

2011

INDIANA JUDICIAL SERVICE REPORT Volume III



The Supreme Court of Indiana

The Honorable Randall T. Shepard, Chief Justice (retired March 2012)
The Honorable Brent E. Dickson, Assoc. Justice (appointed Chief Justice May 2012)
The Honorable Frank Sullivan, Jr., Assoc. Justice
The Honorable Robert D. Rucker, Assoc. Justice
The Honorable Steven H. David, Assoc. Justice
The Honorable Mark S. Massa, Assoc. Justice (appointed April 2012)

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2011 Indiana Judicial Service Report

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INTRODUCTION TO

VOLUME III

EXPENDITURES AND REVENUES

Volume III of the *Indiana Judicial Service Report* reflects detailed revenue and expenditure information on every trial court in the state. Indiana Code 33-24-6-3(a)(2) directs the Division of State Court Administration (the Division) to collect and compile statistical data on the receipt and expenditure of public monies by and for the operation of the courts. Each court, whether single or unified, must file with the Division its Report on Court Revenue (Revenue Report) and its Report on Budget & Expenditures (Budget & Expenditure Report).

Volume I, Judicial Year in Review, Fiscal Reports of Indiana Trial Courts section presents a general financial overview of the reported expenditures of Indiana's courts and revenues generated through their operation. This volume contains a more comprehensive review of the revenues and expenditures generated by the state courts. While the trial courts' requested and approved local budgets are reported to us, they are not published in the annual report. The financial information is gathered on an annual basis at the close of each calendar year.

For a description of the Indiana judicial system, data on Indiana's appellate-level courts, statewide totals, and comparison tables and trends, the reader should refer to Volume I – Judicial Year in Review of this report.

EXPENDITURES

Indiana's judicial system is funded by a combination of county tax revenues, state appropriations and user fees. The Indiana Supreme Court, Indiana Court of Appeals and Indiana Tax Court are funded through appropriations from the State General Fund. The Indiana State Auditor's Report can be found on-line at www.in.gov/auditor/2338.htm and contains information about the expenditures by these courts and other state-level expenditures on judicial functions. Relevant portions of that report are reflected in Volume I, Judicial Year in Review, Fiscal Reports of Indiana Trial Courts section.

Indiana's trial courts are funded primarily through county funds; however, state funds pay for judges' and magistrates' salaries, senior judges and some special judge expenses. Counties may choose to pay an additional amount towards the judges' and magistrates' salaries. Counties may also receive state funds for reimbursement of approved pauper defense services and for GAL/CASA services for abused and neglected children. Additionally, in 2011 nine counties were awarded \$280,000 in Court Reform Grants from the Division. Courts also generate user fees, some of which are expended on court services.

Municipalities fund city and town courts. In many instances the local

government does not maintain a distinct city or town court budget so all expenses are paid directly from the local general fund. This practice makes it difficult to provide accurate expenditure information for the city and town courts.

Marion County (Indianapolis) townships directly fund the nine Marion County Small Claims Courts through budget appropriations.

The Budget & Expenditure Report filed by each court categorizes the trial court expenditures as follows: salaried and unsalaried personnel expenses, services, capital outlays, and travel. If any of the expenditures were facilitated by mandate, the report reflects information related to the mandate as well.

The Expenditure Chart below reflects some different categories from the previous years due to a new comprehensive accounting system adopted by the Indiana Executive Branch. This system, PeopleSoft, has designated new line item entries and combined others. Therefore, the information identifying expenditures from the state is slightly different than in previous publications.

Line items "Grants," "Distributions to Other Local Governments" and "Social Service Payments" from the State Auditor's report have been combined into one total for the chart below. See Volume I, Judicial Year in Review, State Fund Expenditures on the Judicial System chart for a breakdown of the total state expenditures.

2011 Expenditures

Expenditures	State*	County**	City/Town	Township	Total
Personnel Salaries and Fringe Benefits	\$80,858,036	\$183,560,315	\$12,237,907	\$2,422,153	\$279,078,411
Non-Salary Personnel Services		\$30,530,328	\$564,146	\$27,004	\$31,121,478
Services & Charges Other than Personal		\$24,729,330	\$723,695	\$327,180	\$25,780,205
Capital Costs	\$138,124	\$5,541,678	\$285,690	\$50,376	\$6,015,868
Travel		\$765,754	\$47,024	\$163	\$812,941
Service by Contract	\$1,295,492				\$1,295,492
Materials, Parts & Supplies	\$865,511				\$865,511
Utilities	\$1,381,372				\$1,381,372
Grants/Other Local Gov. Distributions/Social Service Payments	\$19,411,156				\$19,411,156
Total Operating	\$24,417,164				\$24,417,164
Administrative & Operating Expenses	\$2,320,841				\$2,320,841
Total Expenditures	\$130,687,696	\$245,127,405	\$13,858,462	\$2,826,876	\$392,500,439

*State portion information provided by Annual Report of State Auditor.

**County in this chart refers to Circuit, Superior and Probate Courts.

COSTS OF INDIGENT DEFENSE SERVICES IN INDIANA

Established by Indiana Code 33-40-6-1, the Public Defense Fund reimburses counties for 50 percent of certified expenditures for indigent defense in capital cases and, for counties that meet the standards set by the Indiana Public Defender Commission (Commission), the fund reimburses the counties for 40 percent of indigent defense costs for eligible non-capital cases. Fifty-two of Indiana's ninety-two counties participated in the fund in 2011. Some counties' public defender offices participating in the reimbursement program have budgets separate from the county courts' budgets. In other participating counties, expenditures for indigent defense services may be paid in whole or part from the courts' budgets, and these court expenditures are reported to the Division in an annual budget and expenditure report. In addition, counties that participate in the Public Defender system file reports with the Indiana Public Defender Commission about their expenditures.

To provide a more global picture of the actual costs of indigent defense services than either the reports to the Commission or to the Division standing alone provide, the following chart sets out the information collected from Budget and Expenditure Reports submitted to the Division and from reports submitted to the Commission. Where public defender offices submitted reports both to the Commission and to the Division, an attempt was made to capture all expenditures while minimizing the possibility of duplication of expenditures. In some cases, the reports were combined to come up with a total for this chart, while in other cases, the higher amount reported is listed where it is believed that duplication in reporting of some expenditures was likely. The following chart should be viewed as summary

approximation and not as a precise accounting of expenditures for indigent defense services. The Indigent Defense Services chart total represents a portion of, and is not in addition to, the \$392,500,439 total expenditures on the courts listed in the 2011 expenditures chart.

County		Indigent Defense Cost
ADAMS	4	\$ 341,842
ALLEN	4	\$ 4,071,057
BARTHOLOMEW	1	\$ 446,480
BENTON	4	\$ 75,489
BLACKFORD	3	\$ 210,869
BOONE	4	\$ 675,283
BROWN	1	\$ 93,617
CARROLL	3	\$ 185,237
CASS	1	\$ 325,365
CLARK	3	\$ 647,483
CLAY	1	\$ 125,399
CLINTON	1	\$ 332,933
CRAWFORD	1	\$ 139,427
DAVISS	1	\$ 678,188
DEARBORN	1	\$ 545,267
DECATUR	3	\$ 174,403
DEKALB	1	\$ 328,273
DELAWARE	4	\$ 1,107,429
DUBOIS	1	\$ 201,826
ELKHART	1	\$ 224,931
FAYETTE	4	\$ 335,382
FLOYD	3	\$ 781,153
FOUNTAIN	3	\$ 154,985
FRANKLIN	1	\$ 122,028
FULTON	4	\$ 314,318
GIBSON	1	\$ 173,703
GRANT	4	\$ 824,731
GREENE	4	\$ 411,156
HAMILTON	1	\$ 1,482,901
HANCOCK	3	\$ 546,712
HARRISON	1	\$ 252,329
HENDRICKS	1	\$ 690,107
HENRY	1	\$ 273,933
HOWARD	3	\$ 1,316,925
HUNTINGTON	1	\$ 172,643
JACKSON	1	\$ 253,560
JASPER	3	\$ 273,228
JAY	4	\$ 367,072
JEFFERSON	1	\$ 368,123
JENNINGS	3	\$ 219,929
JOHNSON	1	\$ 497,142
KNOX	4	\$ 738,442
KOSCIUSKO	3	\$ 545,932
LAGRANGE	3	\$ 148,041
LAKE	4	\$ 4,219,161
LAPORTE	3	\$ 592,408
LAWRENCE	4	\$ 587,061
MADISON	3	\$ 1,692,807
MARION	4	\$ 17,305,923
MARSHALL	1	\$ 239,015
MARTIN	3	\$ 121,054
MIAMI	1	\$ 25,411

County		Indigent Defense Cost
MONROE	4	\$ 1,702,451
MONTGOMERY	3	\$ 418,913
MORGAN	1	\$ 11,916
NEWTON	1	\$ 137,037
NOBLE	3	\$ 471,209
OHIO	3	\$ 77,659
ORANGE	3	\$ 250,993
OWEN	1	\$ 188,924
PARKE	3	\$ 130,673
PERRY	3	\$ 303,575
PIKE	4	\$ 446,375
PORTER	1	\$ 646,199
POSEY	1	\$ 253,389
PULASKI	3	\$ 136,172
PUTNAM	1	\$ 110,916
RANDOLPH	1	\$ 310,908
RIPLEY	1	\$ 194,966
RUSH	3	\$ 239,240
ST. JOSEPH	2	\$ 1,892,568
SCOTT	1	\$ 256,561
SHELBY	3	\$ 440,935
SPENCER	3	\$ 112,558
STARKE	1	\$ 80,758
STEBUBEN	3	\$ 320,208
SULLIVAN	3	\$ 211,527
SWITZERLAND	3	\$ 214,666
TIPPECANOE	4	\$ 2,388,895
TIPTON	1	\$ 70,260
UNION	3	\$ 62,240
VANDERBURGH	4	\$ 2,742,571
VERMILLION	4	\$ 134,907
VIGO	4	\$ 1,728,873
WABASH	3	\$ 258,900
WARREN	3	\$ 41,836
WARRICK	1	\$ 267,033
WASHINGTON	3	\$ 332,342
WAYNE	1	\$ 61,539
WELLS	1	\$ 197,721
WHITE	1	\$ 159,569
WHITLEY	1	\$ 168,055
TOTAL		\$ 65,155,150

Source of Amounts:

1. From reports to the Division only.
2. From reports to the Commission only.
3. The greater of the amounts reported to the Division or the Commission.
4. Combination of the amounts reported to the Division and the Commission.

REVENUE REFERENCES

Trial courts generate revenue primarily from filing fees, court costs, fines and fees assessed to litigants. Revenues generated through the operation of the trial courts are collected, accounted for and disbursed by the Clerk of the Circuit Court, an independently elected office for each Judicial Circuit. The Clerk of the Circuit Court also functions as the Clerk of the county and, as such, performs many other functions unrelated to court operations, including issuing marriage licenses, coordinating the election board, and conducting county, state and national elections.

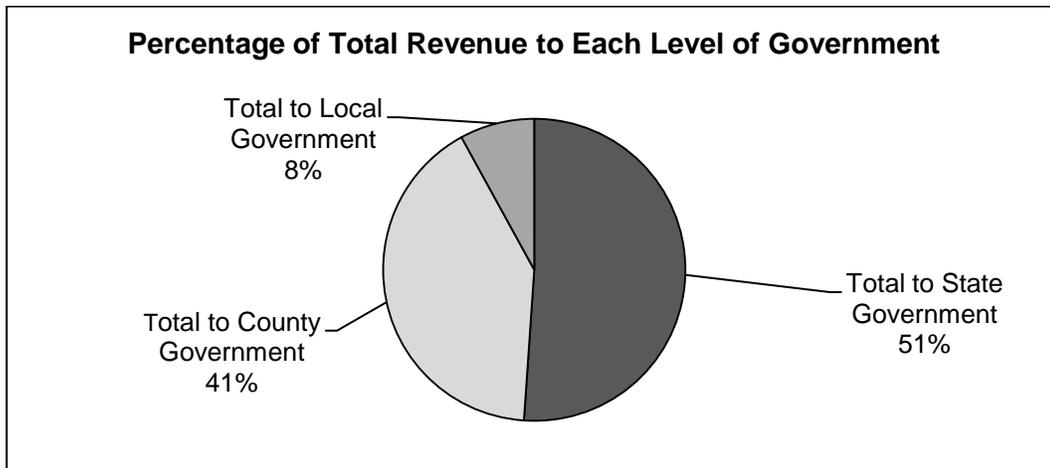
Revenues generated through the city, town, and Marion County Small Claims Courts are collected by the local clerk and disbursed to state, county, or

local general funds, or to a list of specific funds established by the Indiana General Assembly for specific programs and services, according to statutory provisions. The only direct payment fee is the personal service of process fee charged to small claims litigants in the Marion County Small Claims Courts. This fee is paid to the constable and his or her deputies.

The chart below reflects a summary of the total revenues collected by the State court system and sent to each level of government. The heading "County Courts" refers to Circuit, Superior, and Probate Courts. The revenues sent to each level of government may be deposited in general funds that are not designated for a specific purpose, court related services funds that provide funding for specific court programs like probation, and special funds which are designated for purposes outside of the judicial system.

2011 Revenues

Revenues	County	City/Town	Township	Total
Total to State Government Funds	\$86,930,749	\$19,644,381	\$1,657,643	\$108,232,773
Total to County Government Funds	\$80,277,902	\$6,278,677	\$136,739	\$86,693,318
Total to Local Government Funds	\$3,640,198	\$10,176,082	\$3,109,194	\$16,925,474
Total Generated Funds	\$170,848,849	\$36,099,140	\$4,903,576	\$211,851,565



COSTS AND FEES ROUTINELY CHARGED

Court Costs: The court cost is the basic expense for filing a civil case and the basic cost assessed upon a conviction in a criminal case or a judgment in an infraction or ordinance violation. The statutory costs in all courts are as follows:

Felony or misdemeanor (upon conviction): \$120 (I.C. 33-37-4-1(a)).

Infraction or ordinance violation (upon judgment, with some exceptions): \$70 (I.C. 33-37-4-2(a)).

Juvenile action (including CHINS, delinquency and paternity): \$120 (I.C. 33-37-4-3(a)).

Civil action (at case filing): \$100 (I.C. 33-37-4-4(a), but some civil actions are exempt); service fee for additional defendants \$10 (I.C. 33-37-5-28).

Small claim – all courts except Marion County Small Claims (at case filing): \$35 (I.C. 33-37-4-6); Small claims service fee for additional defendants: \$10 (I.C. 33-37-4-6(a)).

Probate/trust (at case filing): \$120 (I.C. 33-37-4-7(a)).

The above court costs include the cost of service of process by mail with return receipt requested for one defendant, unless otherwise indicated. In accord with Indiana Code 33-37-5-15(b), a single additional \$13 to \$60 fee is charged for service of process by the sheriff, depending on whether the case originates in Indiana or elsewhere.

The court costs collected in the circuit, superior and probate courts are distributed to the State, County and Local Level General Funds in the following percentages: 70 percent to the state, 27 percent to the county and 3 percent to the local level general fund. (I.C. 33-37-7-2(a), I.C. 33-37-7-4(a), I.C. 33-37-7-6(a)).

The costs collected in the city and town courts are distributed as follows: 55 percent to the state, 20 percent to the county and 25 percent to the city or town general fund. (I.C. 33-37-7-8(a), I.C. 33-37-7-8(b), I.C. 33-37-7-8(c)).

The following fees in this section are always collected even if a case is handled through pretrial diversion or deferral:

Judicial Salaries Fee: This fee is imposed for all case types. As of July 1, 2011 the fee for small claims cases is \$14 and for all other case filings, the fee is \$19. This fee increases by \$1 every year judicial salaries are increased by the Indiana General Assembly until it reaches a maximum of \$15/\$20. City and town courts and Marion County Small Claims Courts may keep 25 percent of the fee collected to fund court operations. The local clerk distributes the remaining fee amounts to the State Auditor to be deposited in the State General Fund. The Circuit and Superior Courts distribute 100 percent of the fee to the State Auditor for deposit in the General Fund. (I.C. 33-37-5-26; I.C. 33-37-7-2(i)(2); I.C. 33-37-7-8(i); I.C. 33-34-8-1(a)(11); I.C. 33-34-8-3(b)(1)(E) and (b)(2)).

Document Storage Fee: For maintaining court records, the Clerk collects this \$2 fee in every action. Money collected from this fee is deposited into the Clerk's Record Perpetuation Fund, which may be used by clerks for the preservation of records or for the improvement of record keeping systems and equipment. It is reported as county level or local level specific funds depending on the reporting court. (I.C. 33-

37-5-2(a)(2); I.C. 33-37-5-20; I.C. 33-34-8-1(a)(6); I.C. 33-34-8-3(b)(2)).

Automated Record-Keeping Fee: This fee is imposed for all case types. The fee decreased from \$7 to \$5 on July 1, 2011. This fee is the primary funding source for the Judicial Technology and Automation Committee. The Clerk distributes this fee to the State Auditor for deposit in the State User Fee Fund; however, all Automated Record-Keeping fees collected from an accused entering a pretrial diversion or deferral program are to be deposited in the Homeowner Protection Unit Account, managed by the Indiana Attorney General, and beginning July 1, 2011, any county not operating under Indiana's uniform statewide case management system, Odyssey, may deposit 20 percent of the Automated Record-Keeping Fees in the Clerk's Record Perpetuation Fund. The Clerk's Record Perpetuation Fund is used for preservation of records, improvement of record-keeping systems and equipment and to pay for the county's case management system. (I.C. 33-37-5-21; I.C. 33-37-5-2(a)(5); I.C. 33-37-7-2(b)(7); I.C. 33-37-7-2(a); I.C. 33-37-7-8(d)(5); I.C. 33-34-8-1(a)(7); I.C. 33-34-8-3(b)(1)(A)).

Public Defense Administration Fee: This fee, formally known as the Judicial Administration fee, is imposed for all case types. It increased from \$3 to \$5 on July 1, 2011. The Clerk distributes this fee to the State Auditor for deposit in the General Fund. (I.C. 33-37-5-21.2; I.C. 33-34-8-1(a)(9); I.C. 33-37-7-2(i)(1)¹; I.C. 33-37-7-8(g)(1); I.C. 33-34-8-3(b)(1)(B)).

Judicial Insurance Adjustment Fee: This \$1 fee is collected in all cases. The Clerk distributes this fee to the State Auditor for deposit in the State Judicial Branch Insurance Adjustment Account. (I.C. 33-37-5-25; I.C. 33-38-5-8.2; I.C. 33-37-7-2(j)²; I.C. 33-37-7-8(h); I.C. 33-34-8-1(a)(10); I.C. 33-34-8-3(b)(1)(D)).

Court Administration Fee: This \$5 fee is imposed in all cases including cases in the Marion County Small Claims Courts. All courts, other than Marion County Small Claims Courts, distribute this fee to the State Auditor for deposit to the General Fund to help fund the pension fund for judges and magistrates. Marion County Small Claims Courts distribute 60 percent (or \$3) to the State Auditor. The remaining \$2 is distributed to the Township Trustee to fund the operations of the small claims courts. (I.C. 33-37-5-27; I.C. 33-34-8-1(a)(12); I.C. 33-37-7-2(i)(4)³; I.C. 33-34-8-3(b)(1)(C); I.C. 33-34-8-3(c)).

FEES CHARGED ROUTINELY IN CRIMINAL, INFRACTION AND ORDINANCE VIOLATION CASES

DNA Sample Processing: This \$2 fee is assessed to anyone convicted of a felony or misdemeanor, found to have committed an infraction or ordinance violation or required to pay a pretrial diversion fee. The Clerk distributes this fee to the State Auditor for deposit in the State General Fund, and further deposit to the DNA Sample Processing Fund. (I.C. 33-37-4-1(b)(19); I.C. 33-37-5-26.2; I.C. 33-37-7-9(b)(9); I.C. 10-13-6-9.5; I.C. 33-37-7-2(i)(3)⁴; I.C. 33-37-7-8(g)(2)).

Jury Fee: This \$2 fee is imposed when a defendant is found to have committed a crime, violated a statute defining an infraction or violated an ordinance of a municipal corporation. The Clerk distributes this fee to the County Auditor for deposit in the relevant user fee fund, for further deposit in the Jury Pay Fund. (I.C. 33-37-5-19; I.C. 33-37-8-5(b)(7); I.C. 33-37-8-8; I.C. 33-37-11-2; I.C. 33-35-5-5).

Law Enforcement Continuing Education Program Fee: This \$4 fee is

¹ Section amended to I.C. 33-37-7-2(h)(1) on July 1, 2012.

² Section amended to I.C. 33-37-7-2(i) on July 1, 2012.

³ Section amended to I.C. 33-37-7-2(h)(4) on July 1, 2012.

⁴ Section amended to I.C. 33-37-7-2(h)(3) on July 1, 2012.

charged in each criminal conviction and each infraction and ordinance violation. The fee is deposited in the relevant user fee fund, and reported in the county or local level column, depending upon the collecting court, to be deposited in the relevant user fee fund. This fee is considered a user fee but is discussed separately from the other user fees because of the frequency with which the fee is charged in criminal cases. (I.C. 33-37-5-8(c); I.C. 33-37-4-1(b)(4); I.C. 33-37-4-2(b)(4)⁵; I.C. 33-37-8-5(b)(5); I.C. 33-37-8-3(b)(3)).

USER FEES REGULARLY CHARGED IN CERTAIN CRIMINAL CASES

In addition to court costs and the fees shown above, the Indiana General Assembly has established a number of additional special fees which are assessed in certain cases. They are designated for special programs or purposes operating at the state, county or local level. The following is the distribution and description of such additional fees that comprise the collected report entries.

The following percentages of fees are distributed to the State User Fee Fund:

25 percent of the Drug Abuse, Prosecution, Interdiction, and Corrections Fees;

25 percent of the Countermeasures Fees;

50 percent of the Child Abuse Prevention Fee;

100 percent of the Domestic Violence Prevention and Treatment Fees;

100 percent of the Highway Work Zone Fees;

100 percent of the Safe School Fees, and

100 percent of Automated Record-Keeping Fee for deposit to the Judicial Technology and Automation Committee fund; however,

- if the fee was collected as part of a pretrial diversion or deferral program, it is deposited to the Homeowner Protection Unit account.
- 2011 legislation allows a county not operating the state’s case management system, Odyssey, to deposit 20 percent of the Automated Record-Keeping Fee to the Clerk’s Record Perpetuation Fund.

Distribution of user fees to County User Fee Funds - Each county’s user fee fund is used to finance various programs and services, and is administered by the auditor in each county. The following fees are deposited in this fund:

Pretrial Diversion Fees;

Informal Adjustment Program Fees;

Marijuana Eradication Program Fees;

Alcohol and Drug Services Program Fees;

Law Enforcement Continuing Education Program Fees;

Drug Court Fees;

⁵ Section amended to I.C. 33-37-4-2(b)(3) on July 1, 2012.

Problem Solving Court Services Fees⁶, and

Jury Fee.

Distribution of user fees to Local User Fee Funds - In city or town courts the following fees are deposited in the City or Town User Fee Fund:

Pretrial Diversion Program Fee;

Alcohol and Drug Services Program Fee;

Law Enforcement Continuing Education Program Fee;

Problem Solving Court Services Fees⁷, and

Deferral Program Fee.

The following are descriptions of the user fees:

A. Drug Abuse, Prosecution, Interdiction and Corrections Fee: All courts must assess this fee of at least \$200 but no more than \$1,000 against a person convicted of a controlled substance offense. In determining the amount of the fee, the court must consider the person's ability to pay. Twenty-five percent of the fee is distributed to the State Auditor for deposit in the General Fund and seventy-five percent is distributed to the County Auditor for deposit into the County Drug Free Community Fund. (I.C. 35-48-4; I.C. 33-37-4-1(b)(5); I.C. 33-37-5-9; I.C. 33-37-7-2(b)(1) and (c)(1); I.C. 5-2-11).

B. Countermeasures Fee: In each action in which a person is convicted of an operating a vehicle while intoxicated (OVWI) offense or adjudicated a delinquent for an act that would be an OVWI if committed by an adult, **and** the

person's driving privileges are suspended by the court or Bureau of Motor Vehicles as a result of this finding, the Clerk shall collect a Countermeasures Fee of \$200. Twenty-five percent of the fee is distributed to the State Auditor for deposit in the General Fund and seventy-five percent is distributed to the County Auditor for deposit in the County Drug Free Community Fund. (I.C. 9-30-5; I.C. 33-37-5-10; I.C. 33-37-4-1(b)(6); I.C. 33-37-7-2(b)(2) and (c)(2); I.C. 33-37-4-2(b)(4); I.C. 33-37-4-3(b)(5); I.C. 5-2-11).

C. Child Abuse Prevention Fee: This \$100 fee is assessed against a defendant found guilty of certain criminal offenses involving a victim who is less than 18 years of age. Fifty percent of the fee is distributed to the State Auditor for deposit in the State User Fee Fund. The other 50 percent is distributed to the County Auditor for deposit in the County Child Advocacy Fund. (I.C. 12-17-17; I.C. 33-37-7-2(b)(3); I.C. 33-37-7-2(d)⁸; I.C. 33-37-5-12; I.C. 33-37-4-1(b)(7)).

D. Domestic Violence Prevention and Treatment Fee: This \$50 fee is charged in each criminal action in which the defendant is found guilty of murder, causing suicide, voluntary manslaughter, reckless homicide, battery/domestic battery or rape against his or her spouse, former spouse, person with whom the defendant lives as a spouse or with whom defendant shares a child. This fee is distributed to the State Auditor for deposit in the State User Fee Fund. (I.C. 33-37-7-2(b)(4); I.C. 33-37-5-13; I.C. 33-37-4-1(b)(8)).

E. Highway Work Zone Fee: A fifty-cent Highway Work Zone Fee is charged in each traffic offense, including criminal misdemeanors, infractions and ordinance violations. If the offense involves exceeding a worksite speed limit or failure

⁶ This fee replaced the Drug Court Fee and Reentry Court Fee on July 1, 2010.

⁷ Id.

⁸ As of July 1, 2012, section I.C. 33-37-7-2(d) was deleted and replaced by I.C. 33-37-7-2(b)(3) and currently one hundred percent of this fee is distributed to the State Auditor for deposit in the State User Fee Fund.

to merge and the judge orders the Clerk to collect the fee for exceeding a worksite speed limit or failure to merge, the fee is \$25.50. This fee is distributed to the State Auditor for deposit in the State User Fee Fund. (I.C. 9-30-3-5; I.C. 33-37-4-1(b)(9); I.C. 33-37-4-2(b)(5); I.C. 33-37-7-2(b)(5); I.C. 33-37-7-8(d)(3); I.C. 33-37-5-14).

F. Safe Schools Fee: In each criminal action in which a person is convicted of an offense in which the possession or use of a firearm was an element of the offense, the court must assess a safe school fee of at least \$200 but not exceeding \$1,000, based on the defendant's ability to pay. This fee is distributed to the State Auditor for deposit in the State User Fee Fund. (I.C. 33-37-7-2(b)(6); I.C. 33-37-5-18; I.C. 33-37-7-8(d)(4)).

G. Informal Adjustment Program Fee: This fee of \$5 to \$15 per month may be ordered by the court to be paid in cases, in lieu of court cost fees, where a juvenile has been placed in an informal adjustment program prior to having a delinquency petition filed. The fee total is reported in the county level column for deposit in the User Fee Fund. As of March 18, 2008, this fee for CHINS cases was repealed and not replaced. Therefore, the fee is not charged in CHINS matters; however, the court may still charge the fee in delinquency cases. (I.C. 31-37-9-9; I.C. 33-37-8-5(b)(2)).

H. Marijuana Eradication Program Fee: In any conviction related to controlled substances in a county with a Weed Control Board, the court may assess up to \$300 for this fee. The fee is distributed to the County Auditor for deposit in the County User Fee Fund. (I.C. 35-48-4; I.C. 15-16-7-8; I.C. 33-37-8-5(b)(3); I.C. 33-37-5-7).

I. Alcohol and Drug Services Program Fee: If a county has established an alcohol and drug services program, this fee may be collected by a schedule adopted by the court (including city and

town courts) in criminal, infraction and ordinance violations. It is set by court rule and may not exceed \$400. The fee is distributed to the County Auditor or local fiscal officer, depending upon the collecting court, to be deposited in the relevant user fee fund. (I.C. 33-37-5-8(b); I.C. 12-23-14-16; I.C. 33-37-4-1(b)(3); I.C. 33-37-4-2(b)(2); I.C. 33-37-8-5(b)(4); I.C. 33-37-8-3(b)(2)).

J. Problem Solving Court Services Fee: In 2010, the Drug Court and Reentry Court fees were abolished and replaced with the Problem Solving Court Services Fee. The Problem Solving Court Services Fee consists of the monthly fee, the administration fee and any fees for problem solving court services adopted by local court rule. The monthly fee can vary by court provided the fee does not exceed the \$50 monthly maximum set by the Indiana Problem Solving Courts Committee. The administration fee, which problem solving courts may require eligible individuals to pay, may not exceed \$100 for initial problem solving court services. Problem solving courts may also adopt fees for other problem solving court services, such as chemical testing fees or transfer fees, by local rule provided these local fees are consistent with the range of fees established by the Board of Directors of the Judicial Conference of Indiana. (I.C. 33-37-5-24; I.C. 33-23-16-23; I.C. 33-37-8-5(b)(8); I.C. 33-37-8-3(b)(5)).

ADDITIONAL FEES CHARGED IN CRIMINAL CASES, INCLUDING PRETRIAL DIVERSION AND DEFERRAL PROGRAMS

Pretrial Diversion Fee: The prosecuting attorney may withhold the prosecution of a person charged with certain misdemeanors (excluded misdemeanors are listed in Indiana Code 33-39-1-8) if the person agrees to the conditions of a pretrial diversion program. In a pretrial diversion the accused is charged a

mandatory deferred prosecution fee of \$120 (distributed to the State/County/Local general funds in the same percentages as regularly collected court costs) as well as the Pretrial Diversion Fee (an initial user fee of \$50 plus \$10 for each month the person remains in the program) plus the other routine fees assessed in a criminal case. The Pretrial Diversion Fee (the initial fee plus the monthly fees) may be waived by the terms of the pretrial diversion program agreement. The Pretrial Diversion Fee is distributed to the County Auditor or local fiscal officer, depending on the collecting court, for deposit in the relevant user fee fund; however, funds derived from the Pretrial Diversion Fee may only be used for certain purposes. (I.C. 33-39-1-8(d), (e) and (h); I.C. 33-37-4-1(b)(10); I.C. 33-37-4-1(c) and (d); I.C. 33-37-5-17; I.C. 33-37-7-2(a); I.C. 33-37-7-8(a), (b) and (c); I.C. 33-37-8-3(b); I.C. 33-37-8-5(b); I.C. 33-37-8-6(b); I.C. 33-37-8-7; I.C. 33-37-5-17; I.C. 33-37-7-4(a)(7); I.C. 33-37-7-6(a)(7); I.C. 33-37-4-2(b)(6); I.C. 33-37-8-4(b)).

Deferral Program Fee: A deferral program may be offered to a person charged with an infraction or ordinance violation by the county prosecutor or attorney for the municipal corporation. Certain individuals may not qualify for a deferral program (the limitations are listed in Indiana Code 34-28-5-1). The Deferral Program Fee is assessed in lieu of the standard court costs if the agreement between the prosecuting attorney and person charged with the offense requires payment of this fee. The Deferral Program Fee consists of an initial user fee (not to exceed \$52) and a monthly user fee (not to exceed \$10 for each month the offender remains in the deferral program). In addition, if the action involves a moving traffic offense as defined in Indiana Code 9-13-2-110, court costs of \$70 are assessed (distributed to the State/County/Local General Funds in the same percentages as regularly collected court costs). The County Auditor is directed to distribute \$2 of the Deferral

Program Fee to the County Jury Pay Fund with the remainder distributed to the relevant user fee fund. Funds derived from the Deferral Program Fee may only be used for certain purposes. (I.C. 33-37-4-2(c) & (e); I.C. 34-28-5-1(g) and (h); I.C. 33-37-7-2(a); I.C. 33-37-7-8(a); I.C. 33-37-8-3(b)(4); I.C. 33-37-8-4; I.C. 33-37-8-5(b)(6); I.C. 33-37-8-6(b)).

Adult Probation User Fee: This category reflects administration and user fees charged to adults placed on probation after a conviction of a felony or misdemeanor. These fees are mandatory for felony cases but optional for misdemeanors. In felony cases the court must order an administration fee of \$100 and an initial probation user fee of not less than \$25 but not more than \$100 plus a monthly user fee ranging between \$15 and \$30 for each month the person remains on probation. In misdemeanor cases the administration fee is \$50 and the initial fee cannot exceed \$50 and the monthly fee ranges between \$10 and \$20. The fees are deposited in the County Supplemental Adult Probation Services Fund that is used for probation services. The Clerk collecting these fees may keep up to 3 percent of the fee to defray administrative costs. This 3 percent is deposited in the Clerk's Record Perpetuation Fund. The Clerk may be asked to deposit an additional 3 percent of the Probation User Fee in the county, city or town general fund depending upon the requesting fiscal officer. (I.C. 35-38-2-1; I.C. 35-38-2-1.5).

Juvenile Probation User Fee: A court may order a juvenile and/or the parent of a juvenile who is placed on supervision to pay an initial user fee from \$25 to \$100 and a monthly user fee from \$10 to \$25. If a delinquent child is supervised, the administrative fee is \$100, which is collected before the other probation user fees. These fees are deposited in the County Supplemental Juvenile Probation Services Fund. As with the Adult Probation User Fee, if the Clerk collects the fee, the Clerk may keep up to 3

percent to defray administrative costs (deposited in the Clerk's Record Perpetuation Fund) and up to 3 percent for the county, city or town general fund. (I.C. 31-40-2-1(b) and (c); I.C. 31-40-2-1.5; I.C. 31-40-2-1.7(d)).

Sexual Assault Victims Assistance Fee:

This fee is imposed when a defendant is convicted of rape, criminal deviate conduct, child molestation, child exploitation, vicarious sexual gratification, child solicitation, child seduction, sexual battery, sexual misconduct with a minor as a Class A or Class B felony, or incest. The fee ranges from \$250-\$1,000. The Clerk distributes this fee to the State Auditor for deposit into the Sexual Assault Victims Assistance Account. (I.C. 33-37-5-23; I.C. 33-37-7-2(f)⁹; I.C. 5-2-6-23(h)).

Deposits to Supplemental Public Defender Services Fund:

Four statutes address when a defendant may be ordered to reimburse the county for counsel provided at public expense. All four statutes require the Clerk to deposit the monies received to the Supplemental Public Defender Services Fund. All courts, other than city courts in Lake County, should report all deposits to the County Supplemental Public Defender Services Fund. See I.C. 33-40-3-1. Only Lake County city courts are authorized by statute to have local supplemental public defender services funds. See I.C. 33-40-3-10.

At the initial hearing after the defendant is declared indigent but able to pay costs of representation, the court shall order the defendant to pay a fee of \$100 for a felony or \$50 for a misdemeanor. Although the statute contemplates the court ordering this fee at the initial hearing, a court is not prohibited from imposing the fee at other stages in the proceeding. See I.C. 35-33-7-6.

At any stage in the prosecution for a felony or misdemeanor if the court finds a person or a delinquent child's parent has the ability to pay public defense fees, the court will require the person to pay reasonable attorney's fees and costs, provided the fees and costs do not exceed the actual costs of representation. See I.C. 33-40-3-6.

If the court finds a convicted person is not indigent, it shall order the person to pay the entire amount of costs at the time sentence is pronounced, at some later date, or the person may be ordered to pay specified parts of the costs at designated intervals. The court may suspend payment of costs until the convicted person has completed all or part of the sentence. If the court suspends payment of costs, it must conduct an indigency hearing at the time costs are due. See I.C. 33-37-2-3.

The court can deduct:

- fines, costs, fees and restitution upon conviction, and
- the publicly paid costs of representation regardless of conviction

from cash bonds or the cash deposit on a surety bond (but not bail bonds or real estate bonds), provided the defendant or each person who makes a deposit on behalf of the defendant, executes an agreement to the attachment of the bond upon disposition of the case. The Clerk also retains the Special Death Benefit Fee. Any amount remaining after payment of these costs is remitted to the defendant or person who made the deposit on behalf of the defendant. See I.C. 35-33-8-3.2.

Bond Administration Fee: When a defendant executes a cash bail bond with the Clerk, 10 percent or \$50, whichever is less, may be retained as the administrative fee regardless of the disposition of the case. This fee goes to the County General Fund or the Local General Fund if

⁹ Section amended to I.C. 33-37-7-2(e) on July 1, 2012.

collected in a city or town court. (I.C. 35-33-8-3.2(a)(2)).

Special Death Benefit Fee: When the Clerk or sheriff collects bail posted under Indiana Code 35-33-8-3.2, he or she must remit \$5 to the County Auditor for deposit in the Special Death Benefit Fund by the trustees of the Public Employees' Retirement Fund. This fee is required in addition to the bond administrative fee. (I.C. 35-33-8-3.2(a) and (d); I.C. 5-10-10-5(a)).

Late Surrender Fee: When a bonded defendant fails to appear, a late surrender fee based on a percent of the value of the bond is assessed against the bondsman. Fifty percent of this fee is deposited in the Police Pension Trust Fund, a local level fund, and fifty percent is deposited in the County Extradition Fund. (I.C. 36-8-10-12; I.C. 35-33-14-5; I.C. 27-10-2-12(c) and (i)).

Fines and Forfeitures: Fines and forfeitures are assessed in criminal convictions. All fines and forfeitures are distributed to the State Auditor for deposit in the State Common School Fund. These monies are not considered fees but are assessed by the court in addition to the court costs and fees described herein. (Indiana Constitution Article 8 Section 2).

Infraction Judgment Collections: These are civil penalties collected as judgments for cases in which a defendant is found to have committed an infraction which has statewide applicability. These funds are distributed to the State Auditor for deposit in the State General Fund. Certain infraction judgments collections such as those for worksite speed limit violations and youth tobacco civil penalties are distributed to the State Auditor for deposit to designated funds. Information on these infractions is collected separately. (I.C. 34-28-5-4(h); I.C. 34-28-5-5(c) and (e); I.C. 9-21-5-11(e)).

Civil Penalties for Local Ordinance Violations: This category reflects

amounts collected as judgments for local ordinance violations. The Clerk distributes these funds to either the County Auditor or local fiscal officer depending on whether the ordinance is a county ordinance or a city or town ordinance, for deposit in the relevant general fund. This category does not include civil penalties for local ordinance violations collected by a municipal ordinance violations bureau. Ordinance violations handled by municipal ordinance violations bureaus are not court cases and therefore the penalties collected are not court revenue. (I.C. 33-37-4-2; I.C. 33-36-3-7).

Vehicle License Judgments: These monies are collected as infraction judgments in overweight vehicle cases. The Clerk distributes these funds to the State Auditor for deposit in the State Highway Fund. (I.C. 9-20-18-12(f)).

Reimbursements to Department of Natural Resources (DNR): Three statutes: I.C. 14-22-38-4 (unlawful taking or unlawful sale of deer or wild turkey); I.C. 14-22-38-5 (unlawful taking of other wild animals); and I.C. 14-22-40-6 (unlawful shooting at law enforcement decoys) require a court to collect reimbursements for the DNR. Reimbursement amounts are set by each statute and range from \$20 to \$1,000. All reimbursements are deposited in the DNR Conservation Officers' Fish and Wildlife Fund. (I.C. 14-22-38-4; I.C. 33-37-5-16; I.C. 14-22-3-3; I.C. 14-22-3-4; I.C. 14-8-2-318; I.C. 14-22-40-7; I.C. 14-22-40-8).

Late Payment Fee: This fee is imposed if a defendant, convicted of a criminal action, ordinance violation, infraction, or delinquent act, fails to pay the costs, fines or civil penalties to the Clerk by the deadline set by the court. This \$25 fee is set by local rule and distributed to the County Auditor or local fiscal officer, depending on the collecting court, and deposited in the county or local general fund; however, if the fee is collected by the circuit court, a local ordinance may provide

40 percent of late fees will be deposited in the Clerk's Record Perpetuation Fund and 60 percent in the County General Fund. (I.C. 33-37-5-22; I.C. 33-37-7-8(f)(1); I.C. 33-37-5-2(a)(3); I.C. 33-37-7-2(e)¹⁰).

Worksite Speed Limit Judgment (formerly known as the Construction Work Zone Fee): The Indiana Department of Transportation, the Indiana Finance Authority or a local authority may establish temporary maximum speed limits in their respective jurisdictions and in the vicinity of a worksite. These temporary speed limits must be at least 10 mph below the established speed limit for that location, and may only be enforced if workers are present in the immediate vicinity of the worksite or if the establishing authority determines the safety of the traveling public requires enforcement. Judgments range from \$300 to \$1,000 depending on whether the person charged with the infraction violation has committed prior infractions of violating a speed limit within the previous three years. The funds collected as judgments are reported in the state level and shall be transferred to the Indiana Department of Transportation. (I.C. 9-21-5-11).

Youth Tobacco Civil Penalty: This penalty is collected for violations of statutes regulating the sale of tobacco. The Clerk distributes these funds to the State Auditor for deposit to the Richard D. Doyle Youth Tobacco Education and Enforcement Fund. (I.C. 7.1-3-18.5-6; I.C. 7.1-6-2-6; I.C. 7.1-3-18.5-7; I.C. 24-3-5-5(c); I.C. 24-3-5-8; I.C. 35-46-1-10; I.C. 35-46-1-10.2; I.C. 35-46-1-11.5; I.C. 35-46-1-11.7; I.C. 35-46-1-11.8).

Intra-State Transfer Probation Fee: A probationer who applies to have supervision transferred from one county to another within the State of Indiana pays a \$75 transfer fee to the receiving court. The receiving court may waive this fee if the offender is indigent. The entire fee is

deposited in the receiving county's Supplemental Adult Probation Services Fund. (Indiana Rules of Criminal Procedure 2.3(D)).

Other Criminal Fees: Even though the following miscellaneous fees are set by statute, the courts are directed to report the revenue in the "other" category used to report miscellaneous fees. These fees, while important, remain in the discretion of the court to assess and do not generate as much revenue as the other separately identified fees. These include the following: Alcohol Abuse Deterrent Fee along with the Medical Fee—up to \$400 and \$150 respectively—which is charged when a defendant is participating in a county run Alcohol Abuse Deterrent Program for driving infractions (I.C. 9-30-9-8); Lab Test for HIV—maximum amount not listed—if ordered by the court when a defendant, on probation, has committed a qualifying act (I.C. 35-38-2-2.3); Emergency Medical Service Restitution – not to exceed \$1,000—charged when a defendant is sentenced, with or without probation, and the misdemeanor or felony necessitated the need for medical services (I.C. 9-30-5-17); and Reimbursement for Incarceration costs—\$30 per day or cost determined by auditor—charged, if the county adopts the appropriate ordinance, to defendants for misdemeanor and felony sentences who serve more than seventy-two hours in lawful detention (I.C. 36-2-13-15).

ADDITIONAL FEES CHARGED IN CIVIL CASES

Support Fees: This category reflects amounts collected through a \$55 yearly fee charged in cases where a final court order requires a party to pay support or maintenance payments through the Clerk of the Court or State Central Collection Unit. It is intended to defray some of the expenses associated with the collection and disbursement of child support or

¹⁰ Section amended to I.C. 33-37-7-2(d) on July 1, 2012.

maintenance. The fee goes to the County General Fund if collected by the County Clerk or the State General Fund if collected by the State Central Collection Unit. (I.C. 33-37-5-6; I.C. 33-37-7-2(g)¹¹).

Guardian *ad Litem*/Court Appointed Special Advocate Fee: The juvenile division of the trial court may order the parent or estate of a child for whom a guardian *ad litem* or a special advocate is appointed to pay up to \$100 for the service. The money is paid to the county probation department and is deposited in either the GAL or CASA Fund depending upon the appointment. The county fiscal body uses the money when providing these services. (I.C. 31-40-3-1; I.C. 31-40-3-2).

Civil Action Service Fee: This fee is collected in all civil actions where service was made in some manner other than by publication in accordance with Indiana Rules of Trial Procedure Rule 4.13. This \$10 fee is collected from any party that adds an additional defendant that is not a garnishee defendant after the first named defendant. Depending on the court in which this fee is collected, it is distributed to the County Auditor or city or town fiscal authority for deposit in the relevant general fund. (I.C. 33-37-4-4(b)(9); I.C. 33-37-5-28(b)(1); I.C. 33-37-7-2(k)¹²).

Additional Garnishee Defendants Service Fee: A \$10 fee is assessed for each additional garnishee or garnishee defendant from a party that has named more than three garnishee or garnishee defendants. Depending on the court in which this fee is collected, it is distributed to the County Auditor or city or town fiscal authority for deposit in the relevant general fund. (I.C. 33-37-5-28(b)(3) or (4); I.C. 33-37-7-2(l)¹³; I.C. 33-37-4-6(a)(1)(C); I.C. 33-37-4-4(b)(10); I.C. 33-37-4-6(a)(3); I.C. 33-

37-7-2(h)(2)¹⁴; I.C. 33-37-7-8(f)(3); I.C. 33-37-7-12(a)(2); I.C. 33-35-3-9(c)).

Small Claims Service Fee: The plaintiff in a small claims action pays this fee when other civil costs are paid. This fee is not charged in city and town courts as they have no jurisdiction over small claims action. Similar to civil actions, the Clerk's office charges \$10 per each additional named defendant after the first named defendant in a case, including those added after the time of filing. Depending on the court in which this fee is collected, it is distributed to the County Auditor or city or town fiscal authority for deposit in the relevant general fund. (I.C. 33-37-7-2(h)(1)¹⁵; I.C. 33-37-4-6(a)(1)(B); I.C. 33-37-4-6(a)(2); I.C. 33-37-7-8(f)(2) and (3); I.C. 33-35-3-9(c); I.C. 33-37-7-12(a)).

Alternative Dispute Resolution Fee: This \$20 fee applies only to counties with an established and approved ADR plan. The fee is collected from the party filing a petition for legal separation, paternity or dissolution of marriage and is distributed to the County Auditor for deposit to the Alternative Dispute Resolution Fund. I.C. 33-23-6-1; I.C. 33-23-6-2).

Mortgage Foreclosure Counseling and Education Fee: All mortgage foreclosure actions filed after June 30, 2009 but before January 1, 2013, will be assessed a \$50 Mortgage Foreclosure Counseling and Education Fee. This fee is distributed to the State Auditor for deposit in the Home Ownership Education Account. (I.C. 33-37-4-4(b)(11); I.C. 33-37-5-30; I.C. 33-37-7-2(m)¹⁶; I.C. 5-20-6-3; I.C. 5-20-1-27).

OTHER SOURCES OF REVENUE

Document Fee: This category reflects a \$1 to \$3 fee, collected by the Clerk for copying, transmitting, preparing and

¹¹ Section amended to I.C. 33-37-7-2(f) on July 1, 2012.

¹² Section amended to I.C. 33-37-7-2(j) on July 1, 2012.

¹³ Section amended to I.C. 33-37-7-2(k) on July 1, 2012.

¹⁴ Section amended to I.C. 33-37-7-2(g)(2) on July 1, 2012.

¹⁵ Section amended to I.C. 33-37-7-2(g)(1) on July 1, 2012.

¹⁶ Section amended to I.C. 33-37-7-2(l)(1) on July 1, 2012.

certifying documents or transcripts. This fee goes to the County Auditor or city or town fiscal authority, depending upon the court in which it is collected, and deposited in the relevant general fund. (I.C. 33-37-5-2(a)(1); I.C. 33-37-5-3; I.C. 33-37-5-4; I.C. 33-37-5-5; I.C. 33-37-7-12).

Interest on Investments: This category reflects income generated through investments of various funds' monies. Depending on the court, the interest is deposited into the relevant fund that generated the income. (I.C. 5-13-9; I.C. 5-13-10.5-2).

MARION COUNTY SMALL CLAIMS COURT REVENUE REFERENCES

The nine Marion County Small Claims Courts file separate Reports on Court Revenue. Many of the categories are the same as the small claims case fees collected and reported on the regular Court Revenue Report. The following report references indicate the differences:

Filing Fee and Township Docket Fee: The basic court cost in the Marion County Small Claims Court is a \$5 Township Docket Fee plus 45 percent of the costs charged in infraction and ordinance violation cases, which totals \$37. The respective townships support these courts and the basic courts costs go to the Township General Funds rather than to the State General Funds. (I.C. 33-34-8-1(a)(1); I.C. 33-34-8-1(b); I.C. 33-34-8-3(a)).

Service of Process Fee (Certified Mail): The cost of service of process in these small claims courts is \$13 for service by registered or certified mail. The Service Fee is charged in addition to any filing fee. (I.C. 33-34-8-1(a)(2); I.C. 33-34-6-4(b)(6) and (7)).

Service of Process Fee (Personal Service): As with certified mail service, the additional fee for personal service by the constable is \$13. All Service of Process Fees are reported in the "Money to Others" column and are paid directly to the elected constables and their deputies. (I.C. 33-34-8-1(a)(3); I.C. 33-34-6-4(b)(5) and (7)).

Redocketing Fee: This \$5 fee is charged if a small claims case was dismissed or disposed but then redocketed for further action. (I.C. 33-34-8-1(a)(5)).

The descriptions of the remainder of the fees reported on the Small Claims Report on Court Revenue are the same as above.

COURT REPORTER INFORMATION

This report also includes information concerning the funds collected by court reporters for preparation of transcripts for hearings and appeals. There are four types of transcripts:

1. Hearing: A transcript of any official court proceeding.
2. Deposition: A transcript of a deposition taken in either a civil or criminal proceeding.
3. Indigent Transcript: A transcript provided to an individual who has been declared indigent by a court in a criminal proceeding.
4. Private Transcript: A transcript provided in either a civil or criminal proceeding that is paid for by a non-governmental entity, i.e., a private individual, organization, corporation, etc.

EXPLANATORY NOTES

Although the salaries of judges of circuit, superior, and probate courts are paid by the state, the counties are permitted, but are not required, to supplement those salaries up to \$5,000.¹⁷ The detailed sections of this report that set out the number or compensation of judges refer to judges whose salaries were supplemented at the county level.

Some courts reported their revenue and expenditures separately and others in a county combined their figures into a consolidated report. Where a consolidated report was filed, the figures are reported under the name of one court only.

¹⁷ I.C. 36-2-5-14; I.C. 36-3-6-3.