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July 2021 Quarterly Newsletter

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Indiana to Receive Billions in Federal Funds: New Guidance Opens Door to Funding of Public

Defense Services at State & County Levels

On June 23, the U.S. Department of the Treasury released a new round of frequently asked questions (FAQs) that provide guidance to state & local governments on allowable uses of federal funds received through the American Rescue Plan. The document included the following question and answer:



Q: "Would expenses to address a COVID-related backlog in court cases be an eligible use of funds as a response to the public health emergency?"

*A: "...Court backlogs resulting from inability of courts to safely operate during the COVID-19 pandemic decreased the government's ability to administer services. Therefore, steps to reduce these backlogs, such as implementing COVID-19 safety measures to facilitate court operations, **hiring additional court staff or attorneys to increase speed of case resolution, and other expenses to expedite case resolution are eligible uses.**"*

Other sections of the FAQs make it clear that **premium pay** for those involved (including retroactively to March 3, 2021) is also an allowable use of the funds.

Treasury will release the final administrative rule for use of the funds on some date after July 16, and the State's Office of Management and Budget Director has indicated that major decisions regarding use of the "government services" portion of the funding will not be made until the rule is final.

The Commission is aware that many public defenders are experiencing a significant increase in the percentage of open, unresolved cases. A lack of case resolution during the pandemic combined with many prosecutors choosing to withhold filing cases until the pandemic eased have contributed to this increase.

The Commission will partner with the Indiana Public Defender Council and the Indiana Association of Counties to seek any potential funding from the state and to provide guidance to County Public Defender Boards/Offices about seeking funding from local county government.

WE NEED YOUR HELP:

If your county is experiencing an increase in open, unresolved cases, we would like to gather that data. If you are willing to provide data, please contact [Torrin Liddell](#). If you plan to seek, or are currently seeking, funding from your county's portion of the ARP funding, please let us know about that as well.

It is the Commission's intent to seek any and all eligible funding to address this backlog by providing additional state financial support that we may be eligible to access.

If you have any general questions about this matter or any other issues impacting public defense resulting from the pandemic, please contact [Derrick Mason](#) or [Andrew Cullen](#).

[Click here to read the FAQs released by the Department of Treasury](#)

Commission OKs Plan for At-Risk Youth & Families Funding, Issues Request for Proposals

During the previous legislative session, the Commission received an additional appropriation of \$2 million/year over the next biennium to fund “At-Risk Youth and Families.” The Commission has approved the general parameters to use the money to fund three projects critical to supporting at-risk youth and families at the state level. Additionally, the Commission has authorized its staff to issue a Request for Proposals (RFP) to fund additional projects at the county level.



The three state-level projects include:

- 1. DRAWING ADDITIONAL FEDERAL FUNDS:** The Commission currently receives partial federal reimbursement for the 40% funding it provides counties in CHINS and TPR cases. We hope to provide dedicated staff support to all counties in Indiana to help them receive partial federal reimbursement for the remaining 60% that Commission counties are still responsible for in CHINS and TPR cases (or partial federal reimbursement for the total spent in non-Commission counties).
- 2. PILOT A SYSTEM NAVIGATOR SUPPORT SYSTEM:** This program would serve to evaluate the impact of providing system navigators to public defenders who represent parents in CHINS and TPR proceedings. Under the direction of an attorney, system navigators would provide direct support to parents to help them understand and work through the CHINS system. The project would measure the rate at which children are removed from the home, time spent in out-of-home status, reunification rate, time to reunification, time to permanency, and overall case length based on this additional parental resource.
- 3. PILOT A CIVIL LEGAL AID PROGRAM TO ASSIST PARENTS:** This pilot would be conducted in a medium-to-large county and target at-risk parents prior to CHINS petitions being filed. The target areas of improvement are primarily prevention of DCS involvement and removal of children from the home. Specific primary outcome measures would include rate of CHINS filing, rate of related informal adjustments, and rate of removal from the home. A legal team would be assembled consisting of one or more public defenders, social workers, and civil legal aid attorneys. This team would advise and assist parents on legal, housing, employment, and service issues, aiming to proactively prevent the need for DCS intervention.

REQUEST FOR PROPOSALS:

Finally, the Commission is seeking proposals to study Commission Standards related to Juvenile Delinquency, CHINS, and TPR cases. The primary goals of this project are: (1) to create long-term improvements in systems that serve Indiana at-risk youth and families involved with Indiana’s family/child welfare system, the juvenile delinquency system, or both, or (2) to create system improvements that proactively prevent such involvements.

[Click here to read the Request for Proposals \(RFP\)](#)

Legislative Interim Study Committee to Consider Public Defense Issues this Summer/Fall

Each year, the Legislative Council, which is composed of the highest-ranking legislative leaders, assigns topics to the General Assembly's Interim Study Committees. These committees are composed of both Senate & the House members along with some lay members. The committees make recommendations and/or endorse legislation for the upcoming legislative session.



This year, there were two topics assigned to the Interim Study Committee on Corrections and Criminal Code that the Commission will be following and providing testimony regarding.

- Assignment of counsel at the initial hearing in criminal cases, the capacity of the public defender system to provide counsel, and the impact of providing counsel on jail overcrowding.
 - **PLEASE NOTE:** The Commission is conducting a statewide survey regarding counsel at initial hearing to gather data for this presentation. If your county has not replied or if you are unsure if it has replied, please contact [Torrin Liddell](#).
- Multi-year review of current trends with respect to criminal behavior, sentencing, incarceration, and treatment.
 - We will discuss the importance of including state funding for misdemeanor legal representation as part of this topic.

If you have any questions or comments about the Commission's work with the Indiana General Assembly, [contact Andrew Cullen](#).

New Salaries Set for Chiefs & Chief Deputies

Chief Public Defenders and Chief Deputies in counties with those positions must be compensated at the same rate as the elected prosecutor and chief deputy prosecutors [per the Commission's Standards](#). **Counties have until January 2022** to match the adjustments that prosecutors received in July 2021.

Salary adjustments for prosecutors are announced by the Chief Justice each year. Traditionally, the Commission does not require the salary adjustments to take effect for public defenders until the beginning of the subsequent calendar year to allow County Councils to account for the change during the annual county budgeting process. The Commission reimburses compliant counties for 40% of these salaries.

<u>POSITION</u>	<u>CURRENT SALARY</u>	<u>NEW SALARY (JAN 2022)</u>
Chief PD	\$156,125	\$159,950

Part Time Chief PD (.66)	\$103,043	\$105,568
Part Time Chief PD (.6)	\$93,675	\$95,970
Chief Deputy PD	\$117,094	\$119,963
Part Time Chief Dep (.66)	\$77,282	\$79,175
Part Time Chief Dep (.6)	\$70,256	\$71,977

[Click here to view the letter from the CJ announcing the adjustments](#)

Local County PD Board Appointment Updates

The Commission has updated its website to include a page with information about the operation of County Public Defender Boards.

This page will also list the **open positions** that will be filled at the next quarterly Commission Meeting. Nominations from the public are encouraged.



The Commission is pleased to welcome the following new or re-appointed members of County Public Defender Boards. Each individual listed below was appointed to a 3-year term by the Commission at the recent meeting, with terms ending June 16, 2024.

- Tony Mellencamp: Adams County
- Brayton Johns: Fayette County
- Gerald Hill: Lawrence County
- David Hadley: Montgomery County
- Elizabeth Baumgartner: Ripley County
- Marcel Katz: Tippecanoe County

If you have any questions or comments about County Public Defender Board appointments, [contact Andrew Cullen](#).

[Click here to view the new page for a list of upcoming open board seats](#)

Board Training Spotlight: Until We Meet Again

County Public Defender Boards are required by Indiana law to meet at least quarterly. In addition to being legally required, these meetings are an opportunity for board members to remain

updated on public defense in the county, looking at what is and isn't working and looking for opportunities to improve public defense services.

QUARTERLY MEETINGS
= YEAR-LONG
SUCCESS

In this quarter's "Board Training Spotlight," [Staff Attorney Jennifer Shircliff](#) discusses the importance of these quarterly meetings.

[Click here to read this Quarter's Board Training Spotlight Article](#)

Standards Spotlight: Standard K & the Pandemic

The Commission is aware of multiple situations in which Indiana counties are dealing with Standard K-triggering circumstances.

The Marion County Public Defender Agency, for example, has advised the Commission that attorney caseloads related to the actual number of pending, open cases have increased dramatically since the COVID-19 pandemic began.



In comparing the pre-pandemic period (10/31/18 – 12/31/19) to the pandemic period (1/1/20 – 3/31/20), the office has an increase in open cases of 203%.

In this quarter's "Standard Spotlight," [Staff Attorney Andrew Falk](#) discusses Standard K and how the pandemic is impacting public defense caseloads.

[Click here to read this Quarter's Standards Spotlight Article](#)

June Commission Meeting Draft Minutes

[Click here to read the draft minutes from the June Commission Meeting](#)

Special Commission Meeting Set for July 21

2021 Reimbursement Request Due Dates:

2nd Quarter '21 (April 1 - June 30): *August 14*

3rd Quarter '21 (July 1 - September 30): *November 14*

2021 Commission Meeting Dates:

NOTE: Special Meeting: *July 21*

2nd Quarter '21: *September 22*

3rd Quarter '21: *December 15*

Commission meetings begin at 2 p.m. Eastern and comply with The Indiana Open Door Law ([IC § 5-14-1.5](#)).

The public is invited to attend the meetings, excluding any Executive Sessions that may be scheduled as permitted under IC § 5-14-1.5-2(f). Notice of Executive Sessions will be made at least 48 hours in advance. Agendas and information on how the public may attend regularly-scheduled meetings (in person or virtually) will be posted in advance at the entrance to the Commission Office (309 W. Washington Street, Suite 501, Indianapolis, IN, 46204) and will be posted on [the front page of the Commission's website under "News & Announcements"](#).

If you have any questions about the Commission meetings, contact [Derrick Mason](#)

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