

Access to Public Defense



CCAA
Commission on Court
Appointed Attorneys

Access to Public Defense in Indiana

By Andrew Cullen

Hoosiers cherish their liberty and freedoms. Accordingly, the Indiana Constitution establishes a public defense system to ensure our rights are not violated. The right to an attorney is essential when the government seeks to strip a Hoosier of their liberty or take a child away from their parents.

HOW IT WORKS

The U.S. Supreme Court has ruled that states are responsible for providing attorneys to people accused of crimes, if the person cannot afford one. In Indiana, counties (as creations of the state) are required to provide and pay for that legal defense.

About two-thirds of Indiana counties follow standards set forth by the Commission on Court Appointed Attorneys (CCAA) and, in exchange, receive partial reimbursement for their expenses. The remaining counties are not required to abide by standards and often the courts manage the public defense system. Some counties are now participating in a regional public defense system.

WHO GETS A PUBLIC DEFENDER

According to data from the Indiana Office of Court Services, there were 125,560 cases in which the court appointed an attorney in 2024. This figure includes appointments in 41% of misdemeanor cases, 75% of felony cases, and 84% of child welfare cases.

WHO PAYS

The state pays the full salaries, benefits, and much of the retirement of every county judge, elected prosecutor, and chief deputy prosecutor. The state does not directly pay any

county-based public defender salary or benefits. The CCAA's reimbursements are the only state dollars dedicated to offsetting these county expenses.

Even though counties are responsible for public defense costs, Indiana tax dollars still dramatically favor law enforcement. According to the US Census Bureau, Indiana spent \$1.8 billion on policing in 2022 and \$1.2 billion on corrections, but the entirety of judicial and legal services spending was \$700 million. Public defense is a fraction of that total. Money spent on a defense program in compliance with CCAA standards reduces incarcerations and time in foster care.

NEXT STEPS

Much of Indiana is a legal desert, and the ongoing lawyer shortage is leading to a crisis of legal access. Compensation for prosecutors and public defenders must be fair (and account for their significant student debt) if we want them to continue serving the public in these vital roles.

Ripples are felt when these roles go unfilled. The justice system slows to a crawl, important cases are dropped or don't get proper attention, and in some states violent offenders have been ordered out of jail due to a lack of available attorneys.

For those of us who work in this space, our challenge is to think outside the box and consider new funding opportunities. When nearly 1 in 5 crimes in the United States are alcohol related and over a quarter of homicide victims have a BAC over .08, perhaps some of the cost of public defense should be funded by an increase to the alcohol tax? •