

DRAFT

INDIANA PUBLIC DEFENDER COMMISSION

October 5, 2022

2:00 PM

**309 W. Washington, 5th Floor, Commission Conference Room
Indianapolis, Indiana 46204**

Members in attendance:

Mark W. Rutherford, Chair (in person)
Ms. Bernice Corley (remote)
Hon. Mary Ellen Diekhoff (in person)
Ms. Samantha DeWester (in person)
Hon. Kelsey B. Hanlon (in person)
Mr. David J. Hensel (in person)
Sen. Eric Koch (in person)
Sen. Gregory G. Taylor (in person)

Members absent:

Rep. Ragen Hatcher
Rep. Ryan Lauer
Hon. Steven P. Meyer

Staff in attendance:

Derrick Mason (in person)
Andrew Cullen (in person)
Paula Diaz (remote)
Andrew Falk (remote)
Linda Hunter (remote)
Stephanie Lalani (remote)
Torrin Liddell (remote)
Jennifer Pinkston (remote)

Audience members:

Jim Abbs, Noble County Chief Public
Defender and President, Chiefs
Association (remote)
Analiza Brockmeier, West Central
Indiana Public Defender Office
(WCIPDO) (remote)
Ray Casanova, Marion County Public
Defender Agency (in person)
Matthew Gerber, Marion County
Public Defender Agency (in person)
Amy Karozos, State Public Defender
(remote)
Michael Moore, Public Defender
Counsel (remote)
Michael Slagle, WCIPDO Chief Public
Defender (remote)

At 2:00 p.m., Chair Mark Rutherford called the meeting to order and noted that the Commission had an in-person quorum for the first time in some time.

1. Approval of Minutes of the June 15, 2022 Meeting

A correction to the June minutes was made, which should have read “INPRS” instead of “INPERS” on page 9. Mr. Hensel moved to approve the minutes as corrected. Sen. Taylor seconded the motion. There were no objections and the motion carried.

2. Approval of Amended Comprehensive Plan: Warren County

Mr. Mason reported that Warren County is working to amend its comprehensive plan. It does not have a county board. The proposed changes were made and redlined by the county court and redlined in the proposed plan in the Commission materials. The primary change was to add a part-time salaried position with benefits in a county that otherwise only provides hourly compensation. Mr. Mason noted that the amended plan is a unique system in that the public defenders are hired by the court but they report to the county commissioners, who alone may remove them at will. The remaining changes are general updates to the plan. He recommended approval of the plan.

Judge Diekhoff expressed a concern about the commissioners’ sole ability to fire public defenders. The Chair agreed, noting that everything could be good between the judge and the commissioners now but that it might not be as good in twenty years.

Ms. Corley appreciated the independence from the courts that the plan provided but expressed a desire to see “for cause only” language included in the provision. She also recommended that Commission staff meet with the county commissioners so they are prepared for their role.

Judge Hanlon suggested that Commission staff discuss these concerns with the Warren County judge before the Commission voted on approving the plan. Mr. Mason stated that would be possible and that the plan need not be approved at this

meeting. The Chair reiterated that he liked aspects of the plan but wondered what some of the unintended consequences of the plan might be.

Mr. Abbs was allowed to speak and voiced his agreement with Ms. Corley and his concern that politics could play into removal decisions. He stated that some kind of restrictive language was needed.

Mr. Corley inquired about the “upon timely request” language on page 3, Section C. (Eligibility for Appointment of Counsel) of the amended plan. Mr. Mason responded that Commission staff had flagged this language in its review of the amended plan, but it concluded that it would not have an operational impact. Commission staff did not receive an answer from the county court as to why this language was included. Ms. Corley requested that staff pursue an answer to that question. Judge Hanlon recognized that a request for counsel, while not necessarily “untimely,” could cause challenges in situations such as a CHINS case where factual findings must occur within strict timetables. The Chair tabled the issue until the December meeting to allow further reflection and investigation.

3. Approval of Comprehensive Plan: West Central Indiana Public Defender Office

Mr. Mason reported that the West Central Indiana Public Defender Office (WCIPDO) proposed a relatively standard comprehensive plan which covered the requisite standards and provided for hourly and contract compensation. It is, of course, the first interlocal multicounty public defense agreement.

Ms. Corley praised everyone involved with the drafting and organization of the multicounty arrangement and congratulated Chief Slagle. She expressed her concern about the part-time chief role and wondered when it might be reconsidered for a full-time role. Mr. Mason stated that originally the counties wanted no chief at all, but they agreed to employ a part-time chief, as required by law. He affirmed that the counties’ intent was to keep the arrangements as similar to what the counties had before as possible. The WCIPDO met the requirements to have a part-time chief. Judge

Hanlon encouraged the Commission to make a note to review next year how the multicounty arrangement is working.

Ms. Corley moved to approve the WCIPDO Comprehensive Plan. Sen. Koch seconded the motion. The motion carried.

4. Financial Status of Public Defense Fund

Mr. Mason provided the status of the Fund, which is sufficient to pay the 3Q2022 reimbursement requests. He also noted that Commission staff will be providing more information regarding the budget through the year.

2022-2023 Public Defender Commission Budget		
Encumbered Funds	\$8,000,000.00	
Balance carried forward	\$8,119,620.55	
Total carry forward	\$16,119,620.55	
General Fund (Budget Bill) FY22	\$25,720,000.00	
Dedicated Funds Transfer (Budget Bill)	\$7,400,000.00	
Court Fees (IC 33-37-7-9(c)) FY 23	\$7,400,000.00	
Subtotal FY23 Regular Budget	\$40,520,000.00	
Total Available (Includes prior year funds)		\$56,639,620.55

5. 90-Day Letter Response: Steuben County

Mr. Mason recalled that the Commission had sent a 90-day letter to Steuben County because the county had been repeatedly assigning major felonies to an attorney who was not qualified to receive them. The county responded in writing with a plan promising not to assign the attorney more major felonies until he was qualified to receive such appointments. They also described their efforts to achieve qualification for the attorney by assigning him to major felony trials as second chair,

but all those trials have been canceled. The county will assign qualified co-counsel for any major felony trials on the attorney's schedule. The attorney is also willing to attend a trial course, but none are available soon.

Mr. Mason emphasized that obtaining trial experience is the major step for receiving qualification. He asked the Commission whether it would accept the county's plan to assign co-counsel for any of the attorney's current cases that went to trial or if co-counsel must be assigned in every case.

Judge Diekhoff stated her belief that the county's plan was appropriate. She recognized that much of trial practice is preparation for trial, which often happens even if the trial is ultimately canceled. Ms. Corley said that the county made a good point that reassigning cases would be detrimental to the attorney's clients; she just hopes the attorney is receiving assistance with discovery and pre-trial preparation. Judge Hanlon asked if this would set a bad precedent if the Commission piecemealed together the attorney's qualifications.

Mr. Mason responded that it was not really piecemealing the attorney's qualifications; the attorney has one trial experience and just needs another to be major felony qualified. Participating in a trial will give him the experience he needs to be major felony qualified.

Judge Hanlon recommended that the Commission give Steuben a timeline for the attorney to come into compliance. The Chair agreed. Ms. Corley noted that a trial practice course would not be offered until next year, and that participation in a trial would be better.

Judge Diekhoff stated that she wants the county to be able to move forward. Mr. Mason reiterated that he believes the attorney and the county are making a good faith effort. He recommended that the attorney participate in a trial by December 14, 2022, complete a trial practice course, or have co-counsel assigned in major felony cases. Judge Diekhoff moved to adopt this recommendation. Judge Hanlon seconded the motion. The motion carried.

6. Status of County Compliance

Mr. Mason reported that county compliance is very high. Cass County was very close to substantial compliance—it was a difference of one or two cases for the attorneys out of compliance, and they expect 4Q to be in compliance. Clark County is struggling to hire a contractor position, but once that position is filled, it should resolve their issues. Jackson County looks bad, but the county council approved a new budget increasing compensation for their public defenders, which will allow them to come into compliance. Warrick County needs to be watched closely in the fourth quarter; the attorneys out of compliance there have not been out of compliance before, but the ones who were previously out are in compliance now.

With regard to attorneys practicing in multiple counties, Mr. Leeman’s issues should be resolved soon. The biggest issue is appeals, but due to the caseload standards changing soon, this issue will be rectified.

Mr. Mason did not recommend any 90-day letters for compliance issues.

7. Requests for Reimbursement:

a. 50% Reimbursement in Death Penalty Cases

Clinton County requested reimbursement for a capital case (Ferrell; see table below). The county was in full compliance, so Mr. Mason recommended reimbursement without revisions. Mr. Hensel moved to grant the reimbursement. Sen. Taylor seconded the motion. The motion carried.

**Reimbursement Requests in Capital Cases
October 5, 2022**

COUNTY	DEFENDANT	TOTAL
Clinton	Ferrell	\$38,231.65
TOTAL		\$38,231.65

b. 40% Reimbursement in Non-Capital Cases

Mr. Mason reported that the total reimbursement request for the second quarter of 2022 is \$8,391,877.66 (see table below). All Commission counties are receiving reimbursements. The reimbursement is revised due to

- desk audits of Brown, Floyd, Greene, and Knox counties
- Delaware forgot to request PERF costs for three quarters
- Tippecanoe made a scrivener’s error in 1Q2022

Mr. Mason recommended reimbursement as revised. Judge Hanlon moved to reimburse the counties accordingly. Judge Diekhoff seconded the motion. The motion carried.

INDIANA PUBLIC DEFENDER COMMISSION

Second Quarter 2022 Requests for Reimbursements in Non-Capital Cases

10/5/2022

County	Total Expenditure	Non-reimbursable Adjustment	% Adjusted	Eligible Expenditure	Adjustments	Total Payment
Adams	\$133,617.90	\$24,744.92	18.52%	\$108,872.98		\$43,549.19
Allen	\$1,215,731.43	\$100,177.46	8.24%	\$1,115,553.97		\$446,221.59
Benton	\$15,561.00	\$4,701.30	30.21%	\$10,859.70		\$4,343.88
Blackford	\$60,854.00	\$10,920.94	17.95%	\$49,933.06		\$19,973.23
Brown	\$53,553.66	\$10,274.76	19.19%	\$43,278.90	-\$2,191.12	\$15,120.44
Carroll	\$69,559.50	\$15,889.38	22.84%	\$53,670.12		\$21,468.05
Cass	\$194,593.38	\$24,391.06	12.53%	\$170,202.32		\$68,080.93
Clark	\$457,255.74	\$31,792.29	6.95%	\$425,463.45		\$170,185.38
Clinton	\$70,189.93	\$17,707.94	25.23%	\$52,481.99		\$20,992.80
Crawford	\$49,670.85	\$13,626.34	27.43%	\$36,044.51		\$14,417.80
Decatur	\$119,445.68	\$22,490.79	18.83%	\$96,954.89		\$38,781.96
Dekalb	\$208,247.50	\$18,122.99	8.70%	\$190,124.51		\$76,049.80
Delaware	\$332,272.40	\$14,800.05	4.45%	\$317,472.35	\$24,198.96	\$151,187.90
Elkhart	\$784,026.21	\$128,037.73	16.33%	\$655,988.48		\$262,395.39
Fayette	\$97,543.31	\$15,551.51	15.94%	\$81,991.80		\$32,796.72
Floyd	\$260,056.69	\$15,688.00	6.03%	\$244,368.69	-\$23.36	\$97,724.11
Fountain	\$33,301.00	\$7,778.52	23.36%	\$25,522.48		\$10,208.99

Fulton	\$85,584.58	\$23,050.11	26.93%	\$62,534.47		\$25,013.79
Gibson	\$159,207.60	\$17,952.77	11.28%	\$141,254.83		\$56,501.93
Grant	\$312,133.98	\$4,209.36	1.35%	\$307,924.62		\$123,169.85
Greene	\$171,109.75	\$24,042.22	14.05%	\$147,067.53	\$1,400.00	\$60,227.01
Hancock	\$408,408.96	\$30,559.20	7.48%	\$377,849.76		\$151,139.90
Harrison	\$174,698.51	\$17,380.14	9.95%	\$157,318.37		\$62,927.35
Hendricks	\$498,861.94	\$95,730.98	19.19%	\$403,130.96		\$161,252.38
Howard	\$490,810.78	\$38,930.22	7.93%	\$451,880.56		\$180,752.22
Jackson	\$220,235.62	\$9,124.39	4.14%	\$211,111.23		\$84,444.49
Jasper	\$96,715.64	\$30,115.05	31.14%	\$66,600.59		\$26,640.24
Jay	\$136,021.20	\$39,014.79	28.68%	\$97,006.41		\$38,802.56
Jefferson	\$207,866.97	\$31,169.35	14.99%	\$176,697.62		\$70,679.05
Jennings	\$118,005.91	\$13,380.76	11.34%	\$104,625.15		\$41,850.06
Knox	\$238,815.63	\$39,057.26	16.35%	\$199,758.37	-\$793.19	\$79,110.16
Kosciusko	\$191,279.20	\$44,723.33	23.38%	\$146,555.87		\$58,622.35
LaGrange	\$95,915.95	\$10,545.58	10.99%	\$85,370.37		\$34,148.15
Lake	\$1,379,027.01	\$5,959.93	0.43%	\$1,373,067.08		\$549,226.83
LaPorte	\$271,071.99	\$20,270.25	7.48%	\$250,801.74		\$100,320.70
Lawrence	\$280,007.67	\$34,064.12	12.17%	\$245,943.55		\$98,377.42
Madison	\$611,944.73	\$46,146.54	7.54%	\$565,798.19		\$226,319.28
Marion	\$6,399,193.97	\$514,972.84	8.05%	\$5,884,221.13		\$2,353,688.45
Martin	\$64,567.10	\$15,669.55	24.27%	\$48,897.55		\$19,559.02
Miami	\$170,397.99	\$23,076.96	13.54%	\$147,321.03		\$58,928.41
Monroe	\$603,554.07	\$85,188.81	14.11%	\$518,365.26		\$207,346.10
Noble	\$332,395.01	\$93,344.75	28.08%	\$239,050.26		\$95,620.10
Ohio	\$38,453.52	\$7,950.69	20.68%	\$30,502.83		\$12,201.13
Orange	\$155,968.53	\$17,195.98	11.03%	\$138,772.55		\$55,509.02
Owen	\$83,538.15	\$14,921.28	17.86%	\$68,616.87		\$27,446.75
Parke	\$42,416.28	\$8,457.53	19.94%	\$33,958.75		\$13,583.50
Perry	\$89,952.66	\$7,212.39	8.02%	\$82,740.27		\$33,096.11
Pike	\$58,818.18	\$1,204.93	2.05%	\$57,613.25		\$23,045.30
Pulaski	\$105,132.76	\$24,557.46	23.36%	\$80,575.30		\$32,230.12
Ripley	\$59,166.87	\$6,675.00	11.28%	\$52,491.87		\$20,996.75
Rush	\$96,585.13	\$11,793.98	12.21%	\$84,791.15		\$33,916.46
Scott	\$151,998.68	\$16,105.81	10.60%	\$135,892.87		\$54,357.15
Shelby	\$168,401.60	\$14,663.98	8.71%	\$153,737.62		\$61,495.05
Spencer	\$119,013.61	\$21,837.17	18.35%	\$97,176.44		\$38,870.58
Steuben	\$104,318.42	\$26,186.14	25.10%	\$78,132.28		\$31,252.91
St Joseph	\$770,165.86	\$95,762.42	12.43%	\$674,403.44		\$269,761.38
Sullivan	\$68,208.80	\$27,118.14	39.76%	\$41,090.66		\$16,436.26
Switzerland	\$89,854.16	\$14,585.02	16.23%	\$75,269.14		\$30,107.65
Tippecanoe	\$1,115,007.59	\$163,986.52	14.71%	\$951,021.07	-\$21,822.10	\$358,586.33
Union	\$19,641.45	\$2,431.48	12.38%	\$17,209.97		\$6,883.99
Vanderburgh	\$814,522.92	\$56,165.17	6.90%	\$758,357.75		\$303,343.10

Vermillion	\$103,175.58	\$22,171.53	21.49%	\$81,004.05	\$32,401.62
Vigo	\$943,814.13	\$142,671.69	15.12%	\$801,142.44	\$320,456.98
Wabash	\$144,511.28	\$35,143.94	24.32%	\$109,367.34	\$43,746.94
Warren	\$18,339.00	\$6,689.00	36.47%	\$11,650.00	\$4,660.00
Warrick	\$142,922.78	\$24,915.61	17.43%	\$118,007.17	\$47,202.87
Washington	\$190,870.40	\$35,561.03	18.63%	\$155,309.37	\$62,123.75
TOTAL					\$8,391,877.66

8. At-Risk Youth & Family Proposals: Amended Vigo County & Title IV-E Incentive

Mr. Mason reminded the Commission that it had generally approved awarding funds for the operation of system navigator pilots in CHINS cases. Vigo County requested an amendment to its current navigator pilot project in the amount of \$171,541 that, due to the high volume of CHINS cases, would allow the county to hire a third system navigator. Ms. Corley moved to approve the amendment and fund the third position. Mr. Hensel seconded the motion. The motion carried.

Mr. Mason also requested that the Commission generally approve what Commission staff are calling “Title IV-E Incentive Payments.” Non-participating counties may sign up to receive Title IV-E funds, but they must complete a full reimbursement request to do so. Some non-Commission counties, such as Hamilton County, believe that the work necessary to complete the full request is not worth the effort to receive the relatively small amount of Title IV-E funds. Because the public defense data from non-participating counties is so helpful to the Commission, particularly with a statistician now on staff, Commission staff believe it is worth it to provide non-participating counties with “incentive payments” to cover the costs of submitting these forms (along with a signed agreement and ongoing submission of the data) to receive the Title IV-E funds.

In response to a question about estimated costs, Mr. Mason said it might be \$10-20,000 per year for some of the larger counties. Smaller counties would be much less. It would be paid from state funds from the At-Risk Youth and Family fund. Judge Diekhoff moved to allow Commission staff to provide Title IV-E incentive payments. Judge Hanlon seconded the motion. The motion carried.

9. Guideline for Standard E: PD Council Request to Approve New Trial Substitution

Mr. Mason reported that the Public Defender Council's Diane Black has requested that a new 16-hour CLE program she is offering be approved as a trial practice course. The course is a one-on-one coaching program for public defenders that culminates in an actual trial. Mr. Mason stated his belief that the full course should be attended for it to count as a trial substitute. Ms. Corley agreed that participants would need to complete the whole course for credit and provided additional details about the course.

Judge Hanlon wondered what would happen if a defendant settled short of trial. Ms. Corley answered that two cases would be used, but she recognized that they had not decided what would happen if both cases settled. Judge Hanlon stated she thinks it sounds like a valuable program and that the Commission should be doing everything it can to help attorneys become better qualified.

Ms. Corley reported that the Council has received its first group of applicants (and has had to turn some away); they are from all over the state and include individuals with both limited and significant experience.

Mr. Abbs was allowed to speak and stated that one of his deputies wants to participate in the program. Mr. Abbs thinks it is a phenomenal program.

Judge Hanlon moved to approve the program to qualify for the Commission's trial training, assuming participants complete the full 16 hours and are verified by the Council as having completed the course. Judge Diekhoff seconded the motion. The motion carried.

10. Local Public Defender Board Appointments

Mr. Cullen informed the Commission that the first round of Commission appointments to the county public defender boards are completing their terms. He spoke with the chief, board chair, and member in each county. He is recommending,

based on these informal interviews, that of the twelve openings this quarter, the Commission reappoint nine of them (see table below). He is looking at the three remaining openings to possibly appoint new individuals in those counties, which will occur at a future meeting.

3Q2022: County Public Defender Board Appointments	
County	Consensus Candidate for Re-Appointment
Carroll	Ed Selvidge (appointment to a full term after fulfilling a term of a resigned member)
Clark	Anne Pfau
Cass	James Austen
Floyd	Matthew Schad
Fulton	Robert Cannedy
Grant	Joe Lewis
Jasper	Tim Belstra
Jay	James Zimmerman
Kosciusko	John Hall

There were no comments or concerns. Ms. Corley moved to approve the nine reappointments. Sen. Koch seconded the motion. The motion carried.

11. Legislative & Policy Updates

Mr. Cullen reminded the Commission that its top legislative priority was a base budget increase, which is included in the Governor’s proposed budget in the amount of \$27,720,000 in both fiscal years 2023-24 and 2024-25. This is a \$2 million increase from the FY 21-22/22-23 Budget Bill. Commission staff are also asking the Budget Agency to include language that “the public defender commission is authorized to spend up to \$6.3 million per year for misdemeanor reimbursement.”

Mr. Cullen also updated the Commission on legislative efforts to create an improved retirement fund for public defender chiefs and agency leaders. The proposal

continues to make progress in the legislative interim committees. Mr. Cullen continues to work with Ms. Corley and Mr. Abbs and legislative leaders to work out various details. A final draft bill and fiscal will be provided to the Commission at the December meeting for final endorsement.

Mr. Cullen suggested that the Commission consider a name change. He recommended not pushing a stand-alone bill, but if a bill arises which would allow a friendly amendment that would include a name change, the Commission would seek the change. The Commission discussed possible names and stated preferences for the name not to contain the words “Council” or “Authority” but include words such as “Reimbursement” or “Standards.”

Finally, Mr. Cullen noted that Sen. Jon Ford has continued to consider a plan that would provide a right to counsel for all children in CHINS and TPR cases. Mr. Cullen let the Commission know that he might be raising the issue at the December meeting to discuss whether the Commission would support or possibly oppose such a bill. He also described another bill that could require counsel for kinship care providers in CHINS cases, which would be a much smaller program.

12. New Standard Request: Marion County Support Staff Pay Parity Request

Mr. Mason informed the Commission that the Marion County Public Defender Agency had submitted a request for a new standard that would require pay parity for support staff positions, in addition to attorney pay parity. He provided the Commission with the Marion County proposed standard, the current Commission standard for attorneys, some written comments on the differences, and a proposed revision of the Marion County proposal if the Commission were to adopt it (see below). He further recommended that if the Commission were inclined to adopt a staff pay parity standard, that it be submitted for public comment before the next meeting.

The Marion County proposed standard reads as follows:

Compensation for Salaried or Contractual Public Defender Support Staff

The comprehensive plan shall provide that the salaries and compensation of the full time salaried public defender support staff shall be the same as the salaries and compensation provided to the support staff in similar positions with similar experience in the office of the prosecuting attorney.

The compensation of contractual public defender support staff shall be the same as the compensation provided to the support staff in similar positions with similar experience in the office of the prosecuting attorney.

In instances where there is not a similar support staff position in the office of the prosecuting attorney, the salaries and compensation of the full-time public defender support staff shall be the same as the salaries and compensation provided to the support staff in similar positions with similar experience in the criminal justice system which will include police, sheriff, probation, community corrections and courts.

In instances where there is not a similar contractual support staff position in the office of the prosecuting attorney, the compensation of contractual public defender support staff shall be the same as the compensation provided to the support staff in similar positions with similar experience in the criminal justice system which will include police, sheriff, probation, community corrections and courts.

The Commission's Standard G, which sets a similar requirement for attorneys, reads as follows:

COMPENSATION OF SALARIED OR CONTRACTUAL PUBLIC DEFENDERS. The comprehensive plan shall provide that the salaries and compensation of full-time salaried public defenders shall be the same as the salaries and compensation provided to deputy prosecutors in similar positions with similar experience in the office of the Prosecuting Attorney. The compensation of contractual public defenders shall be substantially comparable to the compensation provided to deputy prosecutors in similar positions with similar experience in the office of the Prosecuting Attorney. In counties that have established a county public defender office, the salaries and compensation provided to the chief public defender and deputy chief public defender shall be the same as provided to the elected prosecutor and the chief deputy prosecutor in the county under I.C. 33-39-6-5. Effective 1/1/14.

Marion County's proposal differs from the Commission's Standards and Guidelines for attorneys in two key ways:

- 1) Marion County's proposal does not include the substantially comparable language for contractors that is contained in Standard G. Specifically, Standard G states that contractual public defender compensation "shall be substantially comparable" vs. "the same as." The Commission has yet to define "compensation" and whether or not "compensation" includes more than salary. It is implied that it does because earlier in Standard G, the Commission does state that salaried public defenders require the same "salary and compensation."
- 2) The Commission's Guidelines for Standard G dictates a set amount of compensation on which to base caseload, i.e., \$60,350 for a 100% FTE (going to \$80,000 in 2024), when there is no comparable deputy prosecutor working in a "similar position with similar experience." There is no requirement to compare to other positions outside of the prosecutor's office in Standard G while this requires parity with similar positions in other departments.

Commission staff suggested revising the Marion County proposal to eliminate repetitiveness, as follows:

The comprehensive plan shall provide that the salaries and compensation of the full time salaried public defender support staff shall be the same as the salaries and compensation provided to the support staff in similar positions with similar experience in the office of the prosecuting attorney.

The compensation of contractual public defender support staff shall be the same as the compensation provided to the support staff in similar positions with similar experience in the office of the prosecuting attorney.

In instances where there is not a similar salaried or contractual support staff position in the office of the prosecuting attorney, the salaries and compensation of the full-time public defender support staff shall be the same as the salaries and compensation provided to the support staff in similar positions with similar experience in the criminal justice system

which will include police, sheriff, probation, community corrections and courts.

~~In instances where there is not a similar contractual support staff position in the office of the prosecuting attorney, the compensation of contractual public defender support staff shall be the same as the compensation provided to the support staff in similar positions with similar experience in the criminal justice system which will include police, sheriff, probation, community corrections and courts.~~

Mr. Casanova explained to the Commission that the Marion County Public Defender Agency is in a staff crisis. Staff are leaving at a much higher rate than normal, almost entirely due to pay issues. The starting salary for paralegals is \$10,000 less than the prosecutor's office, and \$7,000 less for investigators. The prosecutor's office does not have a comparable position for social workers, but the sheriff's office social worker, with a bachelor's degree, receives \$60,000, whereas the public defender hires masters level social workers, who start at \$43,000. Since 2013, there has been only one support staff pay increase, but even that was offset by an increase in health care costs.

Mr. Mason asked about a Marion County salary review study that he understood was occurring. Mr. Casanova responded that it has been frustrating to them because the results of that study have been repeatedly delayed, and there is little indication how it will affect their support staff.

Judge Diekhoff noted that instituting a statewide support staff parity requirement could cause many problems for other counties, which would likely refuse to increase staff pay without a comprehensive county study. She expressed her concern that it could cause some counties to leave the Commission.

Mr. Casanova recognized that the process would be complicated and challenging but expressed hope that since parity at the attorney level was reached, it could be at the staff level also.

Judge Hanlon inquired whether there was ever an instance where pay parity had led to a reduction in pay. Neither Mr. Casanova nor Mr. Mason were immediately aware of such a situation.

The conversation turned to whether support staff pay parity could be required solely in Indianapolis, and Commission staff agreed to research that issue.

Mr. Mason stated that it would be very difficult for Commission staff to effectively monitor support staff pay parity in addition to attorney pay parity, which alone takes several months of intense work.

Judge Diekhoff recommended that the Commission work with Marion County and other counties that do not have pay schedules to create some type of pay parity program. Counties such as Monroe, which already have pay schedules for support staff, will balk at such efforts, believing they have already complied with the spirit of such a requirement.

Judge Hanlon asked if this is a problem in other counties. Ms. Corley could not recall any whether other counties had this issue. Mr. Abbs thought there were a few other counties where it is a problem, but the chiefs hate to bring it up because it will be a budget increase. Mr. Mason said he has heard about this issue approximately three times in the last eight years.

Mr. Mason proposed that staff work with Marion County to better understand what the disparity is, why they believe it is happening, what the matrix/pay schedule is and is not, and how much that might cost Marion County; determine how many support staff there are in other counties, and what the impact there might be; and then report that information to the Commission. The Commission agreed.

Before the meeting ended, Mr. Cullen asked the Commission members to review their bio in the draft annual report. Mr. Mason requested any other feedback on the report as well. Mr. Mason also reported that the Commission has five counties interested in joining the Commission.

13. Other Matters

There were no objections to adjournment. The meeting was adjourned at 3:59 p.m.