

**DRAFT**  
**INDIANA COMMISSION ON COURT APPOINTED ATTORNEYS**  
**September 23, 2026**  
**2:00 PM**  
**101 West Ohio, 18th Floor, Commission Conference Room**  
**Indianapolis, Indiana 46204**

**Members in attendance:**

Mark W. Rutherford, Chair (in person)  
Rep. Maureen Bauer (remote)  
Mr. Mark Clark (in person)  
Ms. Samantha DeWester (remote)  
Rep. Ryan Lauer (in person)  
Hon. Karin McGrath (in person)  
Ms. Paje Felts (in person)

**Staff in attendance (participating):**

Derrick Mason  
Andrew Cullen

**Participating audience members:**

Amy Karozos, Indiana State Public  
Defender

**Members absent:**

Mr. David J. Hensel  
Sen. Eric Koch  
Sen. Rodney Pol  
Hon. Ryan Hatfield

The Chair confirmed a quorum and called the meeting to order. Commission members and staff introduced themselves.

**1. Approval of June 17, 2026 Meeting Minutes**

There were no questions, comments, or corrections regarding the minutes. Mr. Clark moved to approve the minutes. Ms. Felts seconded the motion. All members present voted in favor by voice vote. The motion carried.

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

Mr. Mason reported that as this was the first quarter of the fiscal year, full funding was available.

He also reported that the Commission was winding down several projects funded by At-Risk Youth and Family funds received from the Legislature in prior sessions. The Gibson County System Navigator program was the only project still operating. He stated that data was available on outcomes from the pilots.

Mr. Mason reported that the Fund's total carryforward was approximately \$8 million less than the prior fiscal year because the Commission was overspending its budget. He reported that the Commission did not request a budget increase in the last budget session, and that, in fact, the Commission's general fund appropriation was reduced by 5 percent. Because two additional counties had since joined the Commission, and because costs had continued to increase, the Commission planned to request an increase of more than \$10 million per year in the upcoming legislative session. The request would cover three areas: the existing budget shortfall; an hourly rate increase to \$120 per hour, set to begin next year; and the anticipated cost of Hamilton County joining the Commission, which he estimated at approximately \$1 million per year. He cautioned that the actual cost could be lower but was more likely to be higher.

Mr. Mason also noted reports suggesting a possible increase in state pay for Department of Child Services attorneys. Such an increase could have a ripple effect on local prosecutor and public defender salaries, since these positions draw from the same local pool of attorneys. He said it was too early to know whether or how this would occur.

Mr. Mason stated that although the Commission had sufficient funds to pay all reimbursement requests submitted this quarter, he recommended that the Commission delay paying amended or late reimbursement requests for prior quarters until the June meeting, at the end of the fiscal year. By that meeting, the Commission would know both its final budget position for the current fiscal year and its appropriation for the next biennium. He stated that continuing to pay late or amended prior-quarter requests in full risked proration in the next biennium, although he did not believe proration was a risk for the current fiscal year.

### **3. Status of County and Multi-County Compliance**

Mr. Mason reported that two attorneys were out of multi-county compliance the previous quarter. One was no longer out of compliance, but a new attorney, Jason Judd, was on the list for what the Commission's counting method treats as his first quarter. The other attorney had been out of substantial compliance for seven consecutive quarters, though that attorney's caseload had improved each quarter.

Jennings County continued to drive much of the multi-county non-compliance, having hired and then lost an attorney and placed an increasing share of cases back on the same two attorneys.

Mr. Mason then addressed individual county compliance, beginning with Howard County. Howard County had contacted him in the spring and asked him to write a letter to its chief public defender describing its caseload circumstances. The letter

described a significant increase in caseload in 2025 compared to 2024 and cautioned that the increase could continue into 2026.

The Commission sent Howard County letters in 2023 and 2024, including a 90-day letter, because its attorney compensation had not kept pace with the prosecutor's office, gradually reducing the caseload its public defenders could handle. The county was given 2024 and 2025 to come into compliance through compensation increases. The Commission set compensation tiers for each year, but the county was also expected to maintain those tiers going forward, which it did not do this year.

Howard County's juvenile attorneys, previously at approximately 80 percent of a full-time caseload, had dropped to 76 percent, and its adult criminal attorneys, previously at approximately 70 percent, had dropped to 67 percent. Together with rising caseloads, this created renewed compliance problems.

The county also assigns part-time attorneys to specific courtrooms rather than distributing cases more broadly, so attorneys become overloaded when a courtroom's caseload increases sharply. The county has been reluctant to pay attorneys differently for covering additional courtrooms and has been unable to find attorneys willing to cover an overflow position.

Howard County now has three attorneys out of substantial compliance (up from one the previous quarter) and four others in substantial compliance.

The county's personnel committee responded to Mr. Mason's letter by agreeing to raise the affected positions to 75 percent or restore them to prior levels, but stated that it would reconsider the raises if reimbursement was not received.

Mr. Mason then reported the Commission's first alleged violation of Standard O, an optional standard on pay parity between public defender support staff and comparable prosecutor or county support staff. Howard County's chief public defender raised the issue for the chief's office manager and assistant, paid \$39,689 per year. The county agreed to raise the salary to \$43,000 but declined to match the second-highest of the prosecutor's office's top two positions, which were paid in the \$50,000s. Further increases to those positions were reportedly planned for 2027, but the amounts were not yet known because the prosecutor's office budget was not finalized.

Mr. Mason recommended a 90-day letter to Howard County requiring it to take action on the caseload issues, without dictating the method (for example, hiring additional or overflow attorneys or raising compensation), and placing the burden on the county to explain at the next meeting either that the Standard O pay disparity has been

corrected or why the positions are not comparable. This would avoid requiring Commission staff to evaluate job description equivalency.

A member asked why a particular courtroom's caseload was increasing and whether case assignment was sufficiently random. Mr. Mason said the cause was unclear; possibilities included a higher appointment rate by the judge, the nature of the crimes charged there, or historical underfunding of that courtroom's staffing. The chief public defender had given no definitive answer.

Judge McGrath moved to take action consistent with staff's recommendation, including a 90-day letter on the caseload issues and placing the burden on the county to respond on the Standard O concern. Ms. Felts seconded the motion. On a roll call vote, the motion carried.

Mr. Mason then reported on the following individual counties:

- Allen County: two attorneys were newly out of compliance. Thomas Allen had transferred divisions, so his caseload was expected to fall. Alisa Rude, on a 0.19 contract at 38 percent of a full-time caseload (possibly rising to about 50 percent next quarter), may have been counting cases incorrectly; the public defender office assigned someone to help her, though this was unconfirmed. A 90-day letter might be necessary if the issue persisted; Mr. Mason expected an update in December.
- Clark County: fourth consecutive quarter of non-compliance, with compliance worsening and one attorney, Brian Abel, out of compliance four quarters. The county had requested two new attorney positions in its budget, with budget hearings expected to conclude in about three weeks. Mr. Mason planned to send a letter noting that a 90-day letter could follow if the issue was not resolved.
- DeKalb County: a misdemeanor attorney is out of compliance, but the county is taking steps to resolve the issue.
- Grant County: first quarter of non-compliance; the county was attempting to resolve the issue.
- Jefferson County: a new half-time attorney, to be hired in the fourth quarter, was expected to resolve the issue.
- Jennings County: Mr. Mason separately recommended a 90-day letter, as the county was in its third consecutive quarter of non-compliance after hiring and then losing an attorney.

- Ripley County: the presiding judge planned to begin assigning some cases hourly, believing it cheaper than increasing an attorney's contract; the effect would not appear until the December meeting.
- Vanderburgh County: a misdemeanor attorney had a 243% caseload, problematic because he was also assigned felony cases (attorneys receiving both felony and misdemeanor cases must be compliant). The county confirmed the attorney was no longer receiving felony cases, resolving the issue.

Mr. Mason introduced a new website tool that lets users select counties and attorney qualifications to find attorneys with available caseload capacity above a set threshold. Appearing on the list does not guarantee an attorney is available or willing to take a county's cases. Jennings County could use the tool, he said, and the county could also request overflow help from the State Public Defender's office, as Vanderburgh County has done extensively.

Judge McGrath moved to send a 90-day letter to Jennings County for its non-compliance. Mr. Clark seconded the motion. On a roll call vote, the motion carried.

#### **4. Requests for Reimbursement**

##### **A. 50% Reimbursement in Capital (Death Penalty) Cases**

Mr. Mason reported three timely capital case reimbursement requests and recommended approval of them.

| COUNTY       | DEFENDANT | TOTAL              |
|--------------|-----------|--------------------|
| Hendricks    | Rodgers   | \$28,708.88        |
| Madison      | Boards    | \$8,264.94         |
| Marion       | Mitchell  | \$22,923.53        |
|              |           |                    |
| <b>TOTAL</b> |           | <b>\$59,897.35</b> |

##### **LATE CLAIMS**

|              |        |                     |
|--------------|--------|---------------------|
| Madison      | Boards | \$64,169.80         |
|              |        |                     |
| <b>TOTAL</b> |        | <b>\$124,067.15</b> |

|                |                   |              |
|----------------|-------------------|--------------|
| Madison/Boards | Total Late Claims | \$ 64,169.80 |
|                | 7 days late       | \$ 59,081.12 |
|                | 32 days late      | \$ 174.20    |
|                | 46 days late      | \$ 252.20    |
|                | 70 days late      | \$ 4,662.28  |

Mr. Mason then reported on the Madison County (Boards) capital case, which included both timely and late-filed claims. The county's first capital submission several quarters earlier had been substantially late because the chief was unfamiliar with the Commission's timelines. Capital submissions are required within 120 days after a bill is paid; late submissions are subject to denial, though not automatically.

The defendant had been found not competent to stand trial and remained under evaluation, with trial anticipated next year. The county's chief public defender had not been receiving bills and believed no expenses were being incurred, when bills had in fact accumulated unpaid since February.

Mr. Mason explained that the guideline imposes penalties on late non-capital submissions: 10 percent for one to ten days late, 25 percent for eleven to twenty days, and no reimbursement beyond twenty-one days. The Commission has not strictly applied this schedule recently, but he recommended following it for this claim. Capital reimbursement is not prorated and must be paid before non-capital reimbursement unless the latter is reduced to zero.

Mr. Mason presented the above figures for the county's total request. If the late-penalty guideline were strictly applied, approximately \$64,169.80 of the request could be withheld; the full request without penalty totaled \$72,434.74.

The claim included approximately \$50,000 in attorney fees, \$70,000 in psychological expenses, \$1,500 in investigation, \$15,699 in mitigation, \$1,100 in paralegal costs, and \$6,500 in transcript and deposition costs since the county's last submission. The Commission has reimbursed \$227,135.41 to date, representing approximately half of what the county has expended for public defense on this case. This request covered an additional \$144,869 in county expenses, half of which the Commission was asked to reimburse.

A member asked whether the delay occurred before or after the county learned of the deadlines. Mr. Mason confirmed it occurred after, following a previous late submission.

A member asked how the county funded these expenses. Mr. Mason did not know the specific fund but noted that capital expenses are often paid through a special appropriation rather than the public defender's regular budget line.

Mr. Mason recommended approving at least the timely portions of the Madison request, which totaled \$8,264.94. The Commission could separately pay the late-filed portions now, hold them until June, or decline them.

Mr. Clark moved to approve the combined timely portion of all three capital claims, totaling \$59,897.35. Judge McGrath seconded the motion. On a roll call vote, the motion carried.

A member noted that the seven-day delay was less concerning than the 32-, 46-, and 70-day delays, since the county had notice of the deadlines. Mr. Mason was asked what he would recommend and he suggested that the Commission could approve only the seven-day late portion and hold the rest until June.

Rep. Lauer moved to approve the portion of Madison County's claim that was seven days late (\$59,081.12), with a reminder letter to the county on the Commission's policy, and to decline reimbursement of the remaining three more significantly late portions. Ms. Felts seconded the motion. On a roll call vote, the motion carried. The total approved to be reimbursed to all three counties was \$118,978.47 with \$5,088.68 denied of Madison County's claims.

#### **B. 40% Reimbursement in Non-Capital Cases**

Mr. Mason reported on the quarterly non-capital request. LaGrange County's submission had been in question until shortly before the meeting but was resolved and included.

Prior-quarter adjustments were requested by Fayette County (eight prior quarters, \$8,195.33), Greene County (prior quarter, \$384), and Sullivan County (first quarter, approximately \$12,299).

Mr. Mason recommended approving the current quarter's non-capital request of \$11,456,833.27 and an additional \$265,900.11 for the misdemeanor pilot program, and holding the prior-quarter adjustments, totaling \$20,877.76, until June. The pilot amount included a reduction for Lawrence County for an ineligible expense, not a prior-quarter correction. The claims summary presented to the Commission follows.

# Commission on Court Appointed Attorneys

## Non-Capital Claims 2Q2026 9/23/26

| County     | Total Expenditure | Non-reimbursable Adjustment | % Adjusted | Eligible Expenditure | 40% Reimbursed | Prior Quarter Adjustment | Total          |
|------------|-------------------|-----------------------------|------------|----------------------|----------------|--------------------------|----------------|
| Adams      | \$138,456.04      | \$40,465.22                 | 29.23%     | \$97,990.82          | \$39,196.33    |                          | \$39,196.33    |
| Allen      | \$1,640,256.37    | \$116,509.20                | 7.10%      | \$1,523,747.17       | \$609,498.87   |                          | \$609,498.87   |
| Benton     | \$46,950.26       | \$8,785.35                  | 18.71%     | \$38,164.91          | \$15,265.96    |                          | \$15,265.96    |
| Blackford  | \$105,395.04      | \$10,334.97                 | 9.81%      | \$95,060.07          | \$38,024.03    |                          | \$38,024.03    |
| Brown      | \$72,485.23       | \$20,121.30                 | 27.76%     | \$52,363.93          | \$20,945.57    |                          | \$20,945.57    |
| Carroll    | \$112,574.65      | \$19,818.75                 | 17.60%     | \$92,755.90          | \$37,102.36    |                          | \$37,102.36    |
| Cass       | \$190,977.45      | \$31,467.66                 | 16.48%     | \$159,509.79         | \$63,803.92    |                          | \$63,803.92    |
| Clark      | \$732,970.42      | \$115,260.28                | 15.73%     | \$617,710.14         | \$247,084.06   |                          | \$247,084.06   |
| Clinton    | \$91,201.04       | \$23,896.97                 | 26.20%     | \$67,304.07          | \$26,921.63    |                          | \$26,921.63    |
| Crawford   | \$37,500.00       | \$8,642.96                  | 23.05%     | \$28,857.04          | \$11,542.82    |                          | \$11,542.82    |
| Decatur    | \$160,751.27      | \$37,172.85                 | 23.12%     | \$123,578.42         | \$49,431.37    |                          | \$49,431.37    |
| DeKalb     | \$354,435.80      | \$47,114.92                 | 13.29%     | \$307,320.88         | \$122,928.35   |                          | \$122,928.35   |
| Delaware   | \$456,575.56      | \$1,165.20                  | 0.26%      | \$455,410.36         | \$182,164.14   |                          | \$182,164.14   |
| Elkhart    | \$1,376,218.58    | \$224,058.07                | 16.28%     | \$1,152,160.51       | \$460,864.21   |                          | \$460,864.21   |
| Fayette    | \$130,904.73      | \$22,886.46                 | 17.48%     | \$108,018.27         | \$43,207.31    | \$8,195.33               | \$51,402.64    |
| Floyd      | \$487,367.20      | \$90,306.86                 | 18.53%     | \$397,060.34         | \$158,824.14   |                          | \$158,824.14   |
| Fulton     | \$109,202.10      | \$46,463.04                 | 42.55%     | \$62,739.06          | \$25,095.63    |                          | \$25,095.63    |
| Gibson     | \$277,825.17      | \$41,597.79                 | 14.97%     | \$236,227.38         | \$94,490.95    |                          | \$94,490.95    |
| Grant      | \$382,757.78      | \$6,171.65                  | 1.61%      | \$376,586.13         | \$150,634.45   |                          | \$150,634.45   |
| Greene     | \$223,669.32      | \$44,285.78                 | 19.80%     | \$179,383.54         | \$71,753.42    | \$384.00                 | \$72,137.42    |
| Hancock    | \$377,994.24      | \$52,511.34                 | 13.89%     | \$325,482.90         | \$130,193.16   |                          | \$130,193.16   |
| Harrison   | \$208,154.48      | \$20,582.17                 | 9.89%      | \$187,572.31         | \$75,028.93    |                          | \$75,028.93    |
| Hendricks  | \$616,523.04      | \$125,258.87                | 20.32%     | \$491,264.17         | \$196,505.67   |                          | \$196,505.67   |
| Howard     | \$814,985.04      | \$62,568.32                 | 7.68%      | \$752,416.72         | \$300,966.69   |                          | \$300,966.69   |
| Jackson    | \$338,666.01      | \$20,777.45                 | 6.14%      | \$317,888.56         | \$127,155.42   |                          | \$127,155.42   |
| Jasper     | \$202,816.63      | \$36,390.27                 | 17.94%     | \$166,426.36         | \$66,570.55    |                          | \$66,570.55    |
| Jay        | \$159,210.02      | \$38,165.67                 | 23.97%     | \$121,044.35         | \$48,417.74    |                          | \$48,417.74    |
| Jefferson  | \$231,469.24      | \$25,910.64                 | 11.19%     | \$205,558.60         | \$82,223.44    |                          | \$82,223.44    |
| Jennings   | \$135,688.25      | \$9,720.07                  | 7.16%      | \$125,968.18         | \$50,387.27    |                          | \$50,387.27    |
| Knox       | \$252,549.76      | \$36,126.87                 | 14.30%     | \$216,422.89         | \$86,569.15    |                          | \$86,569.15    |
| Kosciusko  | \$368,666.25      | \$87,719.43                 | 23.79%     | \$280,946.82         | \$112,378.73   |                          | \$112,378.73   |
| LaGrange   | \$154,928.11      | \$15,849.06                 | 10.23%     | \$139,079.05         | \$55,631.62    |                          | \$55,631.62    |
| Lake       | \$1,901,175.29    | \$2,049.28                  | 0.11%      | \$1,899,126.01       | \$759,650.40   |                          | \$759,650.40   |
| LaPorte    | \$409,872.81      | \$41,822.89                 | 10.20%     | \$368,049.92         | \$147,219.97   |                          | \$147,219.97   |
| Lawrence   | \$296,143.04      | \$52,228.94                 | 17.64%     | \$243,914.10         | \$97,565.64    |                          | \$97,565.64    |
| Madison    | \$714,083.55      | \$17,283.73                 | 2.42%      | \$696,799.82         | \$278,719.93   |                          | \$278,719.93   |
| Marion     | \$8,797,689.42    | \$660,207.47                | 7.50%      | \$8,137,481.95       | \$3,254,992.78 |                          | \$3,254,992.78 |
| Marshall   | \$161,726.50      | \$57,310.87                 | 35.44%     | \$104,415.63         | \$41,766.25    |                          | \$41,766.25    |
| Martin     | \$110,280.94      | \$22,521.97                 | 20.42%     | \$87,758.97          | \$35,103.59    |                          | \$35,103.59    |
| Miami      | \$207,369.04      | \$26,146.08                 | 12.61%     | \$181,222.96         | \$72,489.18    |                          | \$72,489.18    |
| Monroe     | \$974,297.53      | \$183,837.99                | 18.87%     | \$790,459.54         | \$316,183.82   |                          | \$316,183.82   |
| Montgomery | \$258,759.19      | \$54,175.76                 | 20.94%     | \$204,583.43         | \$81,833.37    |                          | \$81,833.37    |
| Noble      | \$387,549.81      | \$72,036.25                 | 18.59%     | \$315,513.56         | \$126,205.42   |                          | \$126,205.42   |
| Ohio       | \$109,669.68      | \$28,269.59                 | 25.78%     | \$81,400.09          | \$32,560.03    |                          | \$32,560.03    |
| Orange     | \$106,496.71      | \$25,326.51                 | 23.78%     | \$81,170.20          | \$32,468.08    |                          | \$32,468.08    |
| Owen       | \$159,814.77      | \$44,702.65                 | 27.97%     | \$115,112.12         | \$46,044.85    |                          | \$46,044.85    |
| Perry      | \$111,073.67      | \$11,256.43                 | 10.13%     | \$99,817.24          | \$39,926.90    |                          | \$39,926.90    |
| Pike       | \$72,862.61       | \$5,258.95                  | 7.22%      | \$67,603.66          | \$27,041.46    |                          | \$27,041.46    |
| Pulaski    | \$95,026.40       | \$24,247.41                 | 25.52%     | \$70,778.99          | \$28,311.60    |                          | \$28,311.60    |
| Ripley     | \$74,637.61       | \$10,436.54                 | 13.98%     | \$64,201.07          | \$25,680.43    |                          | \$25,680.43    |
| Rush       | \$134,533.92      | \$35,834.84                 | 26.64%     | \$98,699.08          | \$39,479.63    |                          | \$39,479.63    |
| Scott      | \$150,385.04      | \$20,991.00                 | 13.96%     | \$129,394.04         | \$51,757.62    |                          | \$51,757.62    |
| Shelby     | \$246,262.92      | \$48,184.50                 | 19.57%     | \$198,078.42         | \$79,231.37    |                          | \$79,231.37    |
| Spencer    | \$53,750.00       | \$4,405.62                  | 8.20%      | \$49,344.38          | \$19,737.75    |                          | \$19,737.75    |

| County      | Total Expenditure | Non-reimbursable Adjustment | % Adjusted | Eligible Expenditure | 40% Reimbursed  | Prior Quarter Adjustment | Total           |
|-------------|-------------------|-----------------------------|------------|----------------------|-----------------|--------------------------|-----------------|
| Steuben     | \$255,118.07      | \$87,578.33                 | 34.33%     | \$167,539.74         | \$67,015.90     | \$12,298.43              | \$67,015.90     |
| StJoseph    | \$898,067.97      | \$77,043.28                 | 8.58%      | \$821,024.69         | \$328,409.88    |                          | \$328,409.88    |
| Sullivan    | \$116,932.45      | \$23,803.72                 | 20.36%     | \$93,128.73          | \$37,251.49     |                          | \$49,549.92     |
| Switzerland | \$47,235.12       | \$5,102.96                  | 10.80%     | \$42,132.16          | \$16,852.86     |                          | \$16,852.86     |
| Tippecanoe  | \$1,081,022.99    | \$137,943.55                | 12.76%     | \$943,079.44         | \$377,231.78    |                          | \$377,231.78    |
| Union       | \$32,098.30       | \$7,896.30                  | 24.60%     | \$24,202.00          | \$9,680.80      |                          | \$9,680.80      |
| Vanderburgh | \$1,292,012.39    | \$90,328.77                 | 6.99%      | \$1,201,683.62       | \$480,673.45    |                          | \$480,673.45    |
| Vigo        | \$1,130,899.99    | \$204,410.04                | 18.07%     | \$926,489.95         | \$370,595.98    |                          | \$370,595.98    |
| Wabash      | \$253,056.18      | \$34,279.51                 | 13.55%     | \$218,776.67         | \$87,510.67     |                          | \$87,510.67     |
| Warren      | \$31,006.54       | \$14,189.77                 | 45.76%     | \$16,816.77          | \$6,726.71      | \$6,726.71               |                 |
| Warrick     | \$218,249.96      | \$14,151.40                 | 6.48%      | \$204,098.56         | \$81,639.42     | \$81,639.42              |                 |
| Washington  | \$182,257.95      | \$26,521.31                 | 14.55%     | \$155,736.64         | \$62,294.66     | \$62,294.66              |                 |
| WCIPDO      | \$201,436.90      | \$27,827.92                 | 13.81%     | \$173,608.98         | \$69,443.59     | \$69,443.59              |                 |
| White       | \$92,737.14       | \$25,916.83                 | 27.95%     | \$66,820.31          | \$26,728.12     | \$26,728.12              |                 |
| Total       | \$32,355,717.48   | \$3,713,634.40              |            |                      | \$11,456,833.27 | \$20,877.76              | \$11,477,711.03 |

Judge McGrath moved to approve the non-capital and misdemeanor pilot reimbursements as presented, holding the Fayette, Greene, and Sullivan prior-quarter adjustments until June. Ms. Felts seconded the motion. On a roll call vote, the motion carried.

Mr. Mason sought informal feedback on replacing the printed quarterly county reimbursement summary with a spreadsheet showing each county's total expenditures, reimbursement, office and staffing structure, and spending by category at a glance, with an electronic link to the full materials for members who want them. Members expressed support.

## **5. County Supplemental Public Defense Services Fund (Guideline Amendment)**

Mr. Mason reported a request from a Jackson County judge and the county's chief public defender about use of the County Supplemental Public Defense Services Fund.

The fund is created by statute in every participating county and may only supplement, not replace, other funding for court-appointed legal services. Chief public defenders tend to treat it as a reserve for unexpected expenses. It is financed partly by a fee on certain defendants, half of which is to be remitted to the Commission, but some counties do not appear to remit this share consistently, as a recent news article discussed.

By the end of this year or early next, Commission staff planned to collect each county's fund balance, expenditures, and revenue to inform further guideline revisions, potentially including changes tied to compliance with fee remittance.

Mr. Mason then presented a proposed amendment to the usage guideline, in place since 2013.

9/11/13      This guideline is intended to establish use of the Supplemental Public Defender Services Fund (Fund) under IC 33-40-3 *et seq.* Under IC 33-40-3-3, the ~~supplemental public defender services fund~~ (Fund) may be used only to supplement the provision for court appointed legal services and may not be used to replace other funding of court appointed legal services. This means that the county may not deliberately underfund public defense services so as to tap into the Fund. All counties participating in the Commission reimbursement program must spend the ~~Supplemental Public Defender Services Fund~~ as specified below, whether or not they specifically seek reimbursement for expenditures from that Fund.

The ~~Supplemental Public Defender Services~~ Fund may not be used for any public defense expense in which the county had a reason to believe the expense would be incurred but did not provide sufficient funding for it during its routine budgeting process, unless specifically permitted below. If, during the fiscal year, an unexpected public defense need or service is found to be necessary above and beyond what has been appropriated, the county may utilize monies in the Fund until the beginning of

the next fiscal year. If the expense is discovered after the next fiscal year's budget has already been finalized by the County Council, the Fund may be utilized through the following fiscal year. If the county does not add the expense to its annual budget during its next budget cycle, ongoing use of the Fund is not allowed. ~~ongoing public defender salaries or benefits, or to pay the hourly or contract rates of attorneys providing ongoing public defender services in any class of criminal case, juvenile delinquency case, or juvenile dependency case.~~

The following are examples of how the Fund may be used, so long as the county budgeted what it would reasonably expect to need for the year regarding these expenses: ~~The Fund may be used for any of the following:~~

1. cost of hiring one-time or temporary public defenders in case-specific circumstances, such as the hiring of conflict counsel on a case with multiple defendants or the hiring of temporary contract counsel to stay in compliance with caseload standards. ~~Claims made under this section must specify the particular circumstances that warrant the hiring of additional counsel.~~
2. One-time or temporary non-attorney costs of providing quality public defense on a case-specific basis. These would include but not be limited to investigative costs, expert consultant fees, witness fees, social work or mental health services, costs of defense requested depositions and transcripts, and mileage reimbursements.
3. One-time or temporary administrative, building, or training expenses.
4. The cost of hiring a new ongoing public defender or administrative position if caseload changes during the year dictate the need for a new hire between budget cycles.

Counties may proactively use monies from the Fund, so long as the Supplemental Public Defender Services Fund is not depleted and it continues to retain a reasonable amount of funds to cover unexpected, unbudgeted, public defense expenses as outlined elsewhere in these Guidelines, ~~a county may also use its county supplemental public defense fund~~ for a period not to exceed one year, to pay for all, or a portion of, the following:

- A. The salary and benefits for a new county or regional Chief PD position;
- B. The salary and benefits for a new county or regional Chief Deputy PD position; and
- C. Any expenses associated with the creation of a new county or regional public defender office, including building, equipment, supplies, or personnel expenses. ~~(subsection 4 added 9/18/2024).~~

Claims to the Fund ~~supplemental public defense fund~~ are reimbursable by the Commission. Claims to this Fund are to be filed by the chief or managing public defender or the county public defender board. In counties not required to have a public defender board, claims are to be filed by the presiding judge. Counties may be required to submit

a full report of their usage of the Fund for any quarter or calendar year and provide the particular circumstances that warrant the mid-year hiring of additional positions or other expenses incurred.

Counties that, prior to 2026, are putting their entire noncapital reimbursements into their Fund, may continue to budget public defense services out of their Fund so long as their reimbursements continue to be fully placed into the Fund.

Mr. Mason also addressed a grandfather issue: five counties have, since before 2013, budgeted their entire non-capital reimbursement into the fund rather than the general fund. He recommended that they be allowed to continue so long as they place their full reimbursements into the fund, but that no other county be permitted to begin the practice.

A member, drawing on experience with a similar situation involving a different funding source, asked for clearer language confirming that the midyear-hire provision applies only between budget cycles and does not let a county argue that continued fund use is appropriate because “the position has always been funded that way.”

Mr. Mason responded that the provision already requires ongoing use to be corrected in the county’s next regular budget. He agreed to reiterate that language in the midyear-hire example and in future educational materials.

Mr. Clark moved to amend the usage guideline as presented, with the additional clarifying language on the midyear-hire provision. Ms. Felts seconded the motion. On a roll call vote, the motion carried.

## **6. Local Public Defender Board Appointment**

Mr. Cullen presented one board appointment request: Dan Banks, to fill the term left vacant by the resignation of Joe Thoele on the Jackson County public defender board. The term runs from September 23, 2026, through December 13, 2028. Jackson County’s chief public defender, Alan Marshall, nominated Mr. Banks, a former leader of a local criminal justice nonprofit. The only statutory qualification is a demonstrated interest in the public defense system, which Mr. Banks satisfies.

Mr. Cullen sent the standard notification email to members and received no responses; the call for nominations, sent September 2, 2026, likewise drew no additional nominations or comments. The chief public defender had consulted local judges, who supported the nomination.

Ms. Felts moved to appoint Dan Banks to fill the remainder of the term ending December 13, 2028. Judge McGrath seconded the motion. On a roll call vote, the motion carried.

## **7. Legislative and Policy Updates**

Mr. Cullen presented the Commission's proposed legislative agenda.

### **Budget**

Mr. Cullen stated that the Commission's top legislative priority was the budget request discussed earlier. Staff had begun meeting with state budget officials, including Office of Management and Budget deputy directors, the State Budget Director, and the Vice Chair of the House Ways and Means Committee, with the assistance of outside consultants. The Commission's messaging would focus on inflationary pressure on legal salaries, the statewide attorney shortage, and record reimbursement levels driven partly by new counties, including Hamilton County.

The Commission is one of only three independent state agencies not automatically included in the Governor's or Chief Justice's proposed budgets, and was seeking inclusion in the Governor's proposed budget, an approach that had been successful in the past. Staff had met with the Governor's legislative director and the State Budget Director, with another meeting planned for December.

### **DOC Facility Inmate Defense Billing**

Mr. Cullen explained that current law requires the state to pay all defense costs for a Department of Correction inmate charged with a new crime alleged to have occurred at a DOC facility. Courts appoint an attorney, approve the bills, and DOC pays them, entirely outside the Commission's system. Some attorneys who handle Commission cases also handle these cases, billing DOC at full market rate rather than the Commission's capped rate, and these cases do not count toward Commission caseload limits. The cost had reportedly led DOC at times to hesitate to refer potential new crimes to the prosecutor.

In the last budget cycle, DOC proposed shifting these cases to the State Public Defender, who agreed. After consultation among the Commission, DOC, the State Public Defender, and the state budget agency, the agencies agreed to route these cases through the Commission's normal reimbursement process, with authority to reimburse up to 100 percent of the public defense cost. The proposal would not cover jury trial expenses or other general court costs, since the state already separately funds judicial and prosecutor salaries, including an additional chief deputy prosecutor in counties with DOC facilities.

Implementation would require amending the Commission's authorizing statute, primarily through budget bill language, and creating a new, separate fund, to be replenished by the state budget agency as needed after the Commission approved each expense.

Any county with a DOC facility could participate regardless of whether it otherwise participates in the Commission's reimbursement system, at the hourly rate already applicable to that county. Only one such county, Henry County, does not otherwise participate.

Mr. Mason clarified, in response to a member's question, that the program would apply only to conduct alleged to have occurred within a DOC facility, not to all cases involving DOC-supervised individuals.

Mr. Cullen anticipated pushback primarily from attorneys who currently bill these cases outside the Commission's system at higher rates. He requested approval to pursue the change, with guidelines and standards for the program to be brought back for approval at a future meeting if the legislative change were enacted.

### **Statewide Reporting Requirement**

Mr. Cullen stated that Commission staff believed it was time to require statewide reporting of indigent defense data. The Commission has relied on a voluntary approach, encouraging counties to report the data already required for optional federal Title IV-E reimbursement, which carries no state match and no obligation to change practices. Once counties begin reporting, they often join the Commission's broader program.

He proposed requiring reporting from all counties by a target date, suggesting 2028 to allow time to prepare. Counties could still decide separately whether to accept federal reimbursement, which requires separate local approval. The Commission would continue to offer small stipends to help counties complete the forms.

### **Prosecutor and Public Defender Scholarship Fund**

Mr. Cullen reminded the Commission that a scholarship fund for prosecutors and public defenders, established by statute in the last budget cycle, was left unfunded when new spending was removed. The program requires participating law schools to add practical, Indiana-specific curriculum content. Law school deans had initially opposed this, but the schools' chancellors had been supportive.

The approximately \$1 million scholarship would be administered through the Indiana Commission for Higher Education (CHE). Staff asked the CHE to include the request in its budget, but they asked CCAA staff to request it. The State Budget Director seemed receptive, and the program had strong House support, having previously been unanimously supported by Ways and Means. There have been no significant discussions with the Senate.

### **Competency Restoration**

Mr. Cullen stated that the Indiana Public Defender Council, not the Commission, would participate in a broader project to reform competency restoration, and requested approval for staff to assist as appropriate if requested.

### **Chief Public Defender Association and PARF Funding**

Mr. Cullen noted that the Chief Public Defender Association may begin discussing including public defenders in PARF funding. The Commission had previously approved staff support for such efforts, and staff intends to be supportive if the chief public defenders took the lead.

Ms. Felts moved to approve the proposed legislative agenda. Mr. Clark seconded the motion. On a roll call vote, the motion carried. Rep. Lauer and Rep. Bauer abstained.

### **8. Other Matters**

Mr. Mason called the Commission members' attention to the CCAA Annual Report and requested feedback.

The Chair declared the meeting adjourned.