

CURRENT TRENDS IN COUNTY PUBLIC DEFENSE REIMBURSEMENT & CASELOADS



*PRESENTATION BY THE IN PUBLIC
DEFENDER COMMISSION TO THE
GENERAL ASSEMBLY'S INTERIM STUDY
COMMITTEE ON CORRECTIONS &
CRIMINAL CODE
9-18-19*

**DERRICK MASON,
COMMISSION SENIOR STAFF ATTORNEY**

**ANDREW CULLEN,
COMMISSION POLICY/COMMUNICATIONS SPECIALIST**

- The PD Commission was established in 1989.
- Participation is voluntary. Counties receive a 40% reimbursement for expenses (**EXCEPT MISDEMEANORS**) if they comply with standards.
- 62 Counties now participate.

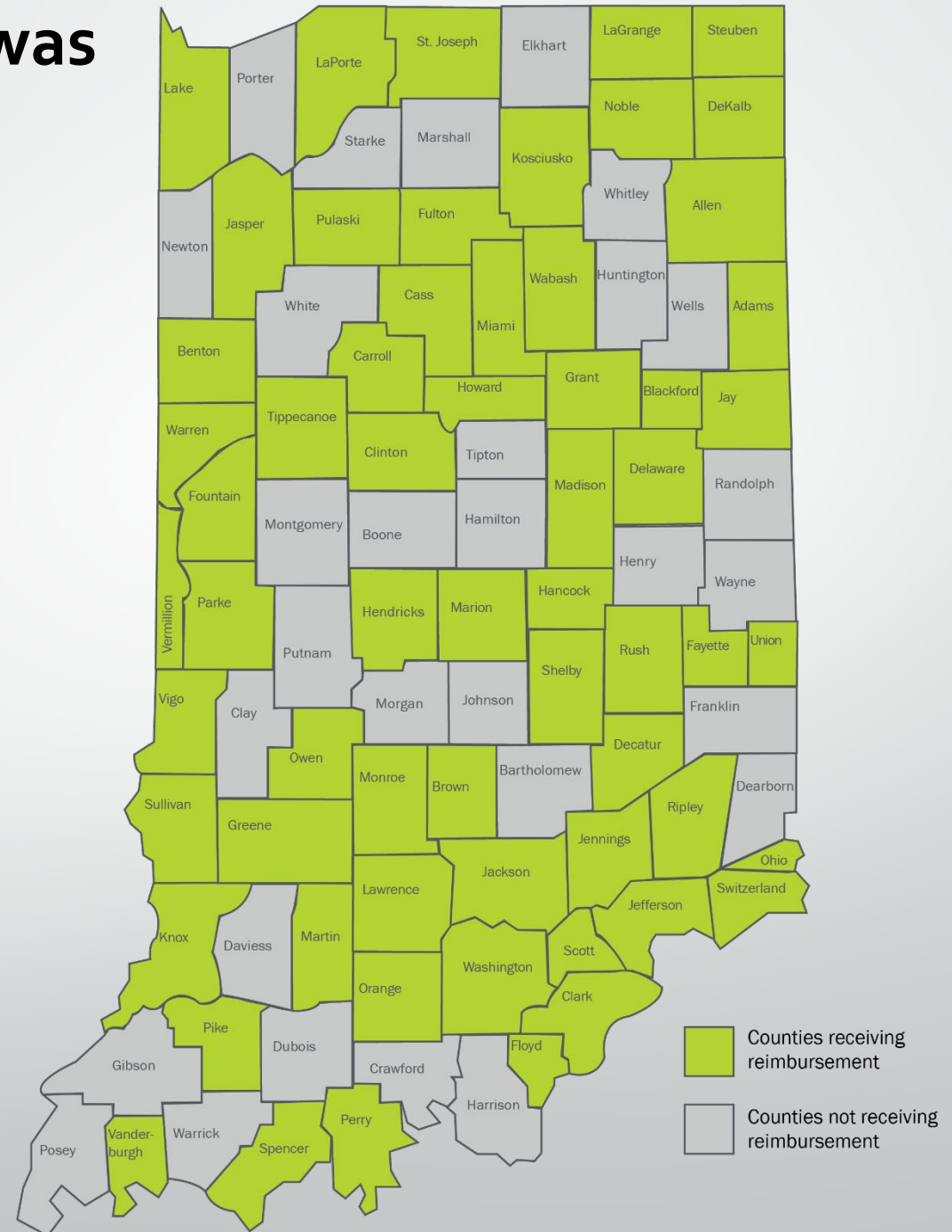


Table of Contents



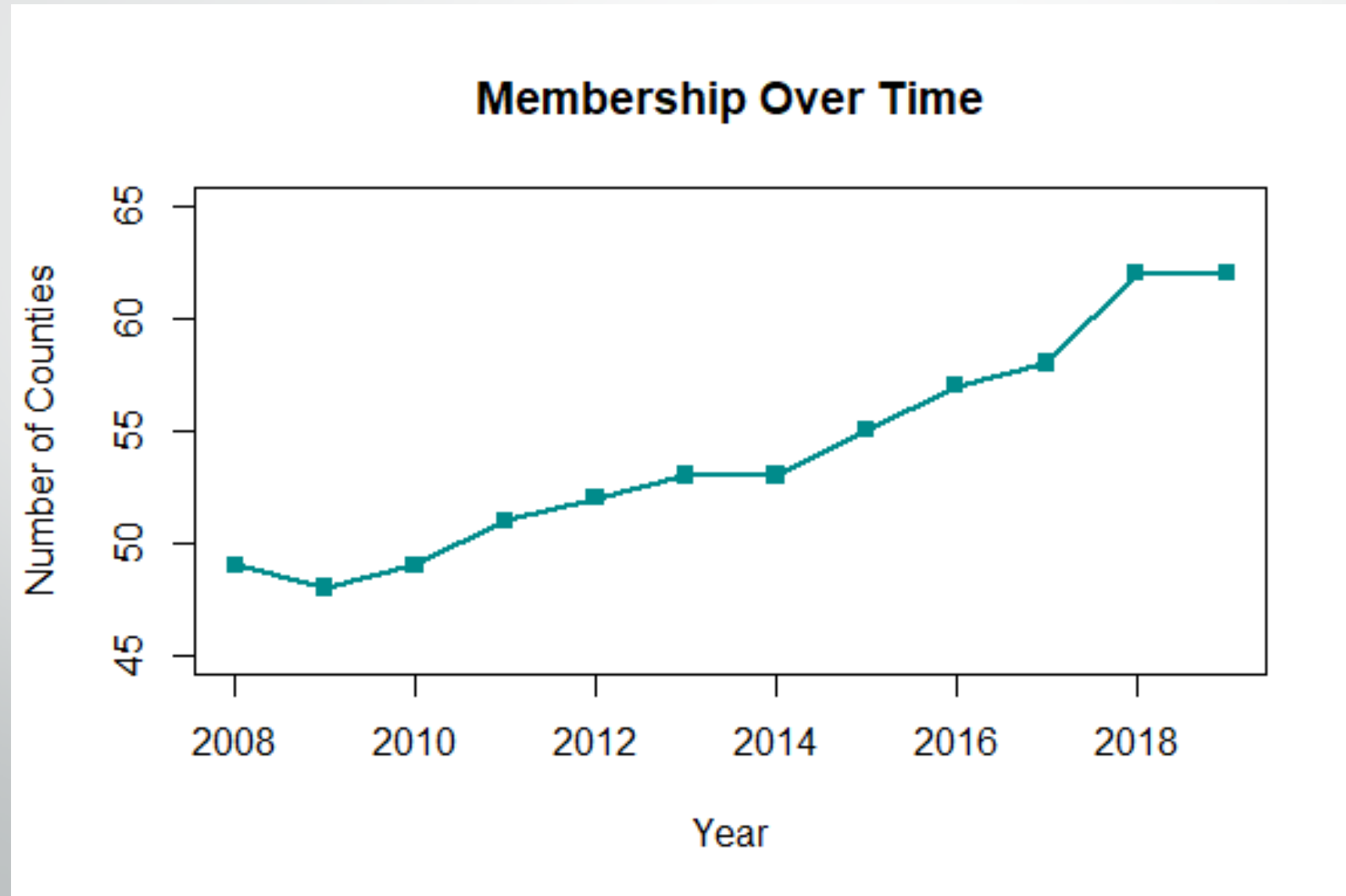
I. *Trends* related to:

- 1. County Participation in PD Commission**
- 2. County Public Defense Costs**
- 3. Public Defender Caseloads**
- 4. Percentage of Defendants represented by a PD**
- 5. Availability of Public Defenders**

II. Issues to consider

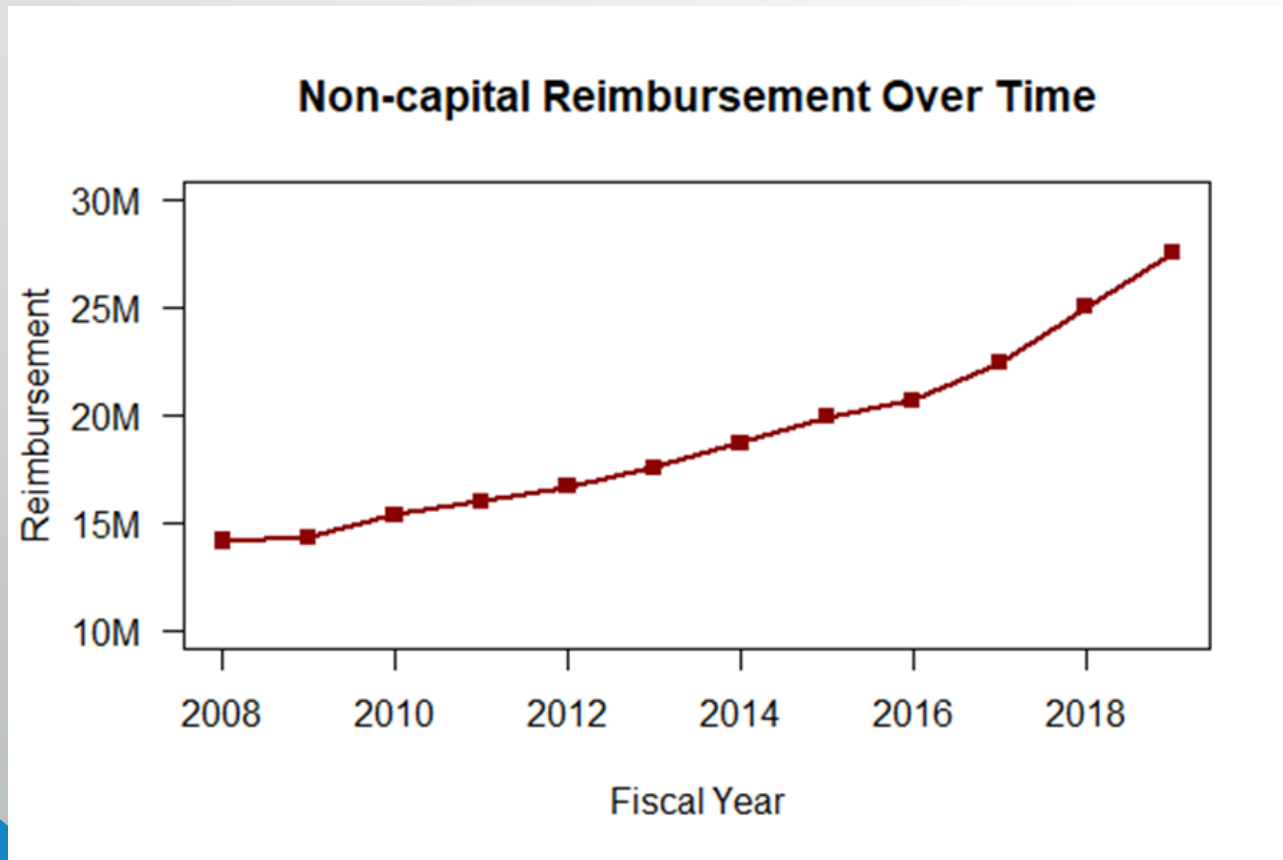
1. County Participation in PD Commission

Trend: Membership is increasing at a slow, steady pace



2. County Public Defender Costs

Trend: Reimbursement continues to increase, both due to increased membership and increasing cost per county.



Reimbursement to counties has increased at approximately 10% per year from FY08-FY19.

3. Public Defender Caseloads

Trend: Level 6 filings are increasing while misdemeanor filings have stagnated or decreased

- Level 6 Felony caseload reported to the Commission has increased 26% in the 2016-2018 period
- Conversely, misdemeanor caseload reported to the Commission has slightly decreased in that same time period, despite 5 new counties joining the Commission during this time period

4. Percentage of Defendants represented by a PD

Trend: Steady increase in felony cases assigned to public defenders but little increase misdemeanor cases assigned

- For Major Felonies (MR, F1-4) the rate has gone from 75% in 2016 to 80% in 2018
- For F5s the rate has gone from 75% to 79%
- For F6s the rate has gone from 72% to 75%

4. Percentage of Defendants represented by a PD

*Trend: Steady increase in felony cases assigned to public defenders
but little increase misdemeanor cases assigned*

- **Misdemeanors: 36% to 37%** ('16-18)
- Juvenile Delinquency: 64% to 70% ('17-18)
- Juvenile Termination of Parental Rights: 49%

4. Percentage of Defendants represented by a PD

Trend: A very high percentage of CHINS cases are assigned to public defenders.

- **CHINS** cases assigned to PDs remain at a high percentage **(75%-90%)**.

5. Availability of Public Defenders

Trend: Indiana continues to have less than half (46%) of the national rate per capita of attorneys

- 46% for attorneys is low, even when compared to other high-education-requirement occupations
 - Veterinarians: 106%
 - Dentists: 73%
 - Surgeons: 70%
 - General Practice Physicians: 35%

II. ISSUES TO CONSIDER

1. **ATTORNEY SHORTAGES**: Continuing to fund the PD Commission will allow for:

- Ongoing quality improvement through ability to enhance standards
- Additional parity/pay increases for All public defenders, including contractors
 - *Example*: According to a recent overhead survey, the median overhead cost for a single attorney practicing public defense in Indiana is \$54,455.

II. ISSUES TO CONSIDER

2. **CHINS FILINGS**: Representing parents in CHINS cases remains a specialty area of law that falls to public defenders who may be more familiar with criminal law

- Should DCS be providing more support to the system?
 - Language was inserted into the Budget Bill to allow DCS to enter into a memorandum of understanding to do this.
 - **Grants to counties to improve their parental representation systems are an option that could be funded by DCS now.**

II. ISSUES TO CONSIDER

3. **MISDEMEANORS**: A clear trend: Far too few individuals are being assigned counsel for misdemeanor cases.
- A cause of jail overcrowding?
 - A cause of stress on community corrections systems?
 - The PD Commission needs authority and funding to ***reimburse counties for misdemeanor expenses (est. \$5.7 million per year)***



Thank you!

For further information, please contact:

Andrew Cullen

Andrew.Cullen@pdcom.in.gov

317-439-7565