

A large, golden scale of justice is the central visual element, with one pan visible on the right side. The scale is set against a white background with a soft shadow.

INDIANA  
**PUBLIC  
DEFENDER**  
**COMMISSION**

ANNUAL REPORT 2016-2017

# Introduction

Long before the United States Supreme Court’s historic right to counsel case of Gideon v. Wainwright in 1963, Indiana recognized the right to counsel in the case of Webb v. Baird. In 1854, the Supreme Court of Indiana recognized the right to a publicly paid attorney for persons facing incarceration who could not otherwise afford an attorney. This made Indiana the first state in the Union to recognize such a right.

# Commission Members

As the law was originally written, the Commission had seven members: three appointed by the Governor; three appointed by the Chief Justice of Indiana; and one appointed by the Board of Trustees of the Indiana Criminal Justice Institute. In P.L. 283-1993, the General Assembly added four legislators to the

The burden of providing representation in Indiana has historically fallen upon each individual county. At the same time, the right to counsel is much more than just a technical requirement—it is the right to have a competent attorney who can protect the rights of each individual citizen to the fullest extent of the law. In order to assist counties with the financial burden of providing quality representation, the Indiana General Assembly created the Indiana Public Defender Commission.

Commission, ensuring adequate representation from all branches of the government. The following is a list of the Commission members, and their cities of residence, as of the close of the fiscal year:

Name	City	Appointed by
Mark W. Rutherford, Chairman	Indianapolis	Governor
David J. Hensel	Indianapolis	Governor
Hon. James R. Ahler	Rensselaer	Chief Justice
Hon. Mary Ellen Diekhoff	Bloomington	Chief Justice
Hon. Steven P. Meyer	Lafayette	Chief Justice
Larry Landis	Indianapolis	Criminal Justice Institute
Rep. Ryan Dvorak	South Bend	Speaker of the House
Rep. Thomas Washburne	Darmstadt	Speaker of the House
Sen. Randy Head	Logansport	Senate President Pro Tempore
Sen. Gregory G. Taylor	Indianapolis	Senate President Pro Tempore

# Statutory Duties

In response to serious concerns regarding the quality of publicly appointed defense attorneys in death penalty cases, the legislature created the Indiana Public Defender Commission in 1989 by P.L. 284-1989. In 1993, the legislature realized that the funding and quality of representation in non-death penalty cases was also a concern. Accordingly, it amended the Commission's statute in P.L. 283-1993. The Commission is now authorized to reimburse counties for 50% of their public defense services in death penalty cases and 40% in non-death penalty cases, excluding misdemeanors.

These changes resulted in the current version of I.C. 33-40-5-4, where the Commission is mandated to:

**1.** Make recommendations to the Indiana Supreme Court concerning standards for public defense services provided for defendants against whom the State has sought the death sentence under IC 35-50-2-9, including the following subjects:

- (A) Determining indigency and eligibility for legal representation.
- (B) Selection and qualifications of attorneys to represent public defendants at public expense.
- (C) Determining conflicts of interest.
- (D) Investigative, clerical, and other support services necessary to provide adequate legal representation.

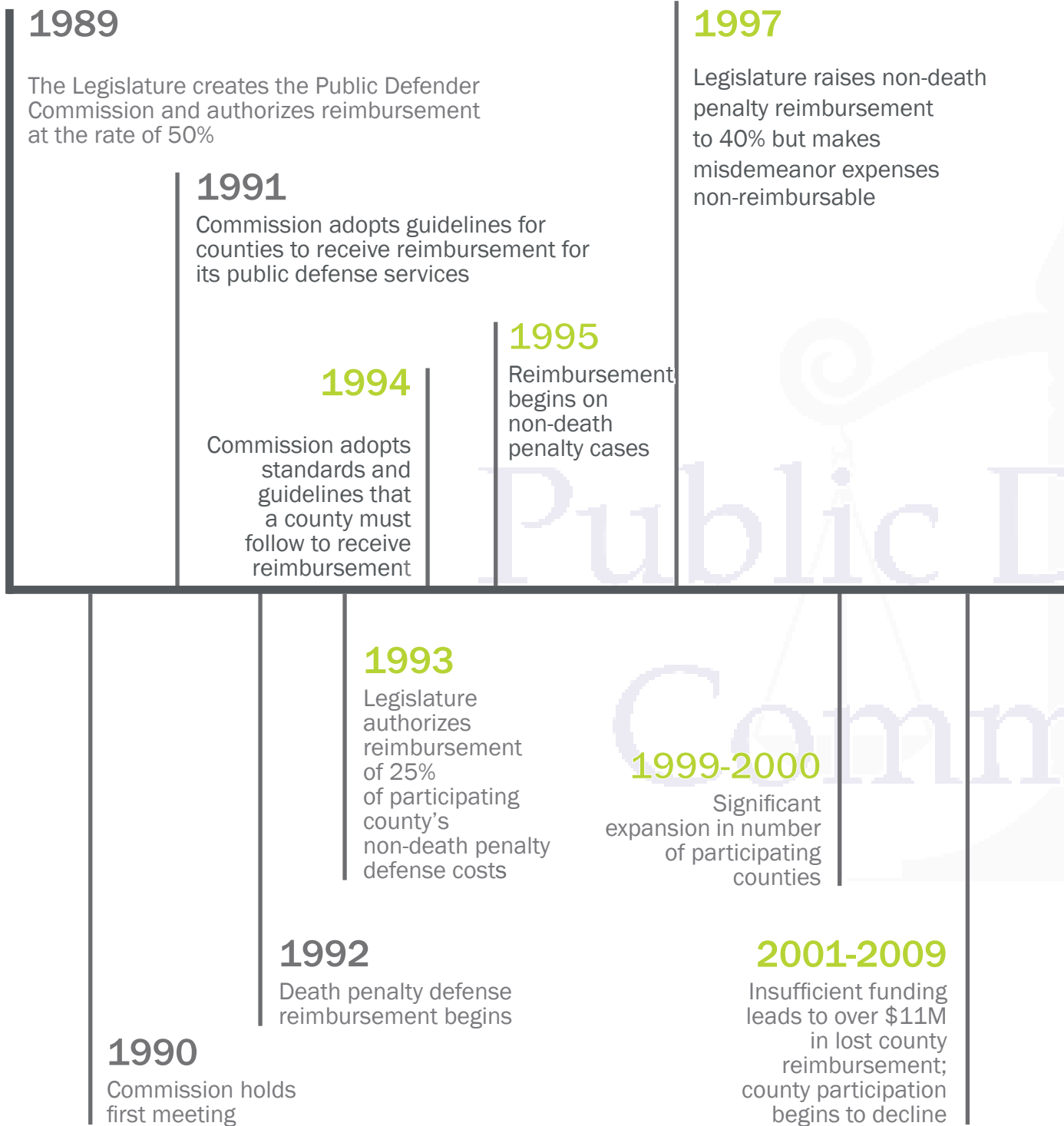
**2.** Adopt guidelines and standards for public defense services under which counties are eligible for reimbursement under IC 33-40-6, including the following:

- (E) Determining indigency and the eligibility for legal representation.
- (F) The issuance and enforcement of orders requiring defendants to pay for the costs of court appointed legal representation under IC 33-40-3.
- (G) The use and expenditure of funds in the county supplemental public defender services fund established by IC 33-40-3-1.
- (H) Qualifications of attorneys to represent public defendants at public expense.
- (I) Minimum and maximum caseloads of public defender offices and contract attorneys.

**3.** Make recommendations concerning the delivery of public defense services in Indiana.

**4.** Make an annual report to the Governor, the General Assembly, and the Supreme Court on the operation of the Public Defense Fund.

# REIMBURSEMENT TIMELINE



■ Capital (Death Penalty) Reimbursement

■ Non-Capital Reimbursement

The Public Defense Fund is the only source of property tax relief for counties fulfilling the government's constitutional obligation to provide adequate public defense services.

## 2010

Prorating of reimbursement ends after multiple increases in funding

## 2012

Hourly rate for appointed counsel rises from \$60 to \$70

## 2017

Hourly rate for appointed counsel rises to \$90

Counties receiving reimbursement from the public defense fund have increased in each of the last four consecutive fiscal years

## 2013

Additional funding allows for Children in Need of Services and Termination of Parental Rights cases to be reimbursable

At the close of Fiscal Year 2017 approximately 12 counties were considering joining the Commission's reimbursement program

## 2016

Record county participation with 57 counties in compliance

## 2017

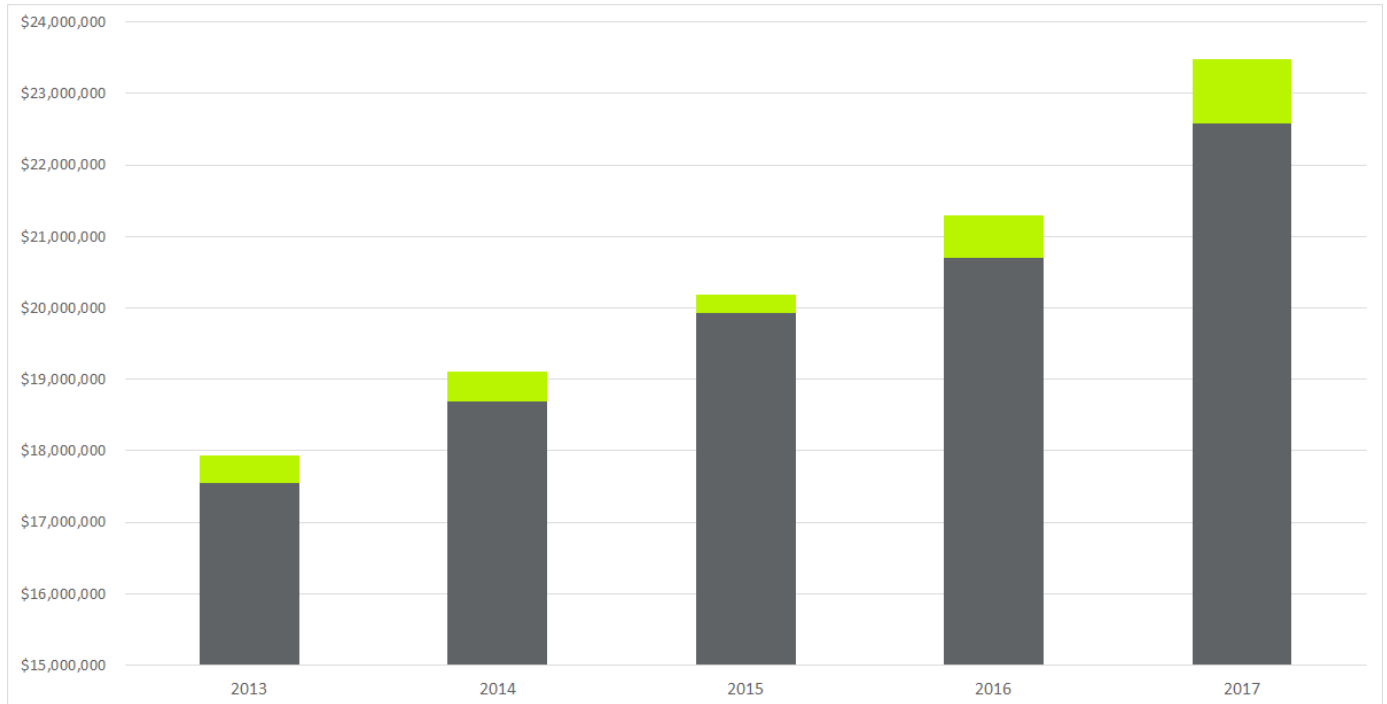
Hourly rate for appointed counsel rises to \$120

Reimbursement has increased by more than \$1 Million in each of the last four consecutive fiscal years.

# Funding and Reimbursement Authorization History

Fiscal Year	# of Counties Eligible for Reimbursement	Annual Appropriation to PD Fund	Reimbursement Authorized in Capital Cases	Reimbursement Authorized in Non-Capital Cases	Total Reimbursement Authorized	Loss due to prorated reimbursement	% of reimbursement received
1989-90		\$650,000.					
1990-91		\$650,000	\$58,550		\$58,550		
1991-92		\$650,000	\$286,805		\$286,805		
1992-93		\$650,000	\$484,501		\$484,501		
1993-94		\$650,000	\$337,139		\$337,139		
1994-95		\$650,000	\$288,465		\$288,465		
1995-96	5	\$650,000	\$528,641	\$668,747	\$1,197,388		
1996-97	7	\$650,000	\$371,046	\$628,841	\$999,887		
1997-98	9	\$3,000,000	\$799,450	\$1,022,104	\$1,821,554		
1998-99	17	\$3,000,000	\$526,515	\$2,188,701	\$2,715,216		
1999-00	30	\$2,400,000	\$378,209	\$2,990,954	\$3,369,163		
2000-01	38	\$2,400,000	\$712,054	\$3,669,319	\$4,381,373		
2001-02	50	\$6,000,000	\$473,317	\$4,869,313	\$5,342,630	\$2,036,380	28%
2002-03	50	\$7,000,000	\$413,805	\$5,371,364	\$5,785,169	\$1,619,285	31%
2003-04	52	\$7,000,000	\$478,222	\$4,553,537	\$5,031,759	\$1,403,053	25%
2004-05	53	\$8,000,000	\$672,381	\$11,026,803	\$11,699,184	\$771,538	37%
2005-06	53	\$9,000,000	\$386,288	\$5,824,921	\$6,211,209	\$895,476	36%
2006-07	54	\$10,000,000	\$844,769	\$12,147,454	\$12,992,223	\$2,674,834	31%
2007-08	53	\$14,500,000	\$753,772	\$14,162,897	\$14,916,669	\$825,367	38%
2008-09	48	\$15,250,000	\$742,251	\$14,325,105	\$15,067,356	\$1,262,700	37%
2009-10	50	\$18,250,000	\$618,252	\$15,373,384	\$15,991,636		40%
2010-11	52	\$18,250,000	\$370,709	\$15,996,714	\$16,367,423		40%
2011-12	53	\$20,250,000	\$532,706	\$16,685,482	\$17,218,188		40%
2012-13	53	\$20,250,000	\$381,459	\$17,546,818	\$17,928,277		40%
2013-14	54	\$22,250,000	\$421,935	\$18,693,834	\$19,115,769		40%
2014-15	55	\$22,250,000	\$268,182	\$19,923,236	\$20,191,418		40%
2015-16	57	\$22,257,668	\$590,939	\$20,695,801	\$21,286,740		40%
2016-17	58	\$22,250,000	\$896,287	\$22,435,660	\$23,331,946		40%
<b>TOTALS</b>		<b>\$258,757,668</b>	<b>\$13,616,649</b>	<b>\$230,800,989</b>	<b>\$244,417,637</b>	<b>\$11,488,633</b>	

## Recent Reimbursement Authorization Trends



■ Capital (Death Penalty) Reimbursement
 ■ Non-Capital Reimbursement

## County Reimbursements for Capital Public Defense Expenses 2016-2017

County	Defendant	2016 September Q2 16	2016 December Q3 16	2017 April Q4 16	2017 June Q1 17	Total
Clark	Oberhansley	\$16,811.25	-	\$72,232.76	\$7,905.54	\$96,949.55
Floyd	Gibson	-	\$22,162.80	-	-	\$22,162.80
Floyd	Gibson Appeal	-	-	-	\$8,637.94	\$8,637.94
Harrison	Schuler	\$165,750.20*	\$23,367.33	\$93,155.38	-	\$282,232.91
Harrison	Scott	\$174,687.55*	\$48,447.61	\$38,775.43	-	\$261,910.59
Lake	Blount	\$10,959.75	\$13,014.83	\$31,021.78	-	\$54,996.36
Lake	Vann	\$29,025.21	\$23,293.41	\$20,194.90	\$21,893.67	\$94,407.19
Marion	Cruz	-	\$5,763.27	\$15,589.70	-	\$21,352.97
Marion	Davis	\$15,330.60	\$27,296.99	\$6,663.79	-	\$49,291.38
Marion	Rackemann	\$1,141.30	-	-	-	\$1,141.30
Vanderburgh	Weisheit	\$3,203.52	-	-	-	\$3,203.52
<b>Total</b>		<b>\$416,909.38</b>	<b>\$163,346.24</b>	<b>\$277,593.74</b>	<b>\$38,437.15</b>	<b>\$896,286.51</b>

\*Includes late reimbursement approved by the Commission at the September meeting.

# County Non-Capital Reimbursements

2016-2017

