

TASK FORCE ON PUBLIC DEFENSE
LISTENING TOUR

)
)
)
)
) Evansville, Indiana
) **March 20, 2018**
) 5:00 p.m.
)
)
)

For Task Force Members:

Judge John Tinder
Larry Landis
Dr. Jeff Papa

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. TINDER: We'll get started. Welcome and thank you for coming, particularly with such miserable weather conditions. I had always believed Evansville was in southern Indiana but maybe not.

We are representing our task force on public defense which was created by the Public Defender Commission in response to some reports that have been issued over the last several years about public defense in Indiana, raising some serious questions about how indigent defense is handled, how it's funded, its adequacy and so forth. There was a major report issued in 2006 by a group called the 6th Amendment Center and prior to that, a report critiquing juvenile defense by the office of Juvenile Justice and Delinquency Prevention raising questions about how youths are defended in the juvenile delinquency system. And of course, the explosion of CHINS and TPR cases and child removals have been very much in the public eye and public concern.

So a lot of these things coalesced to come together and cause the Public Defender Commission to appoint this task force. And its objective was to take a deep and serious and hard look at indigent defense in all areas, not just in felony cases but misdemeanors, juvenile delinquency matters, as well as CHINS, TPR and civil commitment issues as well.

Public defenders are asked to do an awful lot of

1 work and are often drawn into areas that aren't related to the
2 criminal law area and it's creating a series of stresses on
3 indigent defense through Indiana; and so the Public Defender
4 Commission looked at a broad profile of people with
5 backgrounds that touched on various aspects of indigent
6 defense and appointed my colleague, Dr. Jeff Papa to my left,
7 who has major experience in governmental services and
8 government relations and is a partner in the law firm of
9 Barnes & Thornburg in Indianapolis and has devoted substantial
10 hours to our process over the last six months.

11 And to my right, Mr. Larry Landis, the executive
12 director of the Indiana public defenders Council, who's
13 probably devoted more effort over the last of or more years --

14 MR. STPHAO: More.

15 MR. TINDER: -- to indigent defense and improving
16 indigent defense services in Indiana than any single person.
17 And he's devoted his career to that, of which we're all
18 grateful. We have --

19 I am John Tinder. I'm serving as the chair of this
20 task force. We have 14 other members who cannot be here today
21 but we have our wonderful court reporter who is going to take
22 down everything that's said today and it will be made
23 available to the other members of our commission, as well as
24 anyone from the public who would like to read about it. And
25 we, after formulating this task force back in August of 2017,

1 we have had five meetings so far of the task force and
2 three -- four listening sessions where we have met with public
3 defenders, members of the public, members of our
4 organizations, and just anyone who has anything to say about
5 the Public Defender defense system. And we've been learning a
6 great deal.

7 We have some consultants to the task force who are
8 quite expert and knowledgeable about indigent defense and
9 public funding and things of that nature. So we're listening
10 and we appreciate your willingness to come out in this kind of
11 weather to tell us what you have to say about it. And our
12 target is to continue to gather some additional information
13 over the next several months and reach conclusions, reach some
14 findings with respect to what we have learned, as well as
15 making recommendations to the Public Defender Commission to
16 take to the legislature and perhaps other bodies, as well to
17 find ways to improve public defense. We have heard from some
18 very terrific public defenders and we know the vast majority
19 of public defenders are working extremely hard to try to
20 provide effective assistance to their clients, but we're
21 looking for ways to help funding so we can expand the work
22 force available and services that can be provided and we're
23 looking for ways to more efficiently and helpfully and
24 effectively provide those services.

25 So having said that, we have noticed that several of

1 you would like to speak and we'd like to hear from everybody.
2 We've got several hours available to do this. So anyone who
3 wants to speak will be able to but I'll try to do it in a way
4 that is somewhat organized. And to that end, we're going to
5 start with the chief Public Defender here in Vanderburgh
6 County, Mr. Stephen Owens. And so as a career advocate, you
7 get the privilege of starting first.

8 MR. OWENS: Speak from here?

9 MR. TINDER: It would be helpful to the court
10 reporter, I think, if you would come to the podium.

11 MR. OWENS: Been up at the podium most of the day.

12 MR. TINDER: You should feel comfortable there.
13 Stephen, would you please spell your first and last name.

14 MR. OWENS: Stephen, S-T-E-P-H-E-N; Owens,
15 O-W-E-N-S. I didn't know I was going to be expected to make
16 any prepared comments.

17 MR. TINDER: Always like to keep you off guard.

18 MR. OWENS: I appreciate that. Judge did that for a
19 number of years. I think probably from my perspective the
20 biggest issue we're facing, at least in this county and
21 probably state-wide, is the lack of revenue that is coming
22 into the counties and the fact that we are being mandated,
23 essentially, to do more and more with a budget that is not
24 growing proportionately. If I had to have any one thing that
25 I would like to see happen is that the State somehow provide

1 some relief for the Public Defender offices, specifically our
2 office but also the other offices in the state.

3 How that is to be accomplished, I don't know because
4 I realize the State has a fairly restrictive budget.
5 Certainly Vanderburgh County has a severely restricted budget
6 because of caps on property taxes and a number of other
7 things. And frankly, given the county council's priorities,
8 we're not near the top. We have a jail that is grossly
9 undersized. We are now looking at having to build a new jail
10 facility and our council doesn't have funding to build the
11 jail. We certainly don't have additional funding at this
12 point to add to the public defense budget.

13 At the same time, we're being mandated by the
14 commission to attempt to bring things like CHINS and
15 termination cases into compliance and Judge Niemeier is here.
16 He and I have had lots of, I would say, tense discussions
17 perhaps over the years about juvenile and CHINS. He's getting
18 inundated by additional caseloads. I'm stuck with four
19 part-time public defenders who are doing all of the
20 CHINS/termination cases; and based upon the last figures I
21 looked at, we would need six full-time public defenders to be
22 able to come into compliance with Public Defender Commission
23 standards.

24 MR. TINDER: Just in the CHINS/TPR area?

25 MR. OWENS: Just in the CHINS/TPR area. And that's

1 before we start talking about issues of misdemeanors, if we
2 bring those within the compliance.

3 MR. TINDER: So my understanding is that you have
4 about five or six full time PDs and about 14 or 15 part-time
5 public defenders. Is that correct?

6 MR. OWENS: I have seven full-time Public Defender
7 attorneys. Including myself. Of the seven, five of us -- or
8 five and a half of us handle felony cases. The one person
9 handles juvenile delinquency cases. I have one full-time
10 juvenile delinquency attorney. I have another four part-time
11 CHINS/termination attorneys, three part-time misdemeanor
12 attorneys, and presently I believe it's eight part-time felony
13 lawyers.

14 We need some help from the State. I mean, at some
15 point we need some relief; and whether that relief is in the
16 form of increased funding, which may be difficult to come by
17 or whether the State decides they're going to do things like
18 take over the entire capital defense, which would make,
19 frankly, a lot of sense, given the small number of capital
20 cases that are filed in this state. Capital cases cost the
21 county a lot of money, even 50 percent. Frankly makes more
22 sense to me to have a state-wide capital litigation unit that
23 takes the case from trial level to appeal through post
24 conviction with a small group of people that can handle that
25 than it does to have individual county offices doing it.

1 MR. TINDER: How long has your office been expected
2 to do CHINS/TPR matters?

3 MR. OWENS: We've been doing CHINS/TPR since we
4 opened.

5 MR. TINDER: Which is about '91?

6 MR. OWENS: 2001. And when we started, we had two
7 part-time juvenile attorneys that did all of the CHINS, all of
8 the terminations, all of the juvenile delinquencies. So we've
9 increased from those two part-time people back in 2001 to four
10 part-time and one and a half full-time people. That is
11 probably the most significant problem in terms of reimbursable
12 cases that we have today. We struggle with maintaining felony
13 caseload levels. We've managed to adapt, if you will, to
14 handle those, but right now we couldn't come into compliance
15 with CHINS/termination cases in the foreseeable future.

16 MR. TINDER: Your county has a Public Defender
17 board, right?

18 MR. OWENS: We do.

19 MR. TINDER: Composed of three --

20 MR. OWENS: Yes.

21 MR. TINDER: -- individuals, one selected by county
22 commissioners?

23 MR. OWENS: Yes.

24 MR. TINDER: Two appointed by the judges?

25 MR. OWENS: Yes.

1 MR. TINDER: I assume as the Chief Public Defender,
2 you have a lot of interaction with your board.

3 MR. OWENS: Define "lot".

4 MR. TINDER: Well, tell me what your interaction
5 with your board is like.

6 MR. OWENS: The interaction with board historically
7 has been fairly minimal. We have quarterly meetings. If I
8 need to consult with the board for a special purpose for
9 whatever reason, we can do that. The current membership's
10 probably not as active in the day-to-day activities of the
11 Public Defender office as were the original three board
12 members. We have two attorneys on the board and one former
13 county council man -- county commissioner.

14 MR. TINDER: When you make hiring decisions, do they
15 have to be approved by your board?

16 MR. OWENS: Yes.

17 MR. TINDER: Do you feel confident that you can make
18 hiring decisions regardless of how the judges might view your
19 choices? In other words, do you feel independent from the
20 judges in making hiring choices?

21 MR. OWENS: I don't typically consult with the
22 judges when I make hiring decisions. I think the judges have
23 input perhaps in the number of -- in the assignment of certain
24 attorneys. Over the years we've had issues where we've had
25 different attorneys have poor relationships with certain

1 judges, and I've moved those attorneys around to different
2 courts. In terms of the hiring, I don't necessarily consult
3 with the judges as to who I'm going to hire. What I would
4 normally do is try to find a qualified candidate, offer that
5 person a position and have that affirmed by the board.

6 MR. TINDER: How would you -- if you had an opening
7 tomorrow, how would you go about finding a lawyer to fill that
8 spot? Do you have a drawer full of lawyers begging to get in
9 your office?

10 MR. OWENS: We do not. Probably five, six years
11 ago, I'm guessing, we had what, 35 to 40 applicants for every
12 time we sent out -- we had an opening a full-time opening.
13 Last time we had what, 12 or less.

14 VOICE: More than 12.

15 MR. OWENS: Four that were actually qualified for
16 the position. It's become a struggle to find qualified
17 people. I don't operate on the same principles as the
18 prosecutor. I don't do it on the five-year plan. That I keep
19 them for five years and they're gone. I usually try to get
20 people that are going to want to come in, stay here, do public
21 defense work for a significant period of time. I mean,
22 they're all -- if they have a better opportunity -- I think I
23 encourage everybody if you feel you have a better opportunity,
24 to go ahead and try that.

25 But it's become very difficult to find qualified

1 people who want to do public defense for a 50,000 or so
2 starting salary. And maybe they don't want to come to
3 southern Indiana because of our beautiful weather. I don't
4 know. But the number of applicants has gone way down and
5 we've had -- we've been fortunate to find some good people to
6 fill the openings we've had but it's been struggling.

7 MR. TINDER: Is the same true for the part-time
8 spots?

9 MR. OWENS: No. I probably could fill a part-time
10 opening if somebody left tomorrow, I could probably have it
11 filled by the middle of next week; and there's two reasons for
12 that. One is the part-timers make roughly \$39,000 in felony
13 level and they get insurance, and so they have -- and they
14 have retirement. So they have the perk. They have the
15 insurance and they make darn near as much as an entry level
16 full-time Public Defender.

17 Now, the CHINS attorneys and the misdemeanor
18 attorneys do not make the same amount of money. They're
19 around \$33,000. And frankly, none of those folks have had a
20 raise for ten years. So there is sort of a feeling on the
21 county council that to the extent that they could essentially
22 squeeze out, if you would, the part-time people, that they are
23 money ahead, if you will, to hire full-time folks.

24 A few years ago, used to be a two-for-one. If I had
25 two part-time openings, the council would want us to fill it

1 with one full time. That was great for them but not so much
2 for us. Now it's just simply we don't have the physical
3 capacity to hire any additional full-time people. We have no
4 additional office space. We have no additional support staff.
5 We wouldn't have anyplace to put them, if we could hire them
6 tomorrow. So -- and the part-time, I think the morale is
7 somewhat low at this point because of the lack of salary
8 increases for ten years.

9 MR. LANDIS: What's the starting salary for the full
10 time?

11 MR. OWENS: Larry, it was around \$50,162. I haven't
12 looked at it for 2018, to tell you exactly off the top of my
13 head what it is. It's gone up a little bit because of the
14 cost of living that they gave to full time.

15 MR. LANDIS: Why is it so close to the part-time?
16 It's \$11,000 differential.

17 MR. OWENS: I guess the best answer I could give to
18 that is the part-time people for years have been making 30,000
19 or thereabouts, okay. Even before this office opened, we were
20 very close to that and we've always had -- as part-timers,
21 we've always had benefits. So when we opened in 2001, there
22 were only -- there were only two full-time lawyers in the
23 office; one of them was me and the other one is -- I had a
24 full-time appellate lawyer, which we sort of created the
25 position for that at that time. Everybody else was part-time.

1 Over the years that has gone up a little bit up
2 until last ten, which they've not gotten any pay increase.
3 The county has essentially a job study group, has an outside
4 assessment and so they evaluate like attorney positions, what
5 they call an executive level two; and there's an entry level
6 salary for executive level two positions which are full-time
7 lawyers. And why that is as low as it is, I can't answer that
8 other than that's what they've set it at. They go to around
9 56, that 57,000 after six months. Five years they're going to
10 be making around \$66,000, I think.

11 MR. LANDIS: How about prosecutor's office?

12 MR. OWENS: Comparable. They do the same thing,
13 basically, within reason. They operate under the same sort of
14 guidelines that we do. That is, if they hire a new person
15 who -- and that person has ten years experience, you
16 understand. But if they're new to the county, they're going
17 to come in at whatever the entry level salary might be. With
18 special dispensation after going through a lot of hoops and
19 jumping through a lot of things, we can try to get them bumped
20 up to what's called the five-year level so that person would
21 be making 60 some odd thousand; and they would have to have at
22 least five years experience doing something, somewhere in
23 terms of what we do.

24 Prosecutor has that same thing. The one thing the
25 prosecutor has that we don't have, frankly, is they had sort

1 of a bunch of what I call slush funds, floating funds,
2 whatever you want to call it. They have a fraction deferral
3 fund. They have child support fund. They have different
4 funds that they augment some of their Public Defender salaries
5 with for two or three individuals.

6 MR. TINDER: Do you have full-time investigators,
7 social workers, any other staff within your office?

8 MR. OWENS: I do. I have one full-time
9 investigator, two full-time secretaries, two -- we started out
10 calling them paralegals because that's what the commission
11 required us to do. They're not really paralegals but they do
12 a lot of -- one of them does a lot of IT type stuff, computer
13 evidence and stuff of that nature. The other one does a lot
14 of interviews. And then I have an executive assistant, office
15 administrator who does all the financial caseload reporting
16 and does -- also does some secretarial work if we need it.

17 MR. TINDER: What about investigators, expert
18 witnesses, psychologists, what have you. Do you have
19 access -- do you feel that you get appointments of those
20 things when you need them?

21 MR. OWENS: I think largely we do. We have -- we're
22 pretty forceful on what we call the supplemental Public
23 Defender account, where we have bond moneys that come back to
24 our office. So we have one full-time investigator to the
25 extent that we have conflicts or we need additional

1 investigating services, I have people on -- basically I hire
2 on an as-needed basis. If I need an expert, we do the same
3 thing. Same thing with consultants of any kind. We usually
4 hire those and generally have have to pay for them out of the
5 supplemental account. To the extent there's money in the
6 supplemental account to do that, we have that and we do that.

7 If we have an issue where the supplemental account
8 is very low, at which point it could be any time during --
9 especially latter part of the year, maybe not so much.

10 MR. TINDER: Speaking of conflicts, let's talk about
11 CHINS/TPR and how that affects your office. I assume there
12 are parental representation issues that come up in those, as
13 well as potential conflict between the juvenile defense and
14 CHINS/TPR proceedings. Do you run into conflict situations
15 there?

16 MR. OWENS: I don't think we get a lot of conflict
17 between the juvenile delinquency and the CHINS/TPR cases in
18 terms of that conflict between representing the child, what's
19 going on in the CHINS/TPR. We get a fair amount, I would say,
20 conflict between -- in a CHINS case itself or the TPR case
21 itself or sometimes there's adoption floating around out
22 there; and you have different people wanting to adopt the
23 child for whatever reason. So you got mom, dad, boyfriend,
24 grandparent, whoever happens to be entitled to an in the CHINS
25 and TPR statutes. So I think we've had some cases we've had

1 four attorneys involved.

2 MR. TINDER: Within your office or --

3 MR. OWENS: Yeah.

4 MR. TINDER: Do you ever go outside your office,
5 outside your full-time and part-time staff, to contract
6 attorneys?

7 MR. OWENS: We have.

8 MR. TINDER: On individual cases?

9 MR. OWENS: Not so much in the juvenile area as
10 maybe the felony level. We don't have a lot of people
11 knocking down our doors to do CHINS and TPR cases. Generally,
12 when I talk to somebody about doing those, the first thing
13 they do is cringe. So they're not -- there's not a lot of
14 people actively seeking out that work. We have farmed out
15 some CHINS/TPR cases to outside counsel, if you will. It does
16 not happen as frequently as we do in the felony category
17 because we have a lot of multiple defendant felony cases.

18 So we may have half a dozen murder cases that have
19 collectively 18 defendants. So that presents more of a
20 problem I see on an everyday basis. Would it be nice to have
21 more outside counsel? Yeah, it would be. But again, we have
22 an issue one, how are we going to pay for it; two, who are we
23 going to get to do it.

24 MR. LANDIS: How do you manage these conflicts
25 within your office when you have multiple defendants,

1 conflicts with the same attorneys within the office? You are
2 a law firm, right?

3 MR. OWENS: We are -- well, yeah, we would be
4 considered a law firm.

5 MR. LANDIS: Ethically you're a law firm. How do
6 you handle those conflicts within the same office?

7 MR. OWENS: Within our office as to what, Larry,
8 felonies?

9 MR. LANDIS: Well, I think you described both CHINS
10 you have multiple attorneys in your office handle those and
11 multiple attorneys in felonies also.

12 MR. OWENS: Okay. Well, let's talk about
13 CHINS/termination for a moment. All of the CHINS/termination
14 people are part-time. They all have their own offices or
15 practices and we don't keep any of those files in our office.
16 So if we have all four of them involved in conflict case, one
17 example, their files are going to be outside of our office.
18 Their activities are basically independent of each other,
19 okay, to the extent that you can supervise that.

20 On felony cases, what we will do is we will try to
21 farm those cases out so that if we have a defendant in -- say
22 it's a murder case, we've got three defendant murder case, we
23 may keep one in the office. Generally speaking, I try not to
24 catch that case, if there are multiple defendants; although as
25 of late, that hasn't been possible. And then we farm out the

1 other two.

2 MR. LANDIS: What if they need -- what if they need
3 funding for depositions, experts, investigators? How do you
4 allocate support staff when you have attorneys with conflicts?

5 MR. OWENS: Well, attorneys with -- with conflicts
6 will come to me and say, "I need an investigator or I need an
7 expert or I need a consultant for this or that." And I would
8 say, "that's fine." I make them -- I usually ask them to
9 justify it.

10 MR. LANDIS: Do you ever say no?

11 MR. OWENS: I don't think in 17 years I've ever said
12 no.

13 MR. TINDER: What would you like to see out of your
14 county board, your Public Defender board? What do you feel --
15 would you like to see a bigger board, more people, broader
16 representation, more interaction with you? What would you
17 like to see from the board?

18 MR. OWENS: I think the board --

19 MR. TINDER: More money, I suppose.

20 MR. OWENS: The board could be more engaged, I
21 think, in the -- in the activities of the Public Defender's
22 office. I don't know it needs to be bigger. I don't know
23 that we gain anything by having seven people on the board as
24 opposed to three. Again, that's another issue where there
25 hasn't been a lot of people knocking down the doors to be put

1 on the board.

2 In fact, we went through a period there for awhile
3 where we had -- it seemed like we had a board member of the
4 month, as for of the commissioners. But probably a little
5 more engagement. Probably a little more support in terms of
6 going to council at budget time and saying, "This is the sort
7 of things we need." That would be nice.

8 MR. TINDER: You talked about how people aren't
9 knocking your doors down to do CHINS/TPR, to be involved in
10 those type of cases. It occurs to me in hearing lots of
11 people talk over the course of our information gathering, that
12 the nature of criminal cases, including juvenile cases, is
13 different than the interests involved in CHINS/TPR; and so
14 that the lawyering that's done has different nuances to it.
15 Am I -- am I misperceiving that or is that --

16 MR. OWENS: No, I think you've hit that right on the
17 head. I don't think -- I didn't have anything to do with the
18 design of our system in Vanderburgh County. Had I had any
19 input into the design of that system, I probably would have
20 said we don't -- CHINS and TPR's is another animal.
21 Misdemeanors are more quasi criminal or more criminal and more
22 akin to felonies. CHINS and TPR cases are just a totally
23 different animal. Cases last much longer. They go on. They
24 morph into different things.

25 I think if I had my way under the legislature and I

1 would design of our plan, CHINS and termination cases would
2 not be involved or they would not be part of the Public
3 Defender office. I don't think -- they're just substantially
4 different than what we have. I'm not -- I know one of the
5 reasons for developing Public Defender's offices was to take
6 stuff away from the judges. That there was this undue
7 influence that the judges would have. I don't know that that
8 ever really existed in Vanderburgh County. I mean, I
9 practiced in circuit court as a public defender before we ever
10 had an office. I never felt like I was really unduly held
11 back by the circuit court judge in things we wanted to do.
12 Obviously we didn't get all the resources.

13 MR. TINDER: You were directly hired by the judges?

14 MR. OWENS: We were. We were hired by the judge.
15 We worked at the pleasure of the judge. We rotated through
16 that court every week or every six weeks, when there were six
17 of us; and we caught all the cases that were in that court
18 that week. But I don't believe that the CHINS/termination
19 stuff is a real good fit.

20 DR. PAPA: Do you have a thought as to where they
21 could go if they weren't there? I'm just curious if you
22 thought about that.

23 MR. OWENS: I don't know whether it's better handled
24 in the state-wide system or not. I mean, DCS obviously has a
25 state-wide system. They have case workers. They have

1 attorneys. They have a number of things and they've gotten a
2 lot of extra funding over the years. I think the big
3 criticism of having it revert back to the judges is this sense
4 from the litigants, maybe not so much here but in other
5 counties, that the lawyers are going to do what the judges
6 want them to do, and that there's sort of this appearance of
7 impropriety, if you will, even though it's not really an
8 impropriety perhaps.

9 I don't know where the funding comes from. I mean,
10 I would like to see the State take it over, frankly. I think
11 that's probably the best fit for it, whether that's in a
12 regional office, kind of like what we have with DCS, or
13 multiple county office whatever they refer to them. I think
14 that would be a better fit.

15 But again, it's a funding issue and who's going to
16 fund that. Certainly at this point I don't see much movement
17 at the state level to do that. I think that might be a better
18 fit for those sorts of cases.

19 MR. TINDER: What would you say that your CHINS/TPR
20 caseload is today compared with five years ago?

21 MR. OWENS: My people are all handling 250 to 300 of
22 maximum allowable caseload. It has gone up dramatically. All
23 of the caseloads have gone up dramatically. CHINS/TPR cases
24 probably have gone up more percentage-wise than anything else
25 we have.

1 MR. LANDIS: Would you say they've doubled, tripled?

2 MR. OWENS: Tripled.

3 MR. LANDIS: Tripled?

4 MR. OWENS: Probably. Judge Niemeier might be able
5 to answer that question better than I can, but in terms of
6 appointments, we get most of them. I'd say it's probably
7 close to tripled over the years. I know our felony caseload
8 has more than doubled. I know our misdemeanor caseload has at
9 least doubled. So everything has gone up exponentially. But
10 if I had to look at it and say what one has gone up the most,
11 it would be CHINS and TPR's.

12 MR. LANDIS: I want to ask about your caseload. I
13 know you carry a caseload.

14 MR. OWENS: I do.

15 MR. LANDIS: Approximately what percent of a
16 full-time caseload?

17 MR. OWENS: Fifty.

18 MR. LANDIS: And then you also supervise how many
19 lawyers? Part-time, full-time, what's the total number?

20 MR. OWENS: Twenty-one.

21 MR. LANDIS: With a 50 percent caseload, how do you
22 supervise 21 attorneys and oversee quality of representation?

23 MR. OWENS: I'm in court every day, Larry. That's
24 the only -- that's the only answer I can give you. I get to
25 see -- and I don't do CHINS and termination cases because it

1 would be IAC if I tried to do one; but in terms of felonies
2 and misdemeanors, I'm pretty much seeing my lawyers every day.
3 I see the full-time people in my office every day. And so I
4 think I have a pretty good handle on whether I believe they're
5 providing adequate representation.

6 Now, that being said, not every lawyer is of the
7 same quality and so I think that you have to sort of take into
8 account differences in experience, differences in talent and
9 try to get the people that maybe don't think are offering
10 quite as good of quality of representation, get them bumped up
11 a little bit. I don't think we have a lot of quality issues.
12 I mean, we do a pretty damn good job most of the time. CHINS
13 and terminations, I would be very be honest with you. I have
14 some serious questions sometimes about the CHINS and
15 termination cases. I probably get more complaints in that
16 area than any other area. And in terms of addressing those,
17 about the best I can do is talk to the complaining party and
18 talk to the attorney and try to figure out what the issue
19 might be and address that.

20 MR. LANDIS: One other question on the part-timers.
21 They don't carry a 50 percent caseload. They carry some other
22 differential?

23 MR. OWENS: My part-time felony lawyers carry a
24 65 percent caseload based upon their part-time salary
25 vis-a-vis the full-time commission standard.

1 MR. TINDER: 65 percent of what a full-time person
2 does?

3 MR. OWENS: Yes, sir.

4 MR. TINDER: So funding, you mentioned early on in
5 your remarks, is a critical concern. What would you like to
6 see the State do? It's currently on a 40 percent
7 reimbursement basis. What would you like the State to do
8 instead of that?

9 MR. OWENS: Well, I'd like to see the State fund it
10 100 percent but I don't think that's likely and I don't think
11 it's practical. I would like to see the State take over
12 capital litigation. I think they need to take that burden off
13 the counties. I would like to see the State take on payment
14 of chiefs and chief deputies as they do with prosecutors.
15 That would take another significant amount of money away from
16 what the county has to fund.

17 Reimbursement increase would be nice. But honestly,
18 another ten cents on the dollar, if we went from 40 percent to
19 50 percent, doesn't make or break us. I'll take any extra
20 reimbursement I can get, but I have a very difficult time
21 selling to county council members why we should spend several
22 hundred thousand dollars to come into compliance in a given
23 area and get essentially 40 cents on the dollar back. And by
24 going to 50 percent, 50 cents on a dollar is not going to make
25 a significant difference because we're still going to spend as

1 a county significantly more money than we're going to get
2 back.

3 MR. TINDER: But the standards with which you have
4 to comply, aren't they designed to prevent systematic problems
5 that prevent you from providing effective assistance to your
6 clients? For example, if your workload is crushing, it's very
7 hard to spend the individual time that each case needs, right?
8 Isn't that the point of standards?

9 MR. OWENS: I do believe that is the point of the
10 standards but I'm not sure the standards actually reflect
11 what's really going on. I have misdemeanor deputies who
12 handle way more than the standards. None of them feel
13 particularly overworked. They are able -- they are able to
14 handle the number of cases that they are assigned and don't
15 particularly feel like -- I don't feel like they're doing an
16 inadequate job handling misdemeanor cases. Their big
17 complaint is they haven't had a raise in ten years.

18 The commission standards as they now exist --

19 MR. TINDER: Are the misdemeanor -- misdemeanor
20 payment is solely county money. Is that right?

21 MR. OWENS: Yes.

22 MR. TINDER: That's not reimbursed?

23 MR. OWENS: That's not reimbursed.

24 MR. TINDER: Is that the reason there have been no
25 raises?

1 MR. OWENS: Yeah. The reasons there haven't been
2 any increases, because they're part-time and my county council
3 doesn't want to give part-timers pay increase because
4 hopefully they'll leave and we'll be required to hire
5 full-time people at \$10,000 a year more, whatever. So
6 commission standards are fine.

7 I disagree personally with some of the numbers. I
8 think they're looking at those again but different counties
9 have different processes and I don't know that you can have a
10 one size fits all. We've had this conversation with Bob Hill
11 in Marion County and we've looked at some of the -- we've kept
12 ours and some of our level six felonies, and Bob has an idea
13 of what it takes for his office to provide adequate
14 representation. I feel like we can do it. We're not having
15 to spend that much time.

16 Now, it may be because we're a smaller county. It
17 may be because our treatment court is set up differently and
18 we're processing a lot of cases very quickly so we don't have
19 do have a lot of hours in that case. I feel it's difficult to
20 just say one size fits all.

21 The other issue, judge, is that if the commission
22 standards are set with the concept in mind, that that's the
23 maximum caseload that a public defender can confidently handle
24 and then there's no -- assuming he goes over that, there's no
25 penalty for that. There's no appellate court or Supreme Court

1 saying: Well, you're handling a hundred more cases a year and
2 we're saying you only handle 200, if you're doing it
3 competently; but you're handling 300 but gee whiz, it's okay
4 because you didn't provide ineffective assistance of counsel.
5 Instead of saying there's a presumption that you're going to
6 be not competently handling and so there's no -- there's no
7 incentive there to meet that requirement.

8 I think one of the things that probably was
9 discussed, I think it was going to be proposed Criminal Rule
10 26 was to have the commission say these are the guidelines.
11 Every county in the State of Indiana has to follow these
12 guidelines, whether you're within the program or not, because
13 we've determined that is the number of cases that an attorney
14 can competently handle within a year or four-quarter period.
15 But if they don't do it, then what's the incentive? If I
16 handle ten more cases a year than what I'm supposed to handle
17 and somebody say it's IAC if it goes up on the appellate level
18 for review, it's not going to be IAC, I can tell you.

19 MR. TINDER: Along those lines, do you have much
20 interaction with surrounding county public defenders?

21 MR. OWENS: Somewhat in the training area because
22 usually we're doing any kind of local training where we're
23 doing something in-house or we're having a speaker come in, we
24 will have -- we'll send that out to the local attorneys in the
25 other counties. In terms of interaction with the courts, a

1 little. Sometimes the county judges will call me if they're
2 looking for an attorney.

3 MR. TINDER: Is there some expertise that you share
4 with other counties, if they need it, and certain types of
5 crimes or some scientific areas that maybe some of your
6 lawyers know better than somebody in Warrick County doesn't?

7 MR. OWENS: Not in terms of personnel. My people
8 are all max'd out every quarter. So I couldn't say: Okay,
9 I'm going to loan you one of my public defenders for a couple,
10 three months or six months. I wouldn't be able to do that. I
11 have provided names of experts to other attorneys in other
12 counties. I've provided names of attorneys to judges who I
13 knew were qualified, for example, life without parole case or
14 capital murder case. Those sorts of cases require some
15 special training that not a lot of the smaller counties -- the
16 attorneys don't have.

17 MR. TINDER: Could you see benefits of some
18 multicounty sharing or pooling of certain types of resources,
19 certain types of expertises that would benefit -- a particular
20 county might need at one time but not have and another county
21 might?

22 MR. OWENS: Sort of a district or regional Public
23 Defender?

24 MR. TINDER: Something like that. Larry tells me
25 not to use the term regional but maybe multicounty or

1 something like that.

2 MR. OWENS: Is that because of the dispute we had
3 about five or six years ago trying to do that? There could be
4 some benefit. What I have found, especially in this neck of
5 the woods, is that many of the smaller counties are extremely
6 happy with the way they are doing things and they don't
7 particularly want a chief Public Defender or district Public
8 Defender, whatever that agency would be, coming in and telling
9 them, "This is the type of indigent defense system that you
10 have to have for your county." Some of the judges are very
11 much opposed to that and some of our surrounding counties are
12 not in the reimbursement system.

13 MR. LANDIS: Why are they opposed to it?

14 MR. OWENS: Well, I think the same reason judges in
15 Vanderburgh County were opposed to it when we first started.
16 They don't -- one is cost. It cost -- they view it as costing
17 the county more money to meet the commission standards in
18 their particular county. Some of it is giving up control.
19 They absolutely like the way their system is working. Posey
20 County, for example, does a case-by-case assignment. I think
21 they're paying \$95 an hour, which is pretty decent; but they
22 have certain lawyers that they use that they know that they
23 can use that and they're happy with that service. There's no
24 incentive at this point for them to come into the commission
25 rubric.

1 As judges change, as judges retire or new judges get
2 elected, that may change over the years because we have a
3 number of judges in surrounding counties that have been
4 serving for a long time. I could see that attitude changing
5 and I can also see regional, district, however you want to
6 name it, there might be some benefits to that.

7 But I know we -- we as a group of the chief
8 defenders, I think the Public Defender Council looked at that
9 some years ago. I think there was a move afoot to have some
10 sort of state-wide system and I know at that time I polled
11 some of the judges in many of the surrounding counties and
12 most of the reactions at that time were negative to having
13 that sort of a system.

14 MR. TINDER: So I've kind of exhausted the areas I
15 wanted to ask about. Jeff, I don't know whether you had other
16 things for Steve. Larry?

17 MR. LANDIS: Just one. What would you say is the
18 average caseload of your misdemeanor public defenders?

19 MR. OWENS: Larry, I was going to bring that with me
20 but I'd say around 400 cases.

21 MR. LANDIS: Okay.

22 MR. TINDER: We can check back with you and get
23 that.

24 MR. OWENS: Yeah. In fact, I had that printed up
25 and I was going to --

1 MR. LANDIS: Four hundred in a year or 400 at a
2 time?

3 MR. OWENS: Well, 400 appointments in a year. In a
4 four-quarter period.

5 MR. LANDIS: Thank you.

6 MR. TINDER: So Steve, do you have anything else
7 you'd like to tell us that you think we need to know?

8 MR. OWENS: Yeah. I'd like to sit down.

9 MR. TINDER: No problem.

10 MR. OWENS: Some of these other people can speak.

11 MR. TINDER: All right. Well, thank you very much.

12 MR. LANDIS: Thanks.

13 MR. TINDER: Judge Niemeier, you're here. We're
14 going to take advantage of that, if that's all right with you.

15 JUDGE NIEMEIER: Sure.

16 MR. TINDER: I know you had prepared remarks but
17 great opportunity for us to hear the judges' perspective on
18 these things.

19 JUDGE NIEMEIER: I was taking notes.

20 MR. TINDER: Okay. Excellent. You're very tech
21 savvy.

22 JUDGE NIEMEIER: I wouldn't say that. Is there
23 anything in particular?

24 MR. TINDER: So judge, your first name is Brett?

25 JUDGE NIEMEIER: Yes.

1 MR. TINDER: Niemeier is spelled?

2 JUDGE NIEMEIER: N-I-E-M-E-I-E-R.

3 MR. TINDER: And how long have you been on the
4 bench?

5 JUDGE NIEMEIER: Going on 18 years.

6 MR. TINDER: Pretty good start. Pretty good start.
7 Prior to becoming a judge, what did you do?

8 JUDGE NIEMEIER: Fifteen years in the prosecutor's
9 office.

10 MR. TINDER: And were you the chief deputy?

11 JUDGE NIEMEIER: I was in Bartholomew County and
12 then whenever I came to Evansville, I was the chief trial
13 deputy.

14 MR. TINDER: What drew you to come to Evansville?

15 JUDGE NIEMEIER: Hometown.

16 MR. TINDER: Do you have any opening remarks that
17 you'd like to make?

18 JUDGE NIEMEIER: Well, I think from an overall
19 standpoint, I don't think that you're going to find really a
20 better chief Public Defender than Steve. And Steve and I have
21 not seen eye-to-eye in the past on issues but every time when
22 we haven't, it's simply because resources allocated. I think
23 Steve said that we have four part-time public defenders. That
24 was doubled. It was originally two, now four; and we're
25 supposed to have what, six -- six full-time or is that six

1 more?

2 MR. OWENS: No. It's six full-time.

3 JUDGE NIEMEIER: Six full-time. So yeah, I kind of
4 get upset sometimes whenever I have to continue cases or
5 trying to figure out where a public defender is, especially
6 now with all of these time deadlines that the legislature has
7 placed on my court. It's just extremely difficult to meet
8 those time deadlines. So that's really the only time that
9 we've had an issue with each other. But I mean personally, I
10 can't think of anybody better to run that office than Steve.

11 But that goes to a larger issue, you know, whenever
12 you do lack resources, that's what ends up happening. You end
13 up sometimes having poor relationships because I know -- I
14 can't know everything about his job but at least I know this
15 much. He's doing the best he can. He can't know everything
16 about my job and sometimes they just clash with each other.

17 MR. STPHAO: To clarify, you do CHINS?

18 JUDGE NIEMEIER: I do all the CHINS and TPR's.

19 MR. LANDIS: Exclusively?

20 JUDGE NIEMEIER: And delinquency and I'm in charge
21 of probate but I personally do not do probate court.

22 MR. TINDER: Do you have a magistrate judge to do
23 the probate court?

24 JUDGE NIEMEIER: I do. She does the Probate Court
25 and we split the rest of the case lead 50/50.

1 MR. TINDER: So you're seeing this explosion of
2 CHINS/TPR cases, I take it?

3 JUDGE NIEMEIER: Yeah. When I initially took
4 office, there was 215 CHINS cases; and I know in 2016 went
5 over a thousand. So five times.

6 MR. TINDER: So one of the things that we have heard
7 frequently is that sort of the life of a CHINS case is --
8 doesn't fit the same profile as criminal cases. Sometimes
9 they seem never ending?

10 JUDGE NIEMEIER: Never ending.

11 MR. TINDER: Tell us about that.

12 JUDGE NIEMEIER: Well, it just takes time. I mean,
13 obviously there's statutory requirements where we have to hold
14 certain hearings periodically; and if you want to move a case
15 faster, that means you have to hear it quicker or more often.
16 So we're just overwhelmed because the length of time that the
17 cases take and the public defenders in my court -- I mean,
18 quite frankly, I don't know how they do it. I really don't.

19 It doesn't shock me that Steve receives criticism
20 more about CHINS and public defenders in my court. And I
21 think that, again, goes back to their caseload. I think that
22 a lot of these clients are very disappointed because the
23 public defenders, part-time ones, don't have an opportunity to
24 meet with them for extended periods of time unless they're
25 actually going to trial; and there's a lot of very

1 dissatisfied CHINS parents. They just are. They don't like
2 the results and it has nothing to do with their attorney.
3 Absolutely nothing to do with their attorney. But it's not
4 like we plea bargain so they feel they got something out of
5 it. So most of the time they leave the courtroom unhappy.

6 MR. LANDIS: What would happen if the chief Public
7 Defender said, "Judge, we can't take anymore appointments,
8 we're maximum had out? You're going to have to figure out
9 another system."

10 JUDGE NIEMEIER: Well, I would order him to do it
11 under our --

12 MR. OWENS: You'll have another conflict.

13 JUDGE NIEMEIER: Yeah. I would tell him that under
14 our ordinance that he has to take them and then he'd probably
15 say, "No, I'm not," and then I'd have him in my court.

16 MR. LANDIS: But if he said under the code of
17 professional conduct and the ABA ethical rules, he has an
18 ethical obligation to say no if the cases are so much that his
19 people cannot provide effective representation.

20 JUDGE NIEMEIER: I think what we would have to do is
21 we would both have to approach council and say, "You have to
22 do this."

23 MR. TINDER: County council?

24 JUDGE NIEMEIER: County council, yes. You have to
25 remedy this situation because I can't do it, he can't do it.

1 They're the only ones that can do it.

2 MR. TINDER: So in your prior life in prosecution,
3 it was criminal law day in, day out?

4 JUDGE NIEMEIER: Yeah.

5 MR. TINDER: We've talked about this a little bit,
6 the nature of criminal cases has certain nuances to it that
7 aren't in CHINS/TPR cases and vice versa. CHINS/TPR,
8 different interests are involved; interest of children,
9 interest of family, so forth. Do you find the same type of
10 lawyer that's drawn to criminal cases being drawn to the CHINS
11 world?

12 JUDGE NIEMEIER: No. I don't see anybody drawn to
13 the CHINS world. You know, we have -- the four part-timers
14 that we have are true blessings for us because they don't do
15 it for the money. I mean, as Steve indicated, they get paid
16 less than the other public defenders, even though their
17 caseload is way more. They simply do it because one,
18 insurance; but two, they love Juvenile Court. But I'm always
19 fearful that one or two or three of them are finally going to
20 quit and I have no idea where Steve's going to hire somebody.

21 MR. TINDER: Are they able to do private practice?

22 JUDGE NIEMEIER: Yeah.

23 MR. TINDER: I know they can but physically can they
24 do that? Is there enough time in the week?

25 JUDGE NIEMEIER: A couple of them do. Two of the

1 four do. I think kind of leads me, though, into the
2 standards. The standards, in my opinion, they're not weighted
3 properly, especially when you're talking part-timers. For
4 instance, when I was in the prosecutor's office, we had
5 part-time prosecutors who were brilliant. They could handle a
6 full private practice without any doubt and still come into
7 our office and be one of the best attorneys there is.

8 And if you have part-time public defenders, there's
9 nothing stopping them -- and correct me if I'm wrong -- from
10 having a full-time practice -- private practice. So I don't
11 know why we think that these standards are really adequate
12 because part-time public defenders can be working 60 hours a
13 week in their private practice and only five hours a week, if
14 they can get by with it, in their public defender practice.

15 MR. TINDER: What would you do to change the
16 standards or what process do you think is needed to make the
17 standards more realistic?

18 JUDGE NIEMEIER: Well, probably another study. The
19 same thing the judges just did. We went through another
20 weight had case load study and we found that the CHINS and the
21 TPR's were grossly inadequately given credit for, and they --
22 I think they almost tripled. So I think there has to be a
23 better study but I don't know how -- I mean, there's no way
24 possible you could regulate what somebody can do in their
25 private practice. You can't set case limits on them and that

1 leaves you the choice of what you have now or mandating
2 through legislation that everyone has to be full-time, if you
3 want to receive reimbursement or however you want to do it.

4 MR. LANDIS: But the county could do that now,
5 correct?

6 JUDGE NIEMEIER: County that -- the county could
7 do --

8 MR. LANDIS: Public Defender could say we're only
9 going to hire full-time, not part-time.

10 JUDGE NIEMEIER: If he could find the full-time
11 people, yes. Absolutely right.

12 MR. LANDIS: You don't need legislation to go to a
13 full-time system.

14 JUDGE NIEMEIER: Right. But my point is the county,
15 I think right now, is satisfied. I know the judges are
16 satisfied with the public defender's office and the public
17 defenders. Even if they're part-time and they're working 40
18 hours a week on private cases, they're satisfied with that.

19 MR. TINDER: How many judges are involved in the
20 process of selecting the two representatives that the judges
21 appoint to the Public Defender board?

22 JUDGE NIEMEIER: There's seven Superior Court
23 judges, one Circuit Court judge. We meet once a month.
24 Whenever there's a term up, somebody says, "Hey, you want to
25 contact Joe to see if he still wants to do this?" We never --

1 we never talk to the board.

2 MR. TINDER: If Joe didn't want to do it, how would
3 you go about finding someone else to fill that spot?

4 JUDGE NIEMEIER: We, on that occasion, somebody will
5 say, well, does anybody know somebody that's not going to have
6 a conflict? And somebody will throw out a name and somebody
7 will say yeah, why don't you contact them and see if they want
8 to do it.

9 MR. TINDER: Is there a preference for a lawyer or
10 not?

11 JUDGE NIEMEIER: Yes.

12 MR. LANDIS: When you find a new person, what do you
13 tell them is their job description and job responsibility as a
14 member of the county public defender board?

15 JUDGE NIEMEIER: My understanding is that the Chief
16 Judge, because we always elect a Chief Judge every January,
17 ends up meeting with them and kind of describes what they
18 would be doing; and that actually takes place before they ever
19 accept the position.

20 MR. LANDIS: What is it that you're going to be
21 doing? What are they told that their responsibility is in
22 overseeing the public defender system in Vanderburgh County?

23 JUDGE NIEMEIER: I don't know, Larry. I don't know
24 because I have not done that personally.

25 MR. TINDER: Do you like the way that the county

1 board -- county public defender board system works?

2 JUDGE NIEMEIER: Yeah. I mean, I don't see anything
3 wrong with it. I know Steve said he didn't think that there's
4 any reason to increase the size. The only reason why I think
5 maybe increasing the size might be helpful is just in case
6 somebody might have leverage on the county council instead of
7 just having one or two or three people trying to come in and
8 bid for the public defender's office. Maybe you have more
9 people that -- and maybe from different areas, not just
10 attorneys, saying they need this money.

11 MR. TINDER: So do you think CHINS/TPR
12 representation is a good fit with a public defender's office?
13 Do you think there should be a separate CHINS/TPR defense
14 office? It's not a binary choice. How do you think -- how do
15 you think the representation in CHINS/TPR cases could most --
16 could become most effective?

17 JUDGE NIEMEIER: Well, the judges certainly don't
18 want it. I know that. I think truly the -- I know, Steve,
19 but I think the public defender office is where it should be
20 and it's basically how it is now. It's just a separate unit
21 in that particular office. It's just that they have to have
22 reimbursement or different guidelines, you know, to get the
23 reimbursement more realistic. The bottom line is somebody
24 needs to be able to pay the money necessary to have adequate
25 representation in these cases.

1 MR. LANDIS: Do you think there's any correlation
2 between the significant increase between when you said you
3 came in the office? I guess that was 18 years ago.

4 JUDGE NIEMEIER: Yes.

5 MR. LANDIS: It was 215 and now there's a thousand.

6 JUDGE NIEMEIER: Mm-hmm.

7 MR. LANDIS: So the changeover from county funding
8 to state funding was what?

9 JUDGE NIEMEIER: 2001.

10 MR. LANDIS: So 17 years ago?

11 JUDGE NIEMEIER: No, I'm sorry. No. 2008.

12 MR. OWENS: I believe it was 2013, Larry, when the
13 commission improved reimbursement.

14 MR. LANDIS: I'm talking about the state takeover of
15 DCS.

16 JUDGE NIEMEIER: Yes, takeover.

17 MR. OWENS: I don't know.

18 MR. LANDIS: It was probably maybe ten, 12 years
19 ago.

20 JUDGE NIEMEIER: Yeah, I think it may be.

21 MR. LANDIS: You see a correlation between that
22 increase has happened because of the state takeover?

23 JUDGE NIEMEIER: No.

24 MR. LANDIS: And their funding, there's totally --

25 JUDGE NIEMEIER: No.

1 MR. LANDIS: Totally independent?

2 JUDGE NIEMEIER: Totally independent.

3 MR. LANDIS: Would it still be the same increase if
4 there was funding?

5 JUDGE NIEMEIER: Yes, no doubt.

6 MR. LANDIS: They would have ponied up the money for
7 those cases but not the defense.

8 JUDGE NIEMEIER: Yes. In my opinion, they would,
9 yeah. Now, I personally have a huge problem because we're
10 desperately short of CASAS, court appointed special advocates,
11 and my county is lagging way, way, way behind in when it comes
12 to funding KOEUS but again, it's priorities.

13 MR. LANDIS: I don't want to pitch you necessarily
14 and Steve, but what do you think about his state funding for
15 CHINS and TPR? Everything on the state side that prosecutes
16 the cases state funded, what do you think moving that
17 responsibility of financing to the State?

18 JUDGE NIEMEIER: I think financing it by the State
19 would be the perfect solution as long as he maintains control
20 at the local level. What I do not see working is the DCS
21 model -- where the DCS has the funding and they do the hiring
22 and they do the assignments. That is a train wreck. You've
23 got to keep local control.

24 MR. TINDER: Are the DCS lawyers coming from the
25 local area? Are they coming from Marion County? Where do

1 they -- where are they from?

2 JUDGE NIEMEIER: I would -- majority of them are
3 local but their turnover rate is almost as bad as their case
4 manager turnover rate. I mean, last statistics on case
5 managers, 60 percent turnover rate within two years.

6 MR. LANDIS: Have you talked to the organization
7 that's evaluating DCS to give them feedback?

8 JUDGE NIEMEIER: Oh yeah. We've been talking to
9 various directors and governors now for a long time; but we
10 just don't have adequate funding, bottom line.

11 MR. TINDER: We've talked a little bit about
12 regionalization or multi-county sharing resources. Do you see
13 anything in the CHINS/TPR area that would benefit from that
14 type of treatment from the defense side?

15 JUDGE NIEMEIER: Not really. I think the advantage
16 of having local attorneys is they know their community better
17 than anybody. And I actually I have a lot of CHINS parents
18 come in and they ask for the same CHINS attorney they had. I
19 don't -- I don't see an advantage from an attorney standpoint
20 to have a regional or district basis.

21 MR. TINDER: We've also talked about the conflicts
22 that can arise where you have parental representation and
23 child representation and so on and sometimes within the same
24 family, conflicts among parents.

25 JUDGE NIEMEIER: Yes.

1 MR. TINDER: Do you deal with that, I assume, on a
2 day-to-day basis?

3 JUDGE NIEMEIER: Yes. It's a problem but
4 surprisingly, it's not as much as you would think.
5 Probably -- and I don't know exactly but probably 50 percent
6 of our parents don't even ask for attorneys. Go
7 unrepresented. Whenever they do come in, it just seems like
8 if one participant wants an attorney, the other wants the
9 attorney. And because of these huge caseloads, and now since
10 I have concurrent jurisdiction with divorces and with
11 paternity matters, what we're finding is that these public
12 defenders are caught in-between a rock and a hard place
13 because the dad, who has no allegations against him, comes
14 into court and says "I'm filing a modification, change of
15 custody." Mom says, "Well, I have a public defender in a
16 CHINS case. I want to fight this."

17 Yeah, but you can't have your CHINS attorney
18 represent you in that modification. It's a problem. I mean,
19 it's a big problem. We are doing that more and more often.

20 MR. TINDER: What else would you like us to know as
21 we move forward?

22 JUDGE NIEMEIER: I know I've said it before but if
23 we're given resources, it should be given to the local people.
24 I firmly believe that after all these years and after the
25 State took our money, I just believe that the folks locally

1 have always done a good job, at least in this county. Not all
2 counties. But have done a good job doing the best we can with
3 those funds. And as soon as we lose control -- it's kind of
4 the premise of having the guidelines and getting reimbursed
5 40 percent. As soon as you take that control away from us
6 locally, you cause conflicts. I mean, you just do.

7 You cause conflicts between judges and public
8 defenders. You cause conflicts between counsel and public
9 defenders, counsel and judges; and I know it's totally
10 unintended. I'm sure no one ever thought that that would
11 happen by setting the system up the way it is but that in
12 truth is happening.

13 MR. LANDIS: Judge, if there were more resources
14 provided from the State, have you thought about how should the
15 quality oversight happen at the county level? Assuming
16 control stayed with the county, who should be evaluating the
17 quality of defense services to make sure there's
18 accountability for quality and cost effectiveness?

19 JUDGE NIEMEIER: Well, the old prosecutor in me said
20 prosecutors don't have any accountability except they have to
21 run for election. So they're doing it public. I don't think
22 that's probably a good idea in the public defender system. So
23 I think you do have to have some oversight, but I would hope
24 it wouldn't have to be multiple layered. That it ends up
25 taking the extraordinary amount of money, which obviously

1 would be taken from local folks, but I agree you'd have to
2 have some at the state level.

3 MR. LANDIS: If you come up with any good
4 suggestions later on, the suggestion box is open.

5 JUDGE NIEMEIER: I appreciate that.

6 MR. TINDER: Judge, thank you very much for your
7 time and thoughts. And don't be surprised if we get back in
8 touch with you.

9 JUDGE NIEMEIER: Thank you.

10 MR. TINDER: And while we're on the judge subject,
11 I'd like to call on Judge Nathan Verkamp. Am I pronouncing it
12 correctly?

13 JUDGE VERKAMP: Yes.

14 MR. TINDER: From Dubois County. Like snow in
15 southern Indiana, calling Duboi County Dubois County is just
16 what we do here, right?

17 JUDGE VERKAMP: Call it Duboi and you make it known
18 you're an outsider real quick.

19 MR. TINDER: Welcome and thank you for coming,
20 particularly driving down here in this weather.

21 JUDGE VERKAMP: Thank you. My name is Nathan
22 Verkamp. I'm a judge in Dubois Circuit Court. N-A-T-H-A-N
23 V-E-R-K-A-M-P. A little bit about myself. So you all know
24 me, I think. So Larry, probably seen you at some of the
25 Public Defender seminars in the past.

1 MR. LANDIS: Yes.

2 JUDGE VERKAMP: Private practice for about 14 years,
3 most of which was doing public defender work.

4 MR. TINDER: In Dubois County?

5 JUDGE VERKAMP: My county, I was doing -- of course
6 the big thing with -- in small counties, that's one of the
7 reasons I came down here because looking at your listening
8 tour, you're hitting most of the major metropolitan markets
9 but in the small counties -- you know, Dubois County, it's
10 probably one of the bigger counties from here to Evansville it
11 is, and then to Louisville we're kind of in the middle.
12 There's eight counties that touch Dubois County. I was
13 getting out into the other counties.

14 The big thing for the small communities is your
15 requirements with respect to being able to try major felonies.
16 So once you hit that threshold and you have enough major
17 felonies under your belt, you become fairly desirable for the
18 other local judges. I was fortunate. I tried a lot of
19 trials. At the very beginning, Judge Weikert, the judge
20 before me -- I've been on the bench for three years -- gave me
21 a contract to do public defender work and I tried a bunch of
22 trials right out of the gate. I became capital qualified and
23 tried (inaudible) pro cases. So I got around quite a bit.
24 Tried -- in most of the county cases, in most of the counties
25 bordering Dubois County, I didn't get down here to Vanderburgh

1 County very often. It was always kind of just the process
2 down here was different, if you didn't get down here that
3 often, especially Family Court. Family Court was a daunting
4 task to try to maneuver, if you weren't used to it. So I
5 didn't get to Vanderburgh County that often.

6 But I tried -- I would get around to the different
7 counties when the counsels were in a pinch with respect to
8 being able to fund an attorney to do major felony work. I
9 would do that. So that was kind of my background as a public
10 defender. Maybe a different track than a lot of the judges
11 that come from the prosecuting side of it.

12 MR. TINDER: What year did you go on the bench?

13 JUDGE VERKAMP: I've been on for three years now.

14 MR. TINDER: And did you go straight out of practice
15 to the bench?

16 JUDGE VERKAMP: I did. So I've been --

17 MR. TINDER: Dubois County is not a participating
18 county in the reimbursement program?

19 JUDGE VERKAMP: We are not.

20 MR. TINDER: Never has?

21 JUDGE VERKAMP: Never has been. The judge before
22 me, Judge Weikert, and I sat down and talked about that. When
23 I was doing -- from the first year I started practicing, he
24 gave me a contract. Basically what we do in the Court is at
25 that time it was just one attorney or one office got the

1 contract for circuit court and did all the public defender
2 work for the entire court. That included felony criminal
3 work, CHINS work, juvenile work, 4D. We would point out 4D
4 and even from time to time a contested adoption if the
5 individual was incarcerated or otherwise couldn't afford an
6 attorney, the Court would appoint the contract attorney to do
7 that.

8 At some point it got a little much for me to do it
9 by myself, at which time then the Court split the contract and
10 I was doing it with another firm in Dubois County. There's
11 two courts in Dubois County. They're doing the same thing
12 across the hall; two attorneys, splitting each having a
13 contract and then for conflicts and other matters, probably
14 have about eight attorneys on rotation that just work by the
15 hour. It's a system that we've developed but Judge Weikert
16 before me, we talked about it and he didn't like giving up
17 control. A great judge but he was always kind of suspect of
18 small counties having to deal with the big counties' problems.

19 And that often seems to be the concern that the
20 small counties have is we're going to have to do -- this is a
21 big county fix and a small county, it just doesn't -- it
22 doesn't work. We don't have that problem because of our
23 caseload or because of the numbers. But he went around in
24 some of the other counties that were on the reimbursement and
25 what he found is the way he was doing it, it was more cost

1 effective than if he had to go to the reimbursement program.

2 I haven't run those numbers myself. Coming from the
3 defense side of the bar, I wouldn't have an objection to going
4 to the reimbursement program, I don't suppose, but I'm the
5 junior judge in the county.

6 MR. TINDER: And that's a county council decision
7 ultimately, I would assume?

8 JUDGE VERKAMP: Well, as the -- we've been
9 fortunate. Our commissioners and our council have, for the
10 most part, let us run our own show. So as I said, we have the
11 two contracts that I let with attorneys in town. Pay about
12 52,000 for each of those. And as I said, then they cover
13 everything.

14 MR. TINDER: How do you find people to do those
15 contracts?

16 JUDGE VERKAMP: The one firm has got three attorneys
17 in the office and they've been doing it probably for about
18 eight years now. One attorney will handle the criminal work,
19 the other with CHINS and juvenile delinquencies. So they're
20 splitting up the week coming to court. The other attorney, he
21 was a new attorney in town and kind of hungry yet. So he was
22 willing to take it and he's done a good job.

23 Because we're not on the reimbursement program, it
24 doesn't require us to have that mandate that you have to have
25 three level six felonies before you can try a five or higher.

1 There's none of that. Of the counties around us, there's
2 still a couple left doing the same thing.

3 MR. TINDER: So Lawyer Jones, who you have hired as
4 your PD, has a client who wants to make a suppression motion
5 in a case, which you think has its merits. From your
6 perspective what you know about the case at that point, seems
7 to be really a time consuming and time wasting motion. How
8 does that lawyer feel about making that motion on -- his
9 client really wants him to do it. How does that lawyer feel
10 about making that motion when you control that contract?

11 JUDGE VERKAMP: Him making the motion?

12 MR. TINDER: Right.

13 JUDGE VERKAMP: To me? You know, that's one thing I
14 guess in a small community we've never really felt like it was
15 ever anything that -- other than they do their job. That's
16 the way I always felt. I never felt pressure from Judge
17 Wiecker before me when I had the contract. If I felt the
18 need, if I had to ask for an expert witness from out of the
19 community to come in, I would ask and I would never be told
20 no. So I was free to practice as I saw fit to try a case the
21 way I thought it should be tried, and that's kind of the way
22 I've left it.

23 And I think the attorneys -- nobody has ever
24 indicated to me that there was a motion that should have been
25 filed or something that should have been litigated that wasn't

1 because they were on the contract or because they didn't want
2 to upset the Court. We've been fortunate. As I said, our
3 counselor commission has been fairly hands off. We've got a
4 contract. The two contracts that I pay, I've got an
5 additional \$60,000 in my budget for other conflict attorneys;
6 and then I have, I believe, 20,000 in my budget for things
7 such as expert witnesses, psychiatrists and so forth, if we
8 have a mental health issue. Incidentally, the attorneys all
9 in the contract always cover the mental health commitment
10 hearings.

11 General jurisdiction, as far as the criminal matters
12 that are before me, the way it was split years ago is that all
13 crimes with respect to the -- crimes against the person are in
14 Circuit Court. I have all the CHINS, delinquencies, mental
15 health and then I do divorces, civil matters, probate,
16 guardianships. I've got a general jurisdiction docket.

17 MR. TINDER: Where do the misdemeanors go?

18 JUDGE VERKAMP: They go -- depending on the crime.
19 If it's drugs and alcohol, it goes to Superior Court. If it's
20 crime against person, a battery, invasion of privacy, they'll
21 come to me.

22 MR. TINDER: Where does a theft go?

23 JUDGE VERKAMP: A theft, it's the one oddity there.
24 The theft goes -- it's all drugs and alcohol and theft. I
25 don't know how they did that. But burglaries, they all come

1 to my court.

2 MR. TINDER: And the lawyers with those PD contracts
3 do misdemeanors as well?

4 JUDGE VERKAMP: Yes. They do everything from major
5 felonies, misdemeanors, CHINS, delinquencies, mental health
6 commitment hearings, 4D hearings. They do it all.

7 MR. TINDER: So I understand what you're saying
8 about the custom that a lawyer with a PD contract shouldn't
9 feel inhibited about making certain motions, what have you,
10 but if that lawyer over the course of a year has made eight or
11 ten or 12 motions on behalf of different clients that --

12 JUDGE VERKAMP: I guess I come from a PD background.
13 It doesn't matter.

14 MR. TINDER: Does he get his contract renewed?

15 JUDGE VERKAMP: Yes. If he wants it, he can it. It
16 doesn't bother me, as long as they're doing their job. There
17 are some attorneys that if you watch them in the courtroom and
18 when you're sitting on the edge of your seat, boy, I would
19 have asked that question and asked that question and followed
20 them up, I usually don't invite them back much after that to
21 do the conflict work. So I'm fairly cognizant of the work
22 that's being done by the attorneys.

23 MR. TINDER: So who supervises the work of your
24 contract lawyers?

25 JUDGE VERKAMP: They supervise themselves. They're

1 independent, I guess. The contract would list them as an
2 independent contractor to the county.

3 MR. LANDIS: If that \$20,000 fund that you have for
4 experts, investigators, if that is exhausted -- has it ever
5 been exhausted?

6 JUDGE VERKAMP: We had a homicide case last year, a
7 couple other attempted murder. For a small county, I ended up
8 having to ask for an additional 40,000. Council didn't bat an
9 eye at the end of the year to give me that.

10 MR. LANDIS: Can you describe briefly how attorneys
11 get appointed in the process of, like, the initial hearing?

12 JUDGE VERKAMP: Contract, basically the court
13 reporter keeps a list of the appointments. So as I said, I've
14 got two contract attorneys. If there's not a conflict and
15 they'll just -- they'll get every other case that comes
16 through the Court.

17 MR. LANDIS: And they're appointed at the initial
18 hearing?

19 JUDGE VERKAMP: They're appointed at the initial
20 hearing.

21 MR. LANDIS: One is arrested on a theft, is bond set
22 according to a bond schedule? Is that how you do it?

23 JUDGE VERKAMP: It is.

24 MR. LANDIS: And what happens at initial hearings?
25 They just get the bond of whatever the bond schedule says?

1 JUDGE VERKAMP: You know, that's one of the things I
2 sat through a lot of hearings in other courts. The one thing
3 that I will always ask in my advice of rights is that you have
4 a right to be represented by an attorney. You may hire an
5 attorney of your own choosing. If you cannot afford an
6 attorney, the Court will appoint an attorney for you. So --
7 and I've been fairly liberal about that. Again, probably
8 coming from a PD background, that if I find it -- even if
9 they're working full-time and I believe it a financial
10 hardship, I find it difficult in a criminal case when you
11 reset them, when you tell them well you don't qualify because
12 you make \$10 an hour but you don't have \$50 in your checking
13 account, you don't have a hundred dollars in your savings
14 account and we're resetting the case over and over for them to
15 try to come up with the money to pay an attorney a retainer.

16 So I, in my advice of rights, tell them from the
17 outset that they have a right to be represented by an
18 attorney. If they can't afford an attorney, I would appoint
19 an attorney for them, and we go into a dialogue about whether
20 they're going to hire an attorney or ask the Court to appoint
21 an attorney.

22 MR. LANDIS: So you appoint the attorney. You send
23 notice to the attorney, right? Then what's the average length
24 of time between that appointment and when they enter an
25 appearance.

1 JUDGE VERKAMP: I usually bring them back within a
2 week for just a pretrial, just to get the attorney involved
3 and have the attorney in the courtroom at the same time as the
4 individual.

5 MR. LANDIS: So if they can't afford the bail, then
6 they'll sit in jail for that week. Is that right?

7 JUDGE VERKAMP: Correct. Well, I suppose that is
8 correct. The attorneys, if they've met with them, they may
9 file a bond. I've been fairly liberal about that as well.
10 That I don't -- if they come in on that pretrial and the
11 prosecutors know it, I don't make them go and turn around and
12 file a motion to reduce bond, and then come back a week or two
13 later and hear that motion. We'll do it right then and there.

14 We've been fortunate as well. We've got a
15 standalone work release center that has -- so I've been
16 real -- we've done a real good job, I think, about keeping
17 people out of just sitting in jail because they can't post a
18 bond. I think on misdemeanor, our standard bond schedule is
19 \$500. I don't know that I have anybody in the security center
20 on \$500 bond. They're either in community corrections program
21 or they're released.

22 MR. LANDIS: Any idea what percentage of the people
23 in the county jail are there on pretrial -- for pretrial?

24 JUDGE VERKAMP: It's like probably every other
25 county. It's a fairly high percentage. As I said, the ones

1 that I have are typically your high level felonies, level
2 one's, level three's that are on pretrial that are
3 incarcerated on pretrial basis. The six's and the
4 misdemeanors, I don't know that -- I try to get them out and
5 into work release or one of the other community corrections
6 programs that are less restrictive.

7 MR. LANDIS: Okay. Thank you.

8 MR. TINDER: Has Dubois County seen a growth in
9 CHINS/TPR matters in recent years?

10 JUDGE VERKAMP: Just like every other county. I
11 think in talking to my CASAS people that I talk to quite a
12 bit, 2012 we were at 52 filings for the year, and last year we
13 were 212. So our numbers have probably four-fold just like
14 everybody else. We've been fortunate. We have a fairly
15 strong CASA program than Judge Niemeier but we had the same
16 problem. And I would echo with Judge Niemeier says don't --
17 if you're going to go to a regional or district or don't do
18 what the DCS has done. I mean, I've sought out Judge
19 Bonaventura and told her what they've done with attorneys and
20 relegated them to being -- I don't call them --

21 Well, what they've done to the attorneys is kind of
22 shameful. They're not practicing attorneys any longer.
23 They're there just to do what the director and the county,
24 especially in a small county, says to do. They can't pull the
25 plug on a case. So if you bring -- you got the case.

1 MR. TINDER: We've heard that DCS attorneys often
2 don't have authority to make decisions in cases and there's a
3 lack of continuity.

4 JUDGE VERKAMP: Well, that's what I mean by pulling
5 the plug on a case. They're bringing cases that may not have
6 merit and they're putting them before the Court not because
7 they want to, and the attorneys will tell you, "I'd get rid of
8 this case but my director won't let me." So they're
9 litigating. They have -- and that's what I've told Judge
10 Bonaventura. The attorneys have an ethical obligation not to
11 be trying cases before the tribunal that they know not to have
12 merit, but they don't have that ability in the DCS if they're
13 going to keep their job.

14 MR. TINDER: With your defense background before
15 coming to the bench, how do you feel about the fit on the
16 defense side for a criminal defense lawyer also obligated to
17 handle CHINS/TPR types of cases? Is that a good fit?

18 JUDGE VERKAMP: Is it a good fit? Well, if you're
19 in a small community like I was in general practice, you're
20 doing criminal work, civil work. So it's part and parcel of
21 the practice in a smaller community. So is it your favorite
22 thing to do? Maybe not. And there's reasons for that. It's
23 not necessarily the work's bad. Just a defense attorney, only
24 time you see your client is when they show up that day for the
25 next review hearing; and then they want to bend your ear. So

1 it's difficult work sometimes from that standpoint. You can't
2 get ahold of your clients. You can't -- every piece of mail
3 you send to them gets returned back to you. So when you go to
4 speak to them about a fact finding hearing, you're doing it in
5 the passageway outside the courtroom just before you go in.

6 MR. TINDER: You've heard us talk a little bit about
7 multicounty regional notions. Do you see advantages or
8 disadvantages, either on the criminal or CHINS/TPR sides, for
9 pooling resources among various counties?

10 JUDGE VERKAMP: I think it maybe has some merit if
11 it's done right. The problem that you have is like we're in
12 Judicial District 25. We go from the Wabash River across to
13 the White River down to the Ohio River. So we're all spread
14 out and in two time zones. So it makes it difficult.

15 MR. TINDER: Is Dubois County in that district -- is
16 Dubois County the biggest county in the district?

17 JUDGE VERKAMP: Us or Knox. I think we may actually
18 be a bit larger in population than Knox County, Vincennes.
19 But as far as a regional office, I think it may have merit
20 exploring how to pay for it. I think if I went to my county
21 council right now and told them that I had to pay -- or that
22 the Indiana Public Defenders was going to, for lack of a
23 better term, tax them, they're spending, as I said, 52 for
24 each of my contracts, 52 for each across the hall, plus the
25 other court, I would assume he's got a budget about 60,000 for

1 his part-time people, if you would come in and say if you give
2 us some of that, I think our council would say great. That
3 you're getting money back from the counties has some skin in
4 the game.

5 I guess there's a lot of different ways to look at
6 funding sources but that would be -- I'm sure our county
7 council would be thrilled to get rid of the burden, especially
8 in a small county when you have a capital case or last year we
9 had the homicide that took up a lot of resources. They know
10 that they're not going to be saddled with that one big case
11 that's going to bankrupt them. I think they would be all for
12 it.

13 MR. TINDER: So we may have interrupted what you
14 want to tell us about our questions. What do we need to know
15 that we don't know?

16 JUDGE VERKAMP: That you don't know? Well, I mean,
17 just don't forget about small counties. Include us in the
18 discussions. Some counties they may only have -- Martin
19 County probably doesn't have but two attorneys in the whole
20 county. So they have offices interacting with practicing. So
21 those counties have to let their contracts with attorneys from
22 out of the county already. So you're bringing attorneys in
23 from out of county to fill contracts.

24 So that's why I say in the smaller communities, if
25 it's done right, a district or region may work but I guess the

1 devil is in the detail.

2 MR. LANDIS: I meant to ask Judge Niemeier this
3 question, too. Why do you think CHINS cases have increased so
4 dramatically in the last four, five years?

5 JUDGE VERKAMP: Methamphetamines.

6 MR. LANDIS: Methamphetamine has more impact than
7 opioids and heroin?

8 JUDGE VERKAMP: Where we're at, yes. Absolutely.

9 MR. LANDIS: That's what I thought.

10 JUDGE VERKAMP: We're still seeing 80, 90 percent
11 methamphetamine. That's the reason for the rule. When I was
12 doing the contract when I first started, it was removals for
13 home not having electricity, not having running water, dirty
14 home, too many dogs running around in the house, the
15 environmental neglect type cases. We're not seeing those kind
16 of cases anymore. It's mostly because people are failing one
17 drug screen after another. Can't get themselves cleaned up.

18 MR. LANDIS: Thanks.

19 MR. TINDER: Anything else?

20 JUDGE VERKAMP: No.

21 MR. TINDER: Judge, thank you so much more your time
22 and effort in getting here and be safe driving home.

23 JUDGE VERKAMP: Thank you.

24 MR. LANDIS: It's always good to see a public
25 defender become a judge.

1 MR. TINDER: Ms. Connie Whitman, we have already
2 received from you the February 14th, 2008 edition of the
3 Thomas Whitman Justice Foundation Report. And you have
4 information to provide us?

5 MS. WHITMAN: I want to thank you for being here.

6 MR. TINDER: Your first -- your first name is
7 Connie?

8 MS. WHITMAN: Connie Whitman, 1780 South Norman,
9 Evansville, Indiana.

10 MR. TINDER: Your legal name is Connie?

11 MS. WHITMAN: Connie, yes.

12 MR. TINDER: Whitman is W-H-I-T-M-A-N?

13 THE WITNESS: Like the candy.

14 MR. TINDER: Thank you.

15 MS. WHITMAN: I just want to thank you all. This
16 article in the paper -- did you have questions first or you
17 want me to just.-

18 MR. TINDER: Tell us what you came to tell us.

19 MS. WHITMAN: Okay.

20 MR. TINDER: And I will make copies of this
21 available to all of the task force members, the report that
22 you submitted.

23 MS. WHITMAN: Okay. Thank you. The paper said the
24 people who have the duty to protect the liberty of citizens
25 against the government are called public defenders. They also

1 protect and serve because public safety means more than
2 freedom from crime. It also means freedom from unlawful and
3 unjust arrest, detention and conviction. It also means
4 freedom from abuse of power. A public defender is also a
5 person who stands with the citizen who the State wants to
6 commit to a mental hospital against their will, etcetera.

7 It says the right to a lawyer is guaranteed by state
8 and federal constitutions and nevertheless, it is a right that
9 is easily undermined by inadequate funding, overworked
10 lawyers, a lack of independence and oversight. It is a system
11 that relies on checks and balances. The right to counsel is
12 provided and funded by the same government that seeks to
13 deprive the citizen of his liberty.

14 That's partly what I want to talk about, this lack
15 of independence. I don't understand that because the
16 constitution guarantees you 8th Amendment bail, pretrial.
17 Incarceration is unconstitutional and yet they're wanting to
18 add on to the jail because so many people are there just being
19 held before -- they're being punished without a conviction yet
20 and that's been held to be unconstitutional.

21 Mr. Tinder asked Mr. Owens about investigators, I
22 believe, and that is a good question. I was glad to hear that
23 because no investigation was done in my son's case. Maybe
24 things have changed since 2001, 2002 when my son and I dealt
25 with this. But you also mention that you have public

1 defenders working out of your office. Well, our public
2 defender was just pulled out of the courtroom by Judge Pigman
3 and he was a will and probate attorney. He wasn't a regular
4 public defender.

5 MR. TINDER: This is in Vanderburgh County. Is that
6 correct?

7 MS. WHITMAN: Yes.

8 MR. TINDER: Was an appeal taken in your son's case?

9 MS. WHITMAN: No, because they refused to take my
10 son to trial. They held him four and a half years waiting for
11 him to plea bargain; and as you can see from what I just
12 handed you, Mr. Montgomery actually did some research. He
13 wrote, comes now defendant and most -- requests this Court
14 dismiss the information for the reason that his criminal four
15 rights have been violated, and that's the right to trial
16 within a year due to the 6th Amendment speedy trial. He
17 actually did that right but the judge kept postponing it,
18 postponing it and postponing it.

19 Finally on June 28, this was 2007, he denied the
20 motion to dismiss the charges. When I was in college, I was
21 prelaw and I had a 400 level professor who wanted me to go to
22 law school. He said he wanted me to become a public defender
23 because we need people who think like I do. Now you can see
24 how I think but --

25 MR. TINDER: What was the final of your son's case?

1 Was he convicted?

2 MS. WHITMAN: You did ask that and I didn't finish
3 answering. Finally --

4 MR. TINDER: Was he convicted or was he not
5 convicted?

6 MS. WHITMAN: If you could call it that. In 2006 my
7 mother hired a lawyer who ran him through an unsigned plea
8 agreement.

9 MR. TINDER: He pled guilty?

10 MS. WHITMAN: No, he didn't. It wasn't signed.

11 MR. TINDER: So he went to jury trial?

12 MS. WHITMAN: Huh?

13 MR. TINDER: He had a trial?

14 MS. WHITMAN: No.

15 MR. TINDER: Didn't have a trial. Is he still in
16 prison?

17 MS. WHITMAN: Well, what happened was on February 6,
18 2001, my son had a PTSD episode and the police came down the
19 street and he ran up the street, and he was arrested and
20 they -- the jail doctors -- he shouldn't have even been taken
21 to jail. See, that's what --

22 MR. TINDER: What I'm trying to get at, Ms. Whitman,
23 is there a reported decision in this case --

24 THE WITNESS: Finally --

25 MR. TINDER: -- that we could read?

1 THE WITNESS: Finally. What I'm trying to say is
2 they didn't even have the right at four and a half years to
3 enter anything except to dismiss the charges. And I went to
4 the appeals court and they said: Well, you can't appeal. You
5 plea bargained. I said: No, we didn't. Yeah, you did. No,
6 we didn't. Yeah, you did.

7 MR. TINDER: Did the appellate court enter a
8 decision?

9 THE WITNESS: I actually went up there and talked to
10 them at the office and they said that we plea bargained. You
11 can't appeal, you plea bargained. I said: Well, no, we
12 didn't.

13 MR. TINDER: Where is your son today?

14 THE WITNESS: He's at Evansville State Hospital for
15 paranoid delusions and he actually has PTSD.

16 MR. TINDER: When did he enter that hospital?

17 THE WITNESS: Huh?

18 MR. TINDER: Approximately when did he enter the
19 hospital?

20 THE WITNESS: I can't hear you.

21 MR. TINDER: Approximately when did he enter the
22 hospital? What year, what month?

23 THE WITNESS: Well, he -- it's a long, sad story,
24 really. We'll be here all till Friday.

25 MR. TINDER: Right. So we do have others that need

1 to speak as well.

2 THE WITNESS: Speak up.

3 MR. TINDER: Tell you what --

4 THE WITNESS: I'll do this real quickly. I'll
5 answer your questions.

6 MR. TINDER: Right. Yes.

7 THE WITNESS: The jail sent him to Evansville State
8 Hospital. He was in solitary in February, no clothes,
9 sleeping on --

10 MR. TINDER: February 2000 --

11 THE WITNESS: 1. And he was arrested February 6.
12 February 27th they had a hearing at the jail. He was sleeping
13 in solitary, no clothes, on a concrete floor and eating bread
14 and water. And they asked him if he wanted to go back to his
15 cell or to Evansville State Hospital, have a warm bed and warm
16 food. He chose Evansville State Hospital. I don't think that
17 counts as a commitment by the State. Actually, he
18 self-committed, kind of; but I can't get anybody to agree with
19 anything I've said.

20 But anyway, they kept him. On March 8, 2001, three
21 weeks later -- he lost 40 pounds, by the way and there's no
22 safe diet where you lose 40 pounds in a month. Anyway, he
23 went up there and February 5th, 2002, which is interesting
24 because that's the 365th day. That's the end of a year. They
25 sent him back to the jail and then my mom paid bail, and he

1 was out on bail and he kept going to court. You see that
2 thing there, this motion to dismiss was June 7, 2002? They
3 kept scheduling hearings about twice a week and they were
4 verbal. Only three were actually what you call -- what you
5 call docket sheet things that have your date written in there,
6 you know, issued by the Court. The rest of them were verbal
7 and they kept postponing it and postponing it and postponing
8 it. And finally, you know, Mr. Montgomery tried here but I
9 think he was discouraged from doing his job.

10 I think part of the problem is the judges. We have
11 to have honest, impassioned judges like this who care about
12 liberty and not the desire to just lock somebody up without
13 investigation. There were no investigation. They would have
14 known the forehand chain reaction accidental property damage.
15 Accorcing to my law places, that is not -- that's a civil
16 matter. I mean, there's nothing to convict him for; and yet
17 he was -- our judge not only didn't dismiss it, he added on
18 enhanced, madeup charges all the way up to a B felony for
19 something my son didn't even do.

20 And I learned that a judge can ex mero motu of his
21 own volition --

22 MR. TINDER: Would you spell that, please?

23 THE WITNESS: E-X space M-E-R-O space M-O-T-U.

24 MR. TINDER: Thank you.

25 THE WITNESS: Of his own volition issue a ruling in

1 the interests of justice that you didn't even ask for. Our
2 judge added stuff on. So the public defenders don't have
3 independence, I don't think, and I think sentences are too
4 long. There's too much pretrial incarceration. God bless you
5 all for this. This was from (inaudible). I'm glad you're all
6 here and I really appreciate it.

7 MR. TINDER: I hope it ran with a picture of
8 Mr. Landis as well.

9 THE WITNESS: I'm almost 70.

10 MR. TINDER: So we're going to need to give this
11 marvelous court reporter a break here within the next three
12 minutes. So you can have that time to wrap up.

13 MS. WHITMAN: Okay. I had a couple more things to
14 say.

15 MR. TINDER: All right.

16 MS. WHITMAN: I absolutely object to adding on to
17 the jail because pretrial incarceration is unconstitutional
18 and I appreciate that you all have serious concerns about the
19 way we protect the rights of the defendants and I'd like to
20 see more investigation. Maybe some things have changed since
21 my son's case in 2001. He had a PTSD episode. He should have
22 been never been arrested, never been convicted; and I just
23 don't think the police and a lot of people are aware of our
24 constitutional rights or maybe don't care about them.

25 I don't know what your power is to enforce the

1 constitution or make the judges release people on bail. I
2 guess you don't have that power but it would be nice. That's
3 pretty much it. I don't know about funding. I didn't go to
4 law school. I don't know about the administrative stuff but I
5 do thank you for your interest.

6 MR. TINDER: All right. Very good. And we thank
7 you for your submissions also in writing as well and we have
8 your number, and we'll get back in touch with you if we need
9 any additional information we can't get from that material.
10 And we'll take about a three-minute break now so that some of
11 us can refresh ourselves to charge on to the conclusion.
12 Mr. Schaefer, you're still here. You've got time --

13 MR. SCHAEFER: Yes.

14 MR. TINDER: -- for us to take a very short break?
15 Is there anybody else who wants to speak beside Mr. Schaefer?
16 If so, raise your hand. Let's take three minutes.

17 (A recess was taken at this time.)

18 MR. TINDER: We're going to start up again, and I
19 want to make sure that you all know we're very grateful for
20 you coming and sharing your thoughts with us. If you would
21 like to expand on any of your thoughts, elaborate on anything
22 that you've said today, or want to say or forgot to say or
23 answer a question that maybe you failed to answer or something
24 of that nature, feel free to go to our web site. We have the
25 ability to receive written comments right there on your

1 computer screen; or if you want to mail -- write down what it
2 was you wanted to say or correct what you may have said, feel
3 free to write to us at the Public Defender Commission. We
4 have a very elaborate web site that is connected to their web
5 site. So feel free to go there and elaborate on any comments
6 you may have made.

7 So our next indicated speaker is Jon Schaefer. Jon,
8 would you mind coming to the podium, please.

9 MR. SCHAEFER: Sure.

10 THE WITNESS: It's J-O-N S-C-H-A-E-F-E-R. Well, I'm
11 glad we didn't spend two hours talking about the make-up of
12 the commission. I attended the one in Indianapolis and was a
13 little disappointed but Dr. Papa had asked a question about do
14 you have any ideas for funding. And on the way home I started
15 thinking about something and about a week later, I came up
16 with the idea there's a bond statute.

17 MR. TINDER: Jon, we're going to have to back you up
18 just a little bit and get the spelling of your first and last
19 names on the record.

20 MR. SCHAEFER: J-O-N S-C-H-A-E-F-E-R.

21 MR. TINDER: And do you have -- you're not chief
22 public defender.

23 MR. SCHAEFER: No. I'm with Steve. I've been there
24 for eight years.

25 MR. TINDER: Would you be called an assistant public

1 defender?

2 MR. SCHAEFER: Yeah, assistant public defender.

3 MR. TINDER: Vanderburgh County.

4 MR. SCHAEFER: Well, attorney, full-time public
5 defender.

6 MR. TINDER: Thanks, Jon.

7 MR. SCHAEFER: There's a bond statute that allows
8 the Court, upon disposition of a case, to take the bond and
9 apply it to certain fees, restitution. And what's been
10 happening in one of our courts is that the judge will take the
11 bond and -- I think in Vanderburgh County what they'll do is
12 they'll take the bond and put it into supplemental public
13 defender fund. And what one of our judges, at least that I'm
14 aware of, has been doing is taking the bond and applying it
15 toward advance payment of probation fees.

16 And so if you have a client who's supposed to do a
17 level six and \$500 bond and signed a plea agreement for one
18 year probation, that judge will take the \$500 and they'll take
19 the initial fee out, take the first month out. They'll take
20 the clerk fee out and then they'll let us have what's left
21 over, which is about 20 cents.

22 So I was thinking that in response to your question,
23 what if you amended the statute to require that the judge take
24 the fees for the public defender fund out first. We've had
25 this fight with private attorneys. So what happens is a

1 private attorney gets in the case. They then get out of the
2 case. Then they file a lien on the bond, and then we come in
3 and we clean up the work, and close the case; and they come in
4 and say: Well, my lien is superior to your interest in the
5 bond. And in that situation, we were able to sort of
6 litigate. We lost but that was because the private
7 attorney -- it became a conflict between the private
8 attorney's lien and putting the bond toward an outstanding
9 child support claim.

10 But in the typical case, I can't come in at the end
11 of the case and say: Judge, you need to take that money and
12 apply it to the public defender fund or fees for the public
13 defender's work because I think that puts us in a conflict.
14 We're basically saying -- asserting that money should go to us
15 instead of your probation fees, which in most cases the guy's
16 going to end up owing probation, not being able to pay for
17 probation, and then getting in trouble in the latter part of
18 the case.

19 So we can't obviously assert that when we're
20 actively representing the client. But if the statute was
21 amended to require the judges to pay us first or reimburse the
22 fund first, obviously that's a cut into the probation fees but
23 that's -- so be it.

24 MR. TINDER: Any other sources of funds that you
25 think we could direct the Public Defender Commission to look

1 toward?

2 MR. SCHAEFER: No. I just had time to think of his
3 question.

4 MR. TINDER: All right.

5 MR. LANDIS: If you think of one later.

6 MR. SCHAEFER: I'll probably leave. Let Steve email
7 you.

8 MR. TINDER: All right. Anything else? Okay. Jon,
9 thank you very much.

10 MR. SCHAEFER: Thank you.

11 MR. TINDER: All right.

12 MR. BUNNER: If I may.

13 MR. TINDER: You may.

14 MR. BUNNER: My name is David Bunner, B-U-N-N-E-R.
15 I have practiced for about 40 years in Vanderburgh County.
16 Been working with Steve in the Public Defender's office for
17 the past roughly 15 years. I retired a couple of years ago.
18 I still do some contract work for Steve.

19 But when I came to full-time position with Steve, we
20 talked about the need to make friends with our political
21 people here in town, the people that control our funding. We
22 would meet with them -- we tried to meet with them, bring them
23 to our office, explain what we did, what our problems were,
24 what might need to be done; and I suspect it's this way -- it
25 may be this way in every county. I suspect it's the same way

1 in counties similarly situated as Vanderburgh.

2 I had one of our elected county officials indicate
3 to me that they well understood we had to give the indigent
4 persons an attorney but they did not understand we had to give
5 them a good attorney. And we were in a discussion where we
6 were talking about how good we thought our part-time attorneys
7 were and they just didn't necessarily think we needed good
8 part-time attorneys.

9 If Vanderburgh County -- Steve was told he had to
10 hire six full-time CHINS attorneys in the next year and he
11 went to -- and he and Judge Niemeier went to the county
12 council and said: Well, the public defender has to have six
13 full-time public defenders or 12 part-time public defenders --
14 the commission might not say you have to have full-time
15 attorneys -- that would probably turn the last vote on the
16 council to withdrawing from the public defender system and
17 doing what several of them had indicated to us a few years ago
18 that their preference was to put it altogether and take bids
19 and accept the lowest bid, and they thought they could save a
20 couple million dollars by doing that.

21 I don't think that is the way to run a public
22 defender system. I believe that yeah, we could provide
23 everybody with a lawyer and just not a good or competent or a
24 well-staffed lawyer and the county government's no longer, in
25 a medium size county like this, they can't afford, in many

1 cases, to be or remain in the system with the funding as it is
2 now. If you said well, okay, we're going to -- you have to
3 have the six new lawyers but we're going to give you 40 cents
4 on the dollar, the county council would say: Yeah, we have to
5 come up with 60 cents on the dollar.

6 MR. TINDER: Is there a level at which it would work
7 if not 40 percent, 45 percent, 60 percent 80 percent? Of
8 course 100 percent is an option, too.

9 MR. BUNNER: Yes. More than 50. So they felt like
10 the State had more skin in the game. The problem is unfunded
11 mandates. Now, when they say that they're meaning unfunded
12 but only to 40 percent. If it was 60 percent, then it would
13 be more difficult for them to say an unfunded mandate.

14 MR. TINDER: So the State should have more -- more
15 skin in the game than the local entity --

16 MR. BUNNER: The local --

17 MR. TINDER: -- in the county.

18 MR. BUNNER: Some of the local county officials
19 don't care about the public defender system. It's difficult.
20 You're not the prosecutor who's putting the criminals in jail.
21 You're not the sheriff who's arresting the criminals. You're
22 trying to get the criminals off.

23 MR. TINDER: We heard it said at an earlier session
24 that the cocaine dealers association doesn't have very good
25 lobbyists.

1 MR. TINDER: It does not, no. And I just --
2 something has to be done. I know the problems that Steve has
3 and without more assistance or legislation making it happen, I
4 don't see it getting better. Thank you.

5 MR. LANDIS: How would you say without making it --
6 what would you suggest to fix the problem that you have by
7 you're not getting enough money from the county council?

8 MR. BUNNER: The state give more money.

9 MR. LANDIS: That would fix all the problems?

10 MR. BUNNER: It would -- it would lessen the
11 problems. It would -- it would take a part -- take away part
12 of the concept of the unfunded mandate.

13 MR. LANDIS: I'm struggling with that unfunded
14 mandate. Vanderburgh County now gets back about \$850,000 a
15 year from the State.

16 MR. BUNNER: Yes.

17 MR. LANDIS: Right?

18 MR. BUNNER: Yes.

19 MR. LANDIS: If you added eight new part-time public
20 defenders to get to the 12 that you need -- you have four now.
21 If you added eight more and even if they were at 39 plus
22 fringe, that's 50,000. Eight would be 400,000, right?

23 MR. BUNNER: Yes.

24 MR. LANDIS: If the State reimbursed 40 percent, the
25 net cost to the county is 240,000.

1 MR. BUNNER: Yes.

2 MR. LANDIS: You spend 240,000 to maintain that
3 \$850,000 reimbursement. If you don't spend it, you lose 850,
4 right?

5 MR. BUNNER: I don't run for reelection. I
6 understand what you're saying.

7 MR. LANDIS: An unfunded mandate the State is going
8 to give you give you 850,000.

9 MR. BUNNER: Every time he goes to talk about his
10 budget, he hears that from multiple council members.

11 MR. LANDIS: I've heard it numerous times myself but
12 the dollars and cents -- if the council said: We're not going
13 to participate, they lose \$850,000 state reimbursement, right?

14 MR. BUNNER: Yes; and they could bid it out and take
15 the low bid with no guidelines.

16 MR. LANDIS: And what would the judges do? Do the
17 judges say: Okay, that's fine. We don't care.

18 MR. BUNNER: I don't -- I don't think the judges
19 want the public defender system back with the judges.

20 MR. LANDIS: That's where it would be, right?

21 MR. BUNNER: No. The county council would bid it
22 out to a private attorney or law firm and they would be the
23 public defender.

24 MR. LANDIS: They don't have authority, right? It's
25 either inherent authority of the trial court or the statute

1 that creates the Public Defender Commission authorizing a
2 public defender office. Nowhere does the state law give the
3 county council the power to contract with public defenders.

4 MR. OWENS: Larry, could I address that for a
5 moment?

6 MR. LANDIS: Yeah.

7 MR. OWENS: It's a little unfair to put David on the
8 spot with that because that really isn't his bailiwick.

9 MR. LANDIS: You're the guy that can answer.

10 MR. OWENS: Pardon?

11 MR. LANDIS: You're the best guy to answer it, I
12 agree.

13 MR. OWENS: Maybe I am, maybe I'm not. I don't
14 know, Larry, that -- I don't know that I agree. There's this
15 huge impediment to the county contracting with a firm or a
16 group of lawyers to provide public defense for Vanderburgh
17 County. I mean, I may be dead wrong on that. I can tell you
18 that on the discussions we've had with the county council,
19 when this came up not that many years ago, that they
20 essentially said to us: We'll give you, pick a number, a
21 million five, a million eight and you go out and do -- we'll
22 just hire a firm. We'll pay them that much money and they go
23 do whatever they get and they do it all, and we don't care how
24 many attorneys you need or how many attorneys are required
25 because we're not going to be under the mandate of the State.

1 We're not going to have to follow those guidelines.

2 So with your example, if I went to the council and I
3 say "I need \$400,000 to hire these additional attorneys to
4 come into compliance" and they're going to look at me and say,
5 "Well, we don't want to give you \$400,000." Even though that
6 may reduce our ability to get that \$850,000 a year because
7 frankly, they don't see any end to it and so they're looking
8 more long-term. That's one problem.

9 Second problem is we're competing with the same
10 group of people for a limited amount of funds. That is, we're
11 competing with the jail. We're competing with the sheriff.
12 We're competing with all the other programs that we are under
13 the gun to improve. Right now we're under the gun with DOC to
14 enlarge or do something with this jail, and I can tell you
15 I've been to the jail meetings. I'm serving on the committee
16 and that's going to be a priority. That will be a priority
17 long before public defense will be a priority, at least in
18 this county.

19 That's why I said we need some help, whether it's
20 50 percent, 60 percent, whether the State takes over certain
21 functions, whether they take over the chief's salary, the
22 chief deputy salary, those benefits. Whether you take over
23 capital expenses or capital cases. I don't know where the
24 answer is. I do know that the legislature has substantially
25 limited the amount of revenue that this county takes in based

1 upon tax caps, and there's just -- there's a pie and there's
2 more people competing for that pie.

3 And if we don't get some assistance, I truly believe
4 that this county will pull out of the public defense system.
5 They'll take that \$800,000 or 850 or 900 or whatever that may
6 be in a four-quarter period and they will say "We're not going
7 to put anymore into it at this point." If that means we take
8 the hit here, we've at least limited our cost. And I would
9 suspect, based upon the discussions we had with them, that
10 whatever number they come up with to make that contract and
11 however they do it, it will be less than what our current
12 budget is.

13 So they'll save money there. They won't have to
14 spend the additional money. They will probably end up being
15 able to somehow work it out where an \$800,000 loss is a wash.
16 I don't know. But that's the situation we were looking at not
17 that many years ago.

18 MR. LANDIS: Do you understand what I'm really
19 asking is, if the responsibility for providing funding
20 indigent services is left at the county level, what you're
21 saying is under the current system, you're never going to get
22 enough funding that you need.

23 MR. OWENS: Not in the foreseeable future.

24 MR. LANDIS: And so the only fix that you think will
25 solve the problem is just more money from the State.

1 MR. OWENS: In one form or the other, yes. Have the
2 State take over certain functions that we were currently
3 spending money on. I think the judge said something about
4 having the State -- or perhaps it was you -- saying have the
5 State fund the CHINS/termination but have the representation
6 stay locally. I think it was Judge Niemeier said that.
7 That's a big chunk of money for us in benefits and salaries
8 and the need.

9 So take that burden off of the county budget, it
10 gives us some breathing room. Take off those capital case
11 expenses which aren't that frequent, gives us some breathing
12 room. Take off chief PD salaries and benefits gives us a
13 little breathing room. Every year that -- I've been doing
14 this for 17 years. I've heard the same song and dance at the
15 budget hearing. One is, we don't have any money. We have
16 consistently lost funding. Judge Verkamp said, I believe, he
17 had \$20,000 in an account; and I'm going gee, I wish I had
18 that 20. He's got more than I do in that line item just for
19 his court, and it's a constant battle. I think we had this
20 discussion years ago.

21 MR. LANDIS: I understand. I'm just trying to
22 figure out the solution. If the State does put more money
23 into it and takes the pressure off the immediate crunch of say
24 CHINS cases, what's to prevent, under the current structure,
25 the county council saying: We're paying as much as we're

1 going to pay. We're never going to add more money if the
2 mechanism is reimbursing, whether it's 40 or 50 percent. The
3 amount of total funding is dictated by the county, right?

4 They set the budget.

5 MR. OWENS: Yes.

6 MR. LANDIS: So what's to keep the county council
7 from continuing to kind of reduce their funding and say:
8 Let's make the State take over more and more. Why wouldn't
9 they do that?

10 MR. OWENS: They would like you to take over 100
11 percent as a practical matter. If you ask my county council,
12 they would like the State to pay 100 percent of all defenses
13 for our county. I think there is a point, whether that's
14 50 percent, 60 percent, 70 percent as David said, there is a
15 point at which you can say: Hey, this is economically not
16 feasible for you not to do this. At 40 percent, we're not
17 there. At 50 percent, I don't believe we'll be there. At
18 some level we might get there.

19 If I can walk in and tell the council today that I
20 need an additional \$400,000 and I'm going to be able to get
21 reimbursement and we're essentially going to have a wash,
22 which would be essentially 100 percent or something very close
23 to it, I could probably get enough members on the council to
24 approve that. But this situation of 40 cents on a dollar
25 isn't going to get us to where we need to be.

1 MR. LANDIS: Even 50 percent won't get you there, if
2 you spend now about \$2.5 million, right?

3 MR. OWENS: We probably spend about 2.5 million but
4 a substantial amount of that 2.5 million is paid for out of
5 the supplemental public defender fund for which the county
6 council funds zero.

7 MR. LANDIS: Okay. My point is that the county sets
8 the amount that your budget 2.5 million. If they took the
9 position that we don't care whether it's a 40 or 50, that's as
10 much as we're ever going to commit to this, don't you have the
11 same problem eventually happening?

12 MR. OWENS: Yeah. I mean, I think until we get the
13 number up to a situation where they find it's not economically
14 feasible. What that number is, I don't know. Hundred percent
15 obviously would be one of the numbers. How much less than a
16 hundred percent, I don't know. I understood what you were
17 asking us is to provide suggestions --

18 MR. LANDIS: Right.

19 MR. OWENS: -- on what we could do maybe both
20 short-term and long-term to help the counties, and I honestly
21 don't know where the funding is going to come from. You can't
22 keep increasing court costs on everybody to fund judges'
23 pension and public defenders and prosecutors and everything
24 else. At some point it becomes unreasonable. The State, I
25 understand, has funding issues but there are what, 50 some odd

1 counties currently in the Public Defender Commission system?
2 And of those, I don't know if they're all receiving
3 reimbursement but there has to be some sort of phase-in where
4 the State takes off some of our responsibility or some of our
5 funding issues and gives us some relief. Give us some
6 breathing room and we'll take it from there. We'll run with
7 it. I can't tell you that the county council would ever say:
8 We're spending two and a half million, that's it. We're never
9 going to spend anymore. We don't care what you got. But
10 short-term, we need to buy, all of us, some time. Not just my
11 county but every county.

12 MR. LANDIS: I agree. Your proposal of more money
13 is a good short-term fix but if we're going to fix it, I'd
14 like to create also a long-term fix so we're not going to be
15 back here five years from now.

16 MR. OWENS: I understand. But unfortunately I'm not
17 smart enough to come up with the long-term.

18 MR. LANDIS: That's why we're here.

19 MR. OWENS: I've had a long time and haven't come up
20 with a solution yet.

21 MR. LANDIS: Not yet.

22 MR. TINDER: All right. Would anyone else like to
23 speak? If so, raise your hand and come on up to the podium.
24 See no hands, see no one advancing on the podium. So I'm
25 going to call this to a conclusion. Thank you all for coming

1 and making your way through this terrible weather. Be careful
2 going home. Keep in mind our web site is up 24/7 for
3 additional comments you may have, and feel free to continue to
4 follow our progress. Thank you. Good evening.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25