

2020 PDCom Annual Training

Q&A Session

Q: Can the supplemental fund be used to fund Standard N requests made by private counsel which the local public defender office is ordered to pay by the court?

- A great question. The Supplemental fund can only supplement and not "supplant" regular, routine public defense funding. If Standard N expenses are routine for a particular county, then a "regular" amount of funding for those expenses should be in the budget. As always, if a normally budgeted item is exceeded, a county can tap into the supplemental fund for the amount above the budgeted amount.

A county is not supposed to take from the supplemental fund for expenses that are predictable or known and simply never budgeted for.

This is a nuanced issue and please feel free to reach out to derrick.mason@pdcom.in.gov with questions about this fund.

Q: What if a county continues to use the Supplemental Fund each year to fund the same legal assistants and/or attorneys, would this mean the County is out of compliance?

- The guidelines for supplemental fund use explicitly say that regular salaries and compensation cannot come from the supplemental fund.
- A, technically unofficial, exception to this are counties that take their entire reimbursement and put it into their supplemental fund or they take a portion of the reimbursement that covers the amount taken from the supplemental fund and puts it back into the supplemental fund. I.e., \$30,000 is taken from the supplemental fund per quarter for salaries or regular expenses but \$30,000 is taken from the quarterly reimbursement amount and put back into the supplemental fund.

Q: Should we be budgeting an amount for Transcripts on Felony appeals instead of paying for out of Supplemental fund?

- A: Every regularly incurred expense should be budgeted for. For example, if over the last five years your county has paid \$10,000-\$50,000 for transcripts, the budget should include at least \$10,000 for transcripts. If you exceed the budgeted amount, the supplemental fund could be used to pay the excess costs.

Q: So does the entire amount of the reimbursement need to be sent to the Supplemental or only the amounts paid from the Supplemental during a quarter

- See answer to Slide 3 (Question 2).

Q: Where did you find that Attorney Qualifications Database?

- A: On our website at www.in.gov/publicdefender navigate to the "Reimbursement Requests" section listed on the left side of the page. Instructions and links to the database are listed on this page.

The screenshot displays the Indiana Public Defender Commission (PDCOM) website. At the top, there is a navigation bar with the IN.GOV logo and links for Public Defender Commission, Commission Minutes, Commission Members, Forms, and Contact Information. A sidebar on the left lists various sections, with "Reimbursement Request" highlighted in red. The main content area is titled "Reimbursement Request" and includes a breadcrumb trail "PDCOM / REIMBURSEMENT REQUEST". The text explains that counties submit reimbursement requests quarterly for indigent defense services. A section titled "*NEW* Attorney Qualification Database (non-capital)" provides information about the database, noting that the list represents attorneys whose Standard E & F Qualification forms have been verified by the Commission as of 10/23/2020. A link to the "Non-Capital Attorney Qualification Database Using the Attorney Qualification Database" is highlighted in red. Below this, there is a "Latest Form Updates and Additions" section listing several documents: "2020 Form" (updated 10/18/19), "2020 Form Instructions" (updated 10/18/19), "2020 Form Quick Start Guide" (updated 10/18/19), "2020 Form Training Presentation", and "New Form Example and Example Information". At the bottom, there is a "Tweets" section featuring a tweet from the Indiana Public Defender Commission (@IndianaPDCom) about the Commission's October Quarterly Newsletter.

Q: What other cases fall under the NR Appeals?

A: If the originating case type is non-reimbursable (does not have a reimbursable heading on Form III), the appeal is also considered non-reimbursable. (Example: Adoptions)

Q: To be clear on this, we have a PD who is moving off all of his cases as he is taking the bench. We have reported case assignments for him in prior quarters. These cases will be handled by another attorney. So, we don't do anything more for the form report and allow the request for reimbursement to proceed under the new attorney?


- A: Correct. The attorney will remain on the form until the rolling four quarter total caseload is zero. Prior quarter caseloads should not be altered unless you can clearly identify the exact cases assigned in previous quarters and reassigned to other attorneys. In this case, you must contact Commission staff so we know to adjust our records as well.

Q: On Form III, when I originally entered the attorneys, I listed them alphabetically. When I add a new attorney, that name goes to the bottom of the list. Is there a way to put them in where they would "alphabetically" be listed? Also, how do we remove attorneys from our Form III once they have left our employment for over a year?

- A: Unfortunately, it is not possible to reorder attorneys without completely re-entering the caseloads for each attorney that is moved, due to the formulas that are embedded in the hidden rows of the sheets.

Q: If we are reimbursing an attorney for postage, where does that go?

- A: All postage costs, whether paid directly by the county or reimbursed to the attorney, should be included on Form I.

C. OTHER SERVICES AND CHARGES	
1. Professional Services:	
a. Total Expert Consultant/Witness Expenses	
Amount spent on non-reimbursable cases	
b. Total Interpreter Expenses	
Amount spent on non-reimbursable cases	
2. Total Defense Requested Depositions	
Amount spent on non-reimbursable cases	
3. Total Defense Requested Transcripts	
Amount spent on non-reimbursable cases	
4. Travel Expenses	
5. Printing, Copying, Postage 	
6. Utility Services (including telephone service)	
7. Building Rental/Lease	
8. Facility Repair and Maintenance	
9. Building Related Expense Proration (see instructions)	
10. Continuing Legal Education (CLE)	
11. Other non-listed Services and Charges (describe)	

Q: If we have a grant for CR26 and that attorney also has another .50 contract how do we log his cases?

- A: CR26 initial hearing cases are not logged for the purposes of our caseload tracking. Those cases will be listed under whichever attorney receives the case after the initial hearing and will handle it for the life of the case. The attorney's 0.50 contract will be logged as usual, and his CR26 contract pay should be listed under "Attorneys with no caseload" on Form I.

Q: On benefits that can be claimed, is it limited to health insurance or would it also include dental/vision insurance?

- A: All county paid benefits should be included. Some examples are dental insurance, FICA, PERF, health clinic fees, etc. If you have a question as to whether a benefit should be included, please contact us! Note: only medical insurance (for self-insured counties) are subject to annual limits.

Q: Regarding attorney qualifications - if any attorney tries a case to a jury and the jury hangs, does that count as a trial to verdict?

- A: If a case reaches the point of a hung jury that is essentially the trial going to completion, so that counts as a trial to verdict for the purpose of attorney qualifications.

Q: Where are the Commission Standards and Guidelines located?

- A: The standards and guidelines are available on our website: <https://www.in.gov/publicdefender/2340.htm>

Q: Are there any specific financial standards or guidelines in determining indigency and who should be appointed counsel due to indigency? Many times we are appointed to lower level felonies and misdemeanors when a defendant is making a substantial amount of money.

- A: Standard C provides guidance: <https://www.in.gov/publicdefender/files/indigent-defense-non-cap.pdf>

Q: Is an annual report of the pd office to be given to the county commissioners or county council?

- A: Submit an annual report to the county executive, the county fiscal body, and the judges described in section 3 of this chapter regarding the operation of the county public defender's office, including information relating to caseloads and expenditures

Q: Could the board members request mileage compensation for attending meetings at our office or only meetings in Indy?

- A: A member is entitled to reimbursement from the county for traveling expenses and other expenses incurred in connection with the member's duties to the same extent as is provided to a state employee for traveling expenses and other expenses under the state travel policies and procedures established by the Indiana Department of Administration and approved by the State Budget Agency. **This is reimbursable and should be included on the request for reimbursement!** This should be included under the "travel" line in Section C.

Q: If County Council, Commissioners, Auditor and Judges are provided copies of every completed Request for Reimbursement, is an Annual Report required?

- A: YES! This is a requirement.

Q: How do we set up our individual county Public Defender Board Training?

- A: Contact Jennifer Shircliff to arrange your board training
jennifer.shircliff@pdcom.in.gov

Q: When the State PD office is appointed for our appeal cases, I don't know at that time who will be appointed so do I need to simply keep track of the general appointment and then go back and separate them out once the office has appointed someone?

- A: Yes, you will need to find out who was assigned and report the case to us under the actual attorney's name, rather than "State PD". We are working with the State PD Office to address this issue and will be in communication with everyone as we find a better solution.

