several years, the House has passed bills dealing with misdemeanor reimbursement, but the Senate has resisted. This year, however, under Sen. Koch's leadership as well as the support of Senators Bray, Garton, Brown, and Glick, as well as Sen. Taylor and his whole caucus, legislation passed adopting a misdemeanor pilot project. The pilot allows the Commission to pick 12 counties and reimburse them at 40% for misdemeanors for four years. In 2029, the Commission will present a report to the Legislative Council and the State Budget Committee based on specific data points. The Commission will then evaluate whether the program should continue.

Judge Hanlon asked how the counties would be selected. Mr. Mason responded that several counties would like to participate. Commission staff would like to pick some counties with misdemeanor compliance issues to measure before and after impacts. Other factors will include willingness to participate, how accurate the counties are in their reporting, how speedy they are in responding to requests for additional information, how applicable is their data, etc. Mr. Mason would also like to work with the Public Defender Council to develop relevant training for misdemeanor attorneys. Judges must also agree to participate in the program. Finally, Mr. Cullen noted that the Commission has a new revenue source in this bill from fees to defendants, which should be between \$1 and \$3 million. Mr. Mason stated that the Commission's hope is be able to go to the Legislature in 2029 and say that funding misdemeanor reimbursement will cost very little due to the new funding enacted this year.

Mr. Cullen also mentioned Rep. Lauer's problem-solving courts legislation. Rep. Lauer discussed his bill, which added the ability for any county to add problem-solving courts for safe babies, focusing on abused children and moving them to permanent placements as quickly as possible.

Mr. Cullen noted that Rep. Hatcher had joined and thanked her for helping with the conference and joining the compromise. She apologized for joining late, noting confusion about start time and being in a different time zone.

The next big project, Mr. Cullen stated, was addressing the attorney shortage, to which the Commission helped call attention. The Supreme Court is creating a



working group on the project. The goal is to have legislation ready to propose before the next legislative session and, at the very least, have something to present to the new incoming governor for their budget.

#### **11. Update on At-Risk Youth and Family Pilots**

Mr. Mason noted that Commission staff expect to present first drafts of Rule 6.1 death penalty standards, as well as life without parole standards along with support staff standards, to the Commission at the June 2024 meeting.

He discussed the Marion County At-Risk Youth Early Intervention pilot program, which has shown to be very successful. The Commission had reduced funding from 100% to 50%, and the program has still continued to show very good results. Next year the program will be fully independent, with the Commission's regular 40% reimbursement.

The Commission has also launched system navigator pilot programs in Monroe, Vigo, and Washington counties. Preliminary results indicate that the programs have reduced case lengths by about a month and allowed children to spend a month less outside their homes. Rep. Lauer asked how many cases were studied. Mr. Mason explained that the studies use control groups, so half the families are in the program and half are in the control group. Dr. Liddell stated that there are a couple hundred cases in Monroe County and about 300 in Vigo County. The Commission is in its third year of funding the system navigator pilots, although the data is for the first two years only.

Additionally, Mr. Mason discussed the "Medical Legal Partnership Pilot" which is a collaboration between Child Advocates and Riley Children's Hospital. The pilot connects social workers at Riley with social workers and attorneys at Child Advocates to identify potentially at-risk children and help to prevent CHINS involvement. The pilot identifies cases and provides legal and social work support. Finally, Mr. Mason noted that Child Advocates is also starting a mediation pilot in CHINS and TPR cases, but the Commission has not yet received data on that program.

Ms. Corley inquired whether Marion County could receive Commission support longer if it has trouble obtaining funding. Mr. Mason responded that there is already an agreement in place for 2025 but that if a need arose, it could be discussed.

Ms. Corley also wondered how the duty to report child abuse was handled in the Riley-Child Advocates program. Mr. Mason stated that he had discussed that issue with the parties when the program began a year ago. The program is for families at risk of DCS involvement, not ones where DCS has already been called; the goal is not to provide a new level of support but to prevent the need for DCS involvement. Mr. Cullen further explained that the money was provided by the Legislature to prevent DCS involvement, but that if there were abuse claims, this program would not be an option. Ms. Corley asked for an example of the type of risk sought to be prevented. Mr. Mason stated that both a social worker and an attorney were involved in this partnership so that the most relevant needs could be addressed.

Judge Hanlon observed that civil legal aid might be interested. Mr. Mason responded that he discussed the possibility with legal aid but they are not working with children or with Riley.

## **12. Other Matters**

Ms. DeWester moved to adjourn the meeting. Judge Hanlon seconded the motion. There were no objections. The meeting was adjourned at 3:18 p.m.

## Appendix 1

### Fourth Quarter 2023 Requests for Reimbursement in Non-Capital Cases 3/27/24

County	Total Expenditure	Non-reimbursable Adjustment	% Adjusted	Eligible Expenditure	40% Reimbursed	Prior Quarter Adjustment	Total Payment
Adams	\$125,786.96	\$19,080.17	15.17%	\$106,706.79	\$ 42,682.71		\$ 42,682.71
Allen	\$1,382,397.20	\$114,870.84	8.31%	\$1,267,526.36	\$ 507,010.54		\$ 507,010.54
Benton	\$40,805.98	\$4,210.85	10.32%	\$36,595.13	\$ 14,638.05		\$ 14,638.05
Blackford	\$47,764.00	\$5,754.24	12.05%	\$42,009.76	\$ 16,803.91	\$ (10.00)	\$ 16,793.91
Brown	\$64,016.98	\$17,850.70	27.88%	\$46,166.28	\$ 18,466.51		\$ 18,466.51
Carroll	\$67,709.82	\$16,892.79	24.95%	\$50,817.03	\$ 20,326.81	\$ 51,934.68	\$ 72,261.49
Cass	\$188,803.83	\$26,736.40	14.16%	\$162,067.43	\$ 64,826.97		\$ 64,826.97
Clark	\$449,188.37	\$25,001.89	5.57%	\$424,186.48	\$ 169,674.59		\$ 169,674.59
Clinton	\$95,647.11	\$32,637.63	34.12%	\$63,009.48	\$ 25,203.79		\$ 25,203.79
Crawford	\$37,500.00	\$6,310.87	16.83%	\$31,189.13	\$ 12,475.65		\$ 12,475.65
Decatur	\$119,753.83	\$27,450.05	22.92%	\$92,303.78	\$ 36,921.51		\$ 36,921.51
DeKalb	\$268,797.97	\$22,958.95	8.54%	\$245,839.02	\$ 98,335.61		\$ 98,335.61
Delaware	\$475,430.83	\$9,219.43	1.94%	\$466,211.40	\$ 186,484.56		\$ 186,484.56
Elkhart	\$1,002,786.05	\$122,567.93	12.22%	\$880,218.12	\$ 352,087.25		\$ 352,087.25
Fayette	\$103,795.80	\$18,879.36	18.19%	\$84,916.44	\$ 33,966.58		\$ 33,966.58
Floyd	\$333,966.56	\$43,122.75	12.91%	\$290,843.81	\$ 116,337.53		\$ 116,337.53
Fulton	\$88,930.15	\$29,135.85	32.76%	\$59,794.30	\$ 23,917.72		\$ 23,917.72
Gibson	\$205,119.22	\$21,304.14	10.39%	\$183,815.08	\$ 73,526.03		\$ 73,526.03
Grant	\$253,708.92	\$2,859.31	1.13%	\$250,849.61	\$ 100,339.85		\$ 100,339.85
Greene	\$177,761.75	\$28,105.17	15.81%	\$149,656.58	\$ 59,862.63		\$ 59,862.63
Hancock	\$274,627.15	\$16,956.13	6.17%	\$257,671.02	\$ 103,068.41		\$ 103,068.41
Harrison	\$187,478.93	\$23,224.73	12.39%	\$164,254.20	\$ 65,701.68		\$ 65,701.68
Hendricks	\$534,514.31	\$100,121.73	18.73%	\$434,392.58	\$ 173,757.03		\$ 173,757.03
Howard	\$485,422.41	\$40,769.42	8.40%	\$444,652.99	\$ 177,861.19		\$ 177,861.19
Jackson	\$267,219.04	\$13,066.62	4.89%	\$254,152.42	\$ 101,660.97	\$ 842.40	\$ 102,503.37
Jasper	\$104,641.88	\$34,246.31	32.73%	\$70,395.57	\$ 28,158.23		\$ 28,158.23
Jay	\$174,955.05	\$17,099.77	9.77%	\$157,855.28	\$ 63,142.11		\$ 63,142.11
Jefferson	\$190,979.79	\$27,263.80	14.28%	\$163,715.99	\$ 65,486.39	\$ 2,624.82	\$ 68,111.21
Jennings	\$120,253.92	\$18,569.58	15.44%	\$101,684.34	\$ 40,673.74		\$ 40,673.74
Knox	\$229,952.99	\$26,408.75	11.48%	\$203,544.24	\$ 81,417.70		\$ 81,417.70
Kosciusko	\$304,447.65	\$112,049.74	36.80%	\$192,397.91	\$ 76,959.17		\$ 76,959.17
LaGrange	\$133,226.56	\$33,399.05	25.07%	\$99,827.51	\$ 39,931.00		\$ 39,931.00
Lake	\$1,576,079.48	\$7,479.06	0.47%	\$1,568,600.42	\$ 627,440.17		\$ 627,440.17
LaPorte	\$337,008.26	\$27,874.69	8.27%	\$309,133.57	\$ 123,653.43		\$ 123,653.43
Lawrence	\$305,378.00	\$40,353.90	13.21%	\$265,024.10	\$ 106,009.64		\$ 106,009.64
Madison	\$540,433.62	\$17,925.56	3.32%	\$522,508.06	\$ 209,003.22		\$ 209,003.22
Marion	\$6,193,514.04	\$667,440.04	10.78%	\$5,526,074.00	\$ 2,210,429.60		\$ 2,210,429.60
Martin	\$73,641.67	\$8,178.43	11.11%	\$65,463.24	\$ 26,185.30	\$ 14,483.44	\$ 40,668.74

Miami	\$178,352.88	\$24,099.40	13.51%	\$154,253.48	\$ 61,701.39		\$ 61,701.39
Monroe	\$777,445.55	\$113,791.62	14.64%	\$663,653.93	\$ 265,461.57		\$ 265,461.57
Noble	\$312,538.66	\$53,861.93	17.23%	\$258,676.73	\$ 103,470.69		\$ 103,470.69
Ohio	\$25,403.56	\$3,712.28	14.61%	\$21,691.28	\$ 8,676.51		\$ 8,676.51
Orange	\$139,588.95	\$38,690.87	27.72%	\$100,898.08	\$ 40,359.23		\$ 40,359.23
Owen	\$105,651.81	\$20,273.23	19.19%	\$85,378.58	\$ 34,151.43		\$ 34,151.43
Perry	\$213,260.25	\$57,589.60	27.00%	\$155,670.65	\$ 62,268.26	\$ (42.48)	\$ 62,225.78
Pike	\$51,008.53	\$6,255.49	12.26%	\$44,753.04	\$ 17,901.22		\$ 17,901.22
Pulaski	\$96,507.96	\$14,658.79	15.19%	\$81,849.17	\$ 32,739.67		\$ 32,739.67
Ripley	\$50,502.67	\$14,472.39	28.66%	\$36,030.28	\$ 14,412.11		\$ 14,412.11
Rush	\$134,414.72	\$20,200.52	15.03%	\$114,214.20	\$ 45,685.68		\$ 45,685.68
Scott	\$192,190.12	\$32,541.53	16.93%	\$159,648.59	\$ 63,859.43		\$ 63,859.43
Shelby	\$247,928.56	\$45,029.25	18.16%	\$202,899.31	\$ 81,159.72	\$ (166.80)	\$ 80,992.92
Spencer	\$103,595.35	\$13,624.47	13.15%	\$89,970.88	\$ 35,988.35		\$ 35,988.35
Steuben	\$170,342.63	\$42,099.98	24.71%	\$128,242.65	\$ 51,297.06		\$ 51,297.06
StJoseph	\$835,763.90	\$76,839.75	9.19%	\$758,924.15	\$303,569.66	\$ (54.26)	\$ 303,515.40
Sullivan	\$90,134.17	\$28,299.49	31.40%	\$61,834.68	\$ 24,733.87		\$ 24,733.87
Switzerland	\$38,223.55	\$4,515.76	11.81%	\$33,707.79	\$ 13,483.11		\$ 13,483.11
Tippecanoe	\$1,127,159.61	\$151,480.94	13.44%	\$975,678.67	\$ 390,271.47	\$ (366.36)	\$ 389,905.11
Union	\$22,934.30	\$0.00	0.00%	\$22,934.30	\$ 9,173.72		\$ 9,173.72
Vanderburgh	\$1,047,794.42	\$65,621.16	6.26%	\$982,173.26	\$ 392,869.31		\$ 392,869.31
Vigo	\$832,420.12	\$133,026.63	15.98%	\$699,393.49	\$ 279,757.40		\$ 279,757.40
Wabash	\$136,088.65	\$26,762.23	19.67%	\$109,326.42	\$ 43,730.57		\$ 43,730.57
Warren	\$16,876.47	\$5,123.44	30.36%	\$11,753.03	\$ 4,701.21		\$ 4,701.21
Warrick	\$206,051.64	\$26,641.85	12.93%	\$179,409.79	\$ 71,763.91		\$ 71,763.91
Washington	\$132,365.12	\$20,720.69	15.65%	\$111,644.43	\$ 44,657.77		\$ 44,657.77
WCIPDO	\$166,332.40	\$29,827.08	17.93%	\$136,505.32	\$ 54,602.13		\$ 54,602.13
<b>TOTAL</b>	<b>\$25,014,322.63</b>				<b>\$8,846,874.23</b>	<b>\$69,245.44</b>	<b>\$8,916,119.67</b>