LISTENING SESSION WITH INDIANA CHIEF PUBLIC DEFENDERS

Retired Judge John D. Tinder, Chairman

7th Circuit Court of Appeals

Indiana Government Center South

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MR. J. TINDER: The start here. Welcome. My name's John Tinder. I want to just say a couple of things in the beginning, and we're really here to listen more than talk. So this will be your opportunity to cut off a former federal Judge, talk to me. We'll have you do that.

So as I'm sure you have some background in our task force that is almost completely assembled here today, originates from appointment by the Public Defense Commission in response to several critical reports that were issued in recent years about indigency public defense in Indiana.

In August of 2017 the Commission appointed the 17 of us. Actually, my predecessor, Larry McKinney, was appointed along with 16 others to study concerns that were raised in those various reports.

We're here today from the task force. We have Judge Vickie Carmichael, Justice Christopher Goff, Joe Heerens from the Governor's Office, Larry Landis is, you all know, in and out carrying chairs as a good Public Defender does from time to time. Steve Luce, Executive
Director of the Indiana Sheriff's Association, Andrea Lyon is here by phone. Hello. Dean Lyon, can you hear us?

MS. A. LYON: Hello, everybody.

MR. J. TINDER: Great. And Jeff Papa from Barnes & Thornburg, Professor Schumm from the Law School and Judge Mary Willis. If I've overlooked any of the task force members that were here, I apologize, but there are a few other folks as well.

In appointing the task force, the Public Defender Commission gave us a relatively unstructured, but a pretty clear mission. In the announcing release it indicated that the task force will be an independent body comprised of individuals with current or past experience from all three branches of government, law school, the private bar, public defense agencies, sheriffs, prosecutors and other stakeholder groups.

It will also include a team of local and national advisers to provide consultation on potential solutions to improve Indiana's system of defense. The process will be transparent and seek contributions of multiple stakeholder groups who can provide valuable insight into current
policies and practices.

The task force's goal will be to complete its work and provide a report recommendation by August 2018.

So with your mission we have been in the process since the early part of September. We have had a handful of meetings so far and more to come. You're gonna hear a little bit more about a series of listening sessions we're gonna have throughout the State.

We are in the information gathering mode. And I want to say -- and I think I can speak on behalf of each of the 17 members of the task force -- we all come to this with a great appreciate of what you folks on the ground have done as Public Defenders.

You are doing the impossible daily for the ungrateful often, but you have been working hard and providing very good services in many, many forums. On misdemeanors, on felonies, on other matters that you're drafted into, termination of parental rights, CHINS matters, all kinds of proceedings. And we have great respect for what you've done with what's been made available to you.
Our objective is to help improve indigent public defense and to try to find ways to correct or improve these areas where there have been criticism.

So, believe me we have great respect for what you have done and what you're going to continue to do.

And we're looking at the broad spectrum. We're looking at everything from misdemeanor representation through death penalty representation in the criminal courts. We're looking at mental health commitment representation. We're looking at TPR and CHINS representation.

You name it. If there is someone who would be entitled to an effective defense, they ought to have it. Our Constitution, both at the federal and state level, we're entitled to it. So we take it seriously.

And we also have task force member, Monica Foster, who of loves to make an appearance and now here she is.

So we get it, but we need to hear from, you know, critical stakeholders, and you are certainly in that category. So that's why we're
here today.

And we're hoping that is a continuing dialogue with you all. And we are -- this is not a one-time tell us now and forever -- forever keep the peace or what have you. We hope this is a continuing dialogue and we're willing to hear what you've got to say. We're willing to read what you have to write.

As you know, our website has the ability to submit written materials. You can hand it to us. You could throw it over the transom. However you get it to us. We're happy -- happy to hear it, and we're all ears. We really want to know what you've got to say.

We do have a court reporter here today actually a couple of reasons. One, I'm a terrible note-taker, and I can confess to that now since I'm not trying cases anymore. But also for the members who weren't able to be here today --

**MS. M. FOSTER:** Is that why you got all of those facts wrong on my appeals?

**MR. J. TINDER:** Uh, you know -- there have been so many reasons I got them wrong and that's just part of it. But, also so that we can go
back and -- and see what was said and -- and
maybe pull things out of that that we can use
to -- to boost up our findings and our
recommendations and so forth.

Now, some things you might want to say even
today or later. You might want to say
anonymously if you want to do -- be critical
about something that you didn't want to have
directly attributed to you, that's fine. Feel
free to do that and just -- just let us know that
you want this to be a -- a nonattributed type of
comment. We can do that.

We don't have to -- and we're not here for
literally making a record so if you feel
anonymity would be better, that's just fine as
well, but if you -- if you want the comment
attributed, be sure you identify yourself to the
court reporter, Felesa, who is so helpful to us
because otherwise, I -- I couldn't remember
tomorrow what I did today so we -- we appreciate
that.

Just one other initial event -- or two other
comments. If you haven't signed in yet make sure
you sign in because we want to know who was here
so that we can get back in touch with you,
perhaps, if you want to follow-up on something that said or what have you.

And, secondly, if you parked in the state garage, your parking can be validated and you'll want to see Paula. Where is Paula? Paula can get your parking validated, and that's kind of important so... And, Representative Porter is also with us today. I'm sorry. You must have snuck in when I wasn't -- when I wasn't looking.

MR. G. PORTER: Stealth.

MR. J. TINDER: Great. But, as you can imagine, folks have lots of other obligations and commitments so if you see people coming and going that's understood.

So welcome. Thank you for coming. Thank you for what you do, and we'd be more than happy to hear whatever you've got to say. I know -- we've been informed several people do want to make presentations; Jim Abbs, Ruth Johnson, Bob Hill, Neil Weisman; that we have been informed of. And I don't know if you guys have order in mind.

MR. B. HILL: Jim Abbs.

MR. J. TINDER: Okay. I think I'm going to begin -- alphabetically, we'll start with Jim
Abbs.

MR. J. ABBS: Alphabetically. No one go first from there, but... And good afternoon everybody. My name is Jim Abbs. I am presently a Chief Public Defender in Noble County, Indiana, a position that I've been serving now for 17 years.

Prior to that, I actually avoided public defender work. I did, for Judge Lee, a panel attorney doing federal work. For the past ten years I have also been president of the Chiefs' Association.

I am beginning our presentation because I need to address some, what I would say, overall major issues and also some concerns that we have.

And I begin by stating to all of you that we presently support -- and when I say 'we', I'm talking about the Chiefs' Association which is made up of the approximately 30 Chiefs that we have in this state, and also the second organization, the Public Defender Council which is the representative body of all the Public Defenders in this state just a council made up of individuals elected by that body.

And we as a group support the present
reimbursement program that we are all operating under. We believe that that honors our state home rule. We believe that it gives flexibility because of the uniqueness of the size of our counties.

Now, to say that we support that, but we do have a concern with the task force that I have to bring up. And first and foremost let me say it doesn't have to do with the makeup of the individuals on it, and we greatly appreciate everybody being on it, and who's working on it; quite impressive with the group we have, but what we are concerned about is the fact that there is not a Public Defender -- an active Indiana Public Defender -- no Chief that is part of this process.

And we think that's important. Because if you look in this room here, you've got hundreds, if not, a thousand years of Public Defender experience. And as Judge Tinder said, we are out there every day working within the system.

And we think it would be important to have an individual who can interact with you, develop a relationship because this group is going to meet to address those issues.
When I put -- when this task force came up -- when I put a committee together of chiefs to deal with this issue, I put the following individuals on it: I put on the Marion County Chief; it makes up about 19 percent of -- or, excuse me, 18 percent of the population of this state. I put on the Vigo and Tippecanoe Chiefs. They are a part of the 16 states with a hundred thousand people that make up about 41 percent of our population. And I put on the Lawrence County Chief. It has a population of 50,000, and Rush County, 16,000 that makes up the other 75 counties in the state which make up 41 percent of the population.

We think it's important to get all of those voices being heard -- that's what I wanted within that committee so they can address all of those issues.

Now, I don't want to belabor this point, but I would ask you this. We understand we may not get a seat up there. But I would as you this; that you listen very closely -- which I know you will do -- but also that you give deference to what we are presenting since we're not there with you all the time when you're making the decisions.
that you're gonna go forward with.

The second point, and a major point I want to get to is we do believe that those counties that are active in the reimbursement program should be allowed to continue as they are operating. And I think one thing that we always focus on the problems within the system -- I understand that -- and we would tell you there are deficiencies.

And I will tell all of you there was not a single thing that the Public Defender Council nor the Chiefs, when that report came out that surprised any of us. I think if you'd been to our meetings the past ten years, all of those topics would have been discussed.

And, in fact, we have proposed standard changes to Commission, we have proposed rules to the judiciary, we have proposed legislation to the legislators trying to make the changes. And we've had -- in a lot of the hard work that Larry and his staff -- some successes doing that.

But I think it's very important that you recognize also there are a lot of good things going on in our counties throughout this state that are a part of the reimbursement program.
And I will tell you the successes and the good things greatly exceed those deficiencies that they are talking about. There are programs within Marion County, Tippecanoe County, all throughout this state that are positive.

And I want to give you -- I'm talking generalities, I'm gonna give you one specific example, and I'm gonna use my own county, because then if there's any questions, or someone has to answer to it, I am the one to do it.

There's a great concern about reimbursement and -- and problems with misdemeanor cases. And that how out of compliance every county is.

The fact of the matter is no county has been in compliance with state workload requirements, caseload requirements for felonies, juveniles, CHIN cases, which we receive reimbursement money, and misdemeanors for over 20 years now, and there are other success stories like this. So the reimbursement program that we have in place does work, and there are counties who operating under it doing very positive things.

And my point is we don't have to reinvent the wheel. And we understand there's some adjustments and changes that have got to be made.
And one of those is the third major point I want to give to you.

And that is we believe that those standards set forth for the Public Defender Commission should be mandated throughout the entire state.

**MR. J. TINDER:** Even without reimbursement?

**MR. J. ABBS:** We want reimbursement, but I would say to yes, even without reimbursement.

I spoke to a legislative committee in August and I told them I truly believe that there's two things that you can do that could resolve most of the problems that we presently have within our system.

First, and most importantly, mandate that all counties must come into compliance with those standards. That single act will ensure that every Public Defender in this state will have appropriate caseloads, will be paid an appropriate salary, and will have available to them the resources that they need.

**MR. J. TINDER:** But, how would that be enforced without reimbursement?

**MR. J. ABBS:** We have to have -- we have to have a reimbursement program -- and I -- and you're -- I'm getting into my fourth -- we've got
to have a compliance force in place. And we
will -- we will ask that -- there's got to be
state-mandated compliance, and then behind it,
there has to be state-mandated enforcement. We
recognize this.

MR. J. TINDER: Okay.

MR. J. ABBS: 'Cause I -- I -- I tell you
when we look at these big issues that we're
dealing with -- but the single most important
thing to me, and I think the single important --
most important thing we're trying to do is to
ensure every individual that's appointed a Public
Defender in this state receives effective
representation.

And that can only be accomplished if
attorneys have appropriate caseloads or paid
appropriate salaries to do that.

And there -- now I did tell you -- I said
two things that we had to do, and the other one
gets into what -- somewhat what you were saying
is we do need reimbursement money for misdemeanor
cases.

To me that's a travesty. That's gotta be
included in the overall program to assure it
happens. Which gets then, Judge, to your main
point. And we would agree with this, and the
fourth main point I want to make is that we do
need an enforcement mechanism to make sure this
takes place.

And we would like to see increased staffing
to the Commission, and give the Commission the
authority to enforce the standards upon the
counties. And if the state -- if the counties
fall out of compliance, the Commission could
intervene, and, if necessary, take over the
Public Defender system in that county, and that
county would still remain responsible for their
portion of the funding. There's no doubt -- I
mean exactly the point -- we have to have an
enforcement mechanism.

To conclude what I wanted to say is really
four points; we have a system in place, it that
can work; we don't have to reinvent the wheel.
We've got counties complying with that that are
doing positive things; we need to allow them to
continue.

We do recognize there has to be mandated
compliance rules 'cause otherwise there will be
counties that will not come into compliance with
them, and to do that we understand there's got to
be an enforcement mechanism and that mechanism should be through Commission having the power if absolutely necessary to take over a Public Defender system and to force it into compliance from there.

Now, what we're talking about is a major overhaul to the system, and we understand that. We also understand that's gonna take some period of time to do, and, I think that would be another factor that would be have to be put into this whole process. We can't next year say, everyone's gotta be in compliance within a month. It's gonna take some time to do that and that's gotta be part of the process.

And I also know when doing this for 17 years, I -- I tell them when I first became Chief I came to a conference and Mr. Larry Landis comes up to me and puts out his hands and says, "Congratulations James" as he always calls me, "and I need to get ahold of Senator Meeks right away."

And you all know -- and know that and you recognize Senator Meeks was our Senator at that time. Also during that period of time chairman of the Appropriations Committee which I did for
the next seven years. We understand things take time.

The one thing we really need right this very moment is reimbursement money for misdemeanor cases. That is a complete travesty going on in this state right now.

And if you can at least get us -- because we know we aren't gonna get everything -- but, if you could at least give us that much this coming year, it would be greatly appreciated by us.

Conclude by thanking all of you for putting in your time and doing this and listening to us. I know this is -- won't be the easiest process. And, again, like I said, we have concerns at the ta -- at the same time, I want to say to you -- we greatly appreciate all of you putting in your time and assisting us with this manner. Thank you.

MR. J. TINDER: Thank you, Jim. And let me say -- I forgot to introduce Joe Heerens from -- Counsel from the Governor's Office who -- it is an honor and (indiscernible) as well, and I -- I -- I -- we un -- we hear your point about wanting seats at the table. Understood.

But, keep in mind this task force is not
self-selected; we were appointed. We didn't make
those choices and I'm guessing you'd love to have
a Public Defender on every jury you try as well,
right? Just to have a vote -- a vote.

MR. J. ABBS: We do our best to get somebody
leaning in that direction at least. How is that?

MR. J. TINDER: But you -- but you -- but
you can -- you can be assured that we -- we do
hear you. And, while you don't have a seat at
the table, you've certainly got a voice that's
going to be heard, a Public Defender, so be that
as it may.

MR. J. ABBS: I -- I appreciate those
comments, Judge.

MS. M. FOSTER: Can I follow-up on that?


MS. M. FOSTER: I don't think we've ever
met. I'm Monica Foster.

MR. J. ABBS: We have met before. You just
don't remember.

MS. M. FOSTER: Okay. Well, I'm the Chief
Federal Defender for the Southern District of
Indiana. I cover the entire southern part of
state from Terre Haute to Richmond and south.

Before I became the Chief Federal Defender,
I practiced -- we called it a private practice -- for about 30 years, but mostly -- I would say 95 percent of my work was appointed work from Public Defender Offices from Marion County to Lake County to Evansville really throughout the state.

I was on the original Public Defender Commission where I probably served for over 20 years. I was on the initial Board of Directors that created Bob Hill's office, and probably served there for probably ten or 15 years. I understand the state court system having worked in the federal court system. I can also see where you guys need help.

But Judge Tinder is right; your voice is going to be heard and I have the heart of a Public Defender because I am a Public Defender.

MR. J. ABBS: And -- and -- and you being on the -- no doubt you being on the task force does give us comfort, Monica from there. We just would like to have -- felt that maybe a few more members --

MS. M. FOSTER: Men -- you want some men?

MR. J. ABBS: Yeah, right. So I was a Prosecutor so you can persuade (indiscernible).
MR. J. TINDER: And a little add-on to that, you may not know this, Justice Goff spent a few -- a good number of years as a Public Defender, and, believe it or not, even I was a Public Defender for two years in Marion County Criminal Court Three as a conflict Public Defender. And before -- and be --

MS. V. CARMICHAEL: If we're throwing it out there, and I was the Chief for Six.

MR. J. TINDER: All of these -- all of these confessions.

(Several parties talking over each other.)

MR. J. TINDER: And now you're seeing -- we have pasts, but it's even on my resume so... But, yes.

MR. J. ABBS: And, again, appreciate what you're doing. I'm just relating to you somewhat --

MR. J. TINDER: Sure.

MR. J. ABBS: -- so that you know what our group as a whole feels from there.

MR. J. TINDER: Heard and understood.

MR. J. ABBS: Thank you.

MR. J. TINDER: Okay.

MR. J. ABBS: However, other --
MR. J. TINDER: Now, here let's get to the substance and questions. Well, let -- I tell you what, let's -- let's hold our questions until the predesignated presentations are made and then we'll -- we'll go back. Neil, are you next?

MR. N. WEISMAN: Yes.

MR. B. HILL: No, I'm next.

MR. J. TINDER: I'm sorry.

MR. B. HILL: I'm next.

MR. J. TINDER: Bob, you want to go?

MR. B. HILL: Yeah.

MR. J. TINDER: Bob Hill.

MR. B. HILL: Um, --

MR. J. TINDER: You dropped something.

MR. B. HILL: -- that's alphabetical. Oh, I need that.

MR. J. TINDER: That's what I thought. It didn't well go to Ruth.

MR. B. HILL: Because when it's time, I'm gonna tell you about Greg Moiser (phonetic) who's a defender that moved to Indianapolis from Missouri. And I'm gonna tell you -- tell you about Carolyn Brown who's a defender who moved from Kentucky to Indiana. And I'm gonna tell you about their experiences in their states.
And my point I want to make first and foremost is we need -- don't need to look at this as the glass being many half empty. I think this glass is three-quarters full.

We have a great thing going here with the Commission standards and Commission caseload limitations that Public Defenders have. And I will use these folks and my experiences and meeting with defenders from around the country to explain why I say that.

I agree with Jim, and I hear what you're saying. But there are a lot of qualities people here in this room. There are a lot of quality people that been working on these problems for years. And it's a perception problem if they're not sitting up here with you.

And its perception problem hard to explain to our lawyers in -- in the trenches. And we need to be --

**MS. M. FOSTER:** Well, what's --

**MR. B. HILL:** -- hey, it's gotta be --

**MS. M. FOSTER:** -- what is -- what is the perception? I am a Public Defender.

**MR. B. HILL:** The perception is that State Public Defenders are not part of the table. Not
part of the -- they don't get to sit at the
dining room table at Thanksgiving; they're put
off to the kids' table. That's the perception.

And, it is something that is going to be
hard for us all to deal with. If we want
'buy-in' as Ann Sutton, my Chief Counsel says,
you have to include people to get their buy-in.
And, I appreciate being able to come here, but
that is the issue, and I think that we need to be
cognizant of, it's perception.

You and I have worked together -- we've
worked cases together. We've been Public
Defender together. I worked for John Tinder my
first job out of law school. And I used to do a
-- a hellacious imitation of John Tinder. I
won't do that anymore. But, that was usually --

MR. J. TINDER: That's -- that's before I
had gray hair.

MS. M. FOSTER: Maybe that's what caused
your gray hair.

MR. B. HILL: Well, it was probably before I
gained so much weight. But, I would never do it
to his face but we would always do it drinking
beer.

MR. J. TINDER: I heard that.
MR. B. HILL: Complained (indiscernible).
And that's why my career in the Prosecutor's Office (indiscernible). But, shortly after leaving the Prosecutor's Office, I became a Public Defender. I paid -- my first day on the job, I worked for Judge Mercuri. He hired he fired me if he wanted to. He did not; I took another job.

I walked into that courtroom as a Public Defender had to defend somebody on cocaine -- my first day -- never met him before -- cocaine possession case, and it was an innocent client.

Randy Faranow (phonetic), a buddy of mine from the Prosecutor's Office, and Mark Stoner, another buddy from the Prosecutor's all said -- came -- came down and watched my defense of this person, and I moved for a continuance, denied; you're a Public Defender go, go, go.

Guess what happened? The guy was innocent. He was the only guy that couldn't run away from the people standing in a straight corner 'cause he's on crutches, and they put the cocaine on him. Convicted.

Judge Mercuri didn't put him in jail. Judge Mercuri was very kind, but that was what was
wrong with a system where Judges appoint Public
Defenders. There has to be boundaries and
insulation.

I then became a Public Defender in Juvenile
Court working for Val Boring (phonetic) -- Val
Boring and Judge Payne. I lost a job with Judge
Payne when I told him his Commissioner wouldn't
let me put on a defense because he convicted my
guys at the close of the State's case before he
heard my alibi defense.

I said this should be appealed and I'm
asking that we appeal this. He said, "We don't
have money for an appeal" and that was the last
appointment I received as a Pub -- Juvenile
Public Defender.

I then was hired by Judge Gifford. I became
a Public Defender in major felony court. Judge
Gifford's an excellent trial Judge; one of the
best I've ever appeared in front of.

We had no resources; we had only us. We
had -- it was -- it was hard to get extra money
to do anything. I remember when Arnie Baratz and
I did my first death penalty case, he had to come
back to court Monday after the Satur -- or
Saturday trial ended -- you'll remember this --
and had to do -- defend -- uh, defend -- a robbery case -- Public Defender robbery case. There were no protections; no controls.

The agency was founded. I became the first Chief Trial Deputy of that agency in Marion County. And things started to improve because of Commission standards and because of funding. I believe the reimbursement was originally 25 percent, now it's up to 40 percent.

That is the key -- the increasing reimbursement. That's the key to -- that's the engine that runs progress from the Public Defender systems.

I then -- and after becoming Chief Trial Deputy of the agency, left and started doing panel work with the Federal Defenders Office, and I started doing federal death penalty cases as well as state death penalty cases; all publicly appointed, all publicly funded except for one.

And I saw the difference between the federal system and the state system. The federal system has the opportunity to pay people hourly. I think that's an important thing we should look at here.

The federal system has the opportunity to
fund your defense. That's an important thing for us to look at here. The federal system has insulation from the Judge. Because if I have to argument something that -- that the Judge doesn't like, I'm hired by someone else. These are important elements of what a good Public Defender system looks like.

I became Chief Trial Deputy ten years ago -- of Chief Public Defender ten years ago. We have -- we constantly get reimbursement from the state. We are up to eight million dollars reimbursement -- just shy of eight million dollars a year now.

I can tell you this, my budget would not be where it is now if not for that reimbursement. My budget will not grow because there's -- as John Keeler told me once when he was in the legislature when I was doing a project for him -- that the Cocaine Dealers Association's not a big lobby group in the legislature.

Public Defenders don't have a good voice in the legislature. That's our fault. But that's what we need. We need a -- a presence there, and we need a bigger presence than we've been able to do in -- in the past.
Now, our problems in public defense in Marion County and statewide to me have revolved around funding. Always funding.

The Prosecutor's Office as a comparison and contrast it -- their local government's always willing to bend over backwards to fund their projects, to fund their witness assistance people, to fund their social workers. I have to pay dearly to get one social worker added a year that would help improve the cases and help improve sentencings.

When I started ten years ago we had zero social workers; now we've have 18. And it's had to come in trips and drabs through grants and this, but it shouldn't be that difficult. It should be something that the Public Defender Commission helps us with through reimbursement.

So I've learned over the years that if the reimbursement system goes away, my budget is going to collapse. I've learned over the years that as a -- a -- a budget like the DCS budget explodes and CHINS cases explode because that's what we've hired all of the DCS caseworkers to do is to file CHINS cases and they're doing a good job of it. It's a crisis.
But it's hard for my budget to keep pace at 40 percent. So many things that happen statewide or on the state side impact us dearly in -- in the counties. CHINS is the big one right now.

We have -- we have experienced two-fold, at least, growth in our CHINS Division because of the inequity in funding be -- between DCS prosecutions, and -- and that -- and that's all good. I -- I didn't begrudge that. I'm all in favor of that, but CHINS defense has to keep pace and it hasn't. It just hasn't.

These are some of the issues that Public Defenders like me, like Jim and everybody else will experience on a daily basis, on a daily basis.

Now, I think saying those things preliminarily -- a little bit about me, a little bit about what I've learned in my experiences, I want to go through a couple of points that I -- I want to make here.

I want to reiterate, this glass is three-quarters full, not half empty. We've done an excellent job with what we have. I'm very proud of the lawyers that work for me. In fact, we're going to hear from Ruth Johnson here in a
minute who -- who's head of my Appellate Division. I'm very proud of what they've accomplished, I'm proud of what I have accomplished, and I think we have the basis to do something really great in terms of client representation.

I talked -- I told you I was gonna talk to you and share stories about people in -- in my office. Gregg Mosier came to us from Missouri after the Missouri reforms.

Gregg Mosier is -- had -- right out of law school, goes to work for Missouri in the reform system and had a caseload of 300 to 500 cases; 60 percent of which were felonies. That's after the reform in Missouri. That won't happen in -- under the Public Defender Commission system. That cannot happen and stay in compliance because of caseload standards and because of experience requirements. He started at $38,000 when we were paying forty-five in Marion County starting pay.

Our lawyers went into a misdemeanor court where they had what came because there are no state caseload standards or requirements. He went into a system where he received 60 percent of his caseload as felony cases.
Now, albeit not crimes against the person --
crime -- property crime felonies; felonies
nonetheless.

He moves here -- because his family wants to
relocate -- and he can -- he -- and I hope he
comes on February 9th -- and he can tell you that
what we do here is much better than what's
happening in Missouri where they have a statewide
system where they have reform without funding --
without adequate funding.

Carolyn Brown from Kentucky -- she started
in the Louisville office which is separate from
the rest of the State of Kentucky. She went into
what she described as a caseload of -- the first
day sworn in -- she went to her swearing in and
came back and in and her mailbox there were
felony cases already.

She had no clue what she was doing. That
won't happen in Indiana because of the Commission
guideline. She then realized that her caseload
was gonna be upwards in the three to 400, 500
range. And because she thinks the -- the numbers
are jimmied around in the Louisville office, she
feels like it was closer to 600.

She quit the Louisville office which is
separate from PDA -- Public Defender -- Public Advo -- what is it? -- Public Advocate -- their statewide Public Defender System is separate from the Louisville system -- she quit Louisville and went to PDA where the caseloads were a little bit better and worked for seven years and moves to Indianapolis 'cause she wants to relocate.

We were able to pay her starting as a misdemeanor lawyer -- she was doing major felony work -- and we were able to pay her more money than she was getting from major felony work, and reduce her caseload.

And ask her this question, is the Indiana system better or worse than Kentucky? And she'll tell you much, much better. Like a breath of fresh air. There are caseload controls and caseload limitations.

I go to Public Defender meetings around the country meeting other chief defenders. In meeting these chief defenders one universal message comes out, they don't have adequate caseload controls like we do through the Public Defender Commission's system.

They don't have adequate funding and they don't have adequate training. We have a really
good system here based on the Commission's system if -- if it is funded adequately; if it is funded adequately.

Now, here's what the board of directors of the Public Defender Council has been recommending for a number of years, and here's what chiefs have recommended, and here's what I believe is the right thing to do.

Prosecutors are funded by the state one hundred percent, one hundred percent. Chief trial deputies in the Prosecutor's Office is funded by the state one hundred percent. I believe Public Defenders should also have one hundred percent reimbursement by the Commission to the counties for chiefs that perform their duties in compliance. And I'll talk about that in a minute. And that should apply to not only chiefs, but also deputy chiefs; the top two positions.

Now, some counties in Indiana have -- their population's too small perhaps to justify funding a chief public defender per county. But we've been in favor of organizing regional offices so maybe a group of four, smaller county public defender offices would get together to pick a
board. You need a board to insulate from -- from
the Judges -- insulate the public defender so
there's a barrier there.

But that board should be comprised
appointees from each of the counties. Each
county should pro rata share based on the number
of clients they have in the system, and they
could group together -- excuse me -- and probably
do their job more efficiently and more
effectively.

Now, that person that is a chief defender
should, in my opinion, do certain things. And
we've talked about this. We had a meeting with
Dave Schircliff, and -- and Amy and -- we were --
how many of us were there; four or five, and we
talked -- Jim Abbs was on the phone.

One of the problems we have with the Public
Defender Commission -- one of the -- um, deficits
in the Commission's system is that they don't
have guidelines what a chief's suppose to do.

Okay. Okay. So some chiefs are one hundred
percent of the time in court. They can't train,
they can't do HR, they can't do personnel, they
can't discipline, or it's hard to do the policy
stuff, but they're always in court. That's not
what a chief defender should do.

A chief defender should be doing things like recruiting making certain we're getting good lawyers into the system. Quality control. Making certain that the work they're doing is client-focused, client-centered, and giving the citizens of this State what they deserve from our Constitution; zealous representation.

Chief defenders should make certain that the -- policies that are adopted by that agency are conducive to a client-centered, client-focused representation. They should make certain that the people that are hired are trained not just with -- locally here in Indiana, but get nationwide training.

Because there's so much going on out there that we don't know about in Indiana that you don't get -- and I'm sure Monica Foster would agree with this in a split second that you have to go to national trainings to be aware of what's new and what's going on. Chief defenders should be administrators. They should set the bar.

Now, we've come up with some guidelines about what we would propose as guidelines and lift the caseload limitations for chief
defenders.

The specifics of that's not so important today -- unless you want to get into it -- but what is important is that a chief defender should have time to do things are important; quality control, human resources, personnel, recruiting, training the politics, with a small 'P', working the county -- I mean you want to have a -- a -- a experience that will cut your heart out, take your PD budget to the County Council and ask for more money. Do it. It's hard.

But the chief defender has to do that. There's no one else that's going to; there's no one else that's going to.

Now, we also believe, and -- and -- and -- and -- and -- and it's a consensus that all misdemeanors -- all misdemeanors should be reimbursed statewide. We've already talked about chiefs and chief trial deputies, we've talked about regional offices, and we've talked about one hundred percent reimbursement for that sort of chief.

But we should also talk about 50 percent reimbursement -- not 40, not 25 -- 50 percent reimbursement for all services that we deliver in compliance with Commission standards for the
benefit of our citizens, for the benefit of our client.

And, you know, this is not just saying, I'm gonna go out and -- and represent a -- a criminal, or -- or someone that might be a member of the Cocaine Dealer's Association, but you're talking about our citizens that are accused; you're talking about our citizens that have rights; you're talking about our way of delivering justice, and it's very important. It is in -- it's in fact vital that we do that appropriately.

Now, people said, well, you know, we don't want to just go in and ask for more money, but my perspective is we're doing a lot of things right. We're doing a lot of things that are good. The problem is we don't have the money to do it.

Fifty percent reimbursement would set up a state local partnership and would help take the edge off things like, for example, the CHINS crisis which counties have no control over. They're just being drug along for the ride, but we have to defend -- or represent the cases.

While I'm talking about CHINS, let me mention this, we have discussed, repeatedly, a
major problem in an office -- the Public Defender's Office representing -- defending the parents in a CHINS termination case, and representing clients in a juvenile delinquency matter.

Frequently, my JD lawyers are in a conflict with my CHINS lawyers because sometimes the parents defend the case saying it's all of the kids' fault. Sometimes the disposition that a -- a JD lawyer would want is not the same as what a -- a CHINS court is going to do, or what -- what a CHINS lawyer would think would be a great success.

This is such an inherent conflict that I don't see how a public defender's office like mine can do both.

Our corp mission is criminal defense not civil CHINS. This was an add-on. Uh, Larry, how many years ago?

MR. L. LANDIS: Ten, maybe 15.

MR. B. HILL: Yeah. That we had to really dig in and start taking these cases on as part of our obligation as public defense. And what changed our ability to hire lawyers to do that was when the Commission started reimbursing
CHINS. It's just a simple fact. But out of that is only dilemma as to how you resolve this conflict.

And if I consult my ethics people they do recognize that. It's one firm. It's one organization. And it's one firm that has to defend all of these clients.

In fact, if there's one mom and three dads, they could all be at odds with each other. I'm suppose to represent all of them.

MS. M. FOSTER: Do you have a suggestion how we --

MR. B. HILL: I --

MS. M. FOSTER: I think there's no question that that's a conflict.

MR. B. HILL: Huge conflict. Okay. My suggestion, I think, No. 1, I think there has to be more funding. And -- and I'm gonna say that all day long.

MS. M. FOSTER: That doesn't --

MR. B. HILL: No. 2, --

MR. D. BOTTOFF: -- that doesn't solve --

MR. J. TINDER: Yeah.

MS. M. FOSTER: -- the conflict.

MR. B. HILL: No.
MR. J. TINDER: So.

MR. B. HILL: It does this way.

MS. M. FOSTER: Okay.

MR. B. HILL: It does this way. Because you have to hire more and separate lawyers. One way we're dealing with conflicts in my office is I've set up separate full-time conflict independent teams that our office -- separately from the rest of us, have their own independent locked door and file system, have their own independence from everything but me asking for their budget.

I guess I could fire them if some of them were committing crimes in the office or something like that, but they supervise themselves.

That's, basically, what you're going to need. You're going to need separate CHINS divisions to do that, in my opinion. That's money because you have to buy different offices, you have to buy different lawyers, you have to buy different supervisors.

I think another solution that we've advocated all along was that the State should have a bigger role to play in setting up and -- and handling the defense of the CHINS matters.

The DCS budget is approaching a billion
dollars now; just a -- a -- a little bit under a billion dollars, and -- and that's shown enormous growth over their last five years. But funding for our defense hasn't kept pace.

The other thing you can do --

**MS. M. FOSTER:** In pace for --

**MR. J. TINDER:** Monica, if you don't mind, let's -- let's get through the presentation --

**MS. M. FOSTER:** Okay.

**MR. J. TINDER:** -- and then we'll come out -- there are lots of points we want to drill down on --

**MR. B. HILL:** Yeah.

**MR. J. TINDER:** -- but just for expediency, we'll get -- we'll get to the questioning in -- in just a little bit.

**MS. M. FOSTER:** Okay.

**MR. B. HILL:** That's Judge Tinder's way of saying I'm talking too much.

**MS. M. FOSTER:** No. It's his way of saying that I should shut up.

**MR. J. TINDER:** It's actually both.

**MR. B. HILL:** Monica and I can say this to each when we're having a drink, but, --

**MR. J. TINDER:** We will come back.
MR. B. HILL: Okay.

MR. J. TINDER: Just proceed.

MR. B. HILL: But there -- there's a third point I want to make here that's inter-related. I think the State should have a bigger role. I think there needs to be more money to set up separate silos in this.

I think my main mission when it comes to stuff in -- in juvenile sections -- CHINS, TPR and JD -- my main mission traditionally, and always has been juvenile delinquency defense. We should be representing the kids. We should be representing the kids as advocates in the CHINS matter; not the parents.

Now, that's still gonna leave conflicts if you have one organization doing it. And maybe the only way to resolve that would be to do it with -- with all independent contractors. I don't know.

But I do know it's an ongoing conflict for every Public Defender running an office that has to do both in this room, and in the -- and in the Public Defender Association. The --

MR. J. TINDER: And which is, of course, enhanced in the smaller offices.
MR. B. HILL: It would be totally enhanced in --

MR. J. TINDER: You -- but -- but we will -- we're going to come back to this.

MR. B. HILL: Because frequently you have someone that does CHINS matters, but also handles criminal matters, but also handles JD matters because you have to be the -- you have to wear many hats in a smaller office.

My office is organized not vertically like that, but horizontally so that I have people doing only CHINS and TPRs, people doing JD housed in the same building, but on separate floors, separate supervi -- supervision. That's the, I guess, luxury or the curse of size, depending on how you look at it.

But that is a huge problem. I see -- I see the greater need for contractors, I see greater need for funding, I see greater need for State control.

And -- and I think I need to be in charge, responsible as a Defender to represent the children, those that are accused of offenses that would be crimes if they were committed by an adult.
A couple of other points I want to make quickly. The -- I can't underscore enough how public defense has grown in this State over my -- I -- I guess I started doing public defense work in 1983 since that time to now. And it has made -- we have made great strides, great strides.

I mean you can recall the horror stories in Marion County of poor effort, poor performance, poor defense, miscarriage of justice. But we need to focus on what we've done to accomplish some of the goals that the Public Defender Commission has put on us.

My argument is the Commission needs to put more guidelines out there, especially for what chiefs should be doing, the -- and we should reimburse misdemeanors 50 percent -- 50 percent across the board other than chiefs and deputy chiefs; that should be a hundred.

And that's -- that's my take on the state -- state of public defense in the State of Indiana now.

I do now want to take a second and go through -- I'm on the Board of Directors of the Public Defender Council, and I want to take a second to just briefly outline some of the
positions we've taken. And I think we -- did you -- hand -- hand that.

MR. J. TINDER: That -- the hand-out?

MR. B. HILL: Yes.

MR. J. TINDER: I -- I -- DC recommendations which, I think we certainly -- the -- we will have.

MR. L. LANDIS: Bob, just so you know, Neil's going to cover that.

MR. N. WEISMAN: I'm going to -- I'll be covering that.

MR. B. HILL: Okay.

MR. J. TINDER: And -- and, by the way, Felesa, the 'JD' he's referring to is juvenile delinquency.

COURT REPORTER: Thank you.

MR. B. HILL: Yes. I'm sorry. And, the Chiefs have taken -- and I do want to add this -- we have taken up the beginning steps of organizing what a chief should do; what the Commission should require chiefs to do.

I think home rule is a big issue in the State of Indiana. You should -- you're -- you're not going anywhere without paying attention to the idea that communities want to run their own
business, right?

One of the things we could do is to have a standardized requirement for what chiefs should do in this regard. And I think the carrot and stick are very important. The reimbursement works very effectively, I think, to keep counties that are in the system in compliance.

There're going to be times, though, when you need to up the pressure. And, at some point, somehow, some way, I could foresee a situation where things really go down the wrong path and never improve where the State, maybe through the Commission should step in to remove a Chief Defender that is not doing his or her job. I can get that, and I understand that.

But I think first steps are first. We need to require chiefs to do a good job, and we need to actually set those guidelines and tie it to the reimbursement program.

I've covered everything I -- I -- I do want to say a couple of things about what the Public Defender Council has been doing making recommendations to improve indigent defense.

We have for a long period of time we thought mandatory compliance by all counties with
Commission standards is a must. We think there should be Public Defender boards that insulate a Chief Defender from Judges.

I think -- we'll -- we'll talk about the mechanism. You can talk about specifics that -- I do want to -- I do want to talk about something else. Pay is a big issue.

Monica Foster and I have had this debate. The reason we have this debate is because I have good people that she steals from me because she can pay them $30,000 more --

**MS. M. FOSTER:** More than that, actually.

**MR. B. HILL:** Don't say that. Ruth's going to (indiscernible). But -- but, okay. But, 40,000 more, 50,000 more?

**MS. M. FOSTER:** Some of your people I've paid double.

**MR. B. HILL:** See. I can't compete. So I could have a lawyer who has done good work for us, or a social worker who -- Jackie Guy -- one of the first social workers I hired to work with our clients, and she -- and -- and Monica can pay her a lot more than we can.

Our lawyers are going through law school after four years of college -- that's seven years
of post high school education -- and they're coming out with a hundred to twen -- a hundred and twenty-five, a hundred fifty thousand dollars debt, and we can start them at $47,000 a year in Marion County.

MR. D. SCHIRCLIFF: Yeah. Marion County.

MR. B. HILL: In Marion County.

MR. D. SCHIRCLIFF: And that's important because he sure as hell ain't gonna start that in -- in Lawrence County.

MR. B. HILL: Well, I don't know what you start --

MR. D. SCHIRCLIFF: About $8,000 less.

MR. B. HILL: But that's why all of your people should come work for me. But I play the Monica Foster cards.

But, I -- I get it, you know. I get it that someone needs to make money. We all have loans we have to pay off. We have families we want to feed, and we also have children we'd want to send to college. We all have the same concerns.

But we are -- even though much better than Missouri, much better than Kentucky, much better than the separate agency in Louisville, we are much better, but we're not good enough.
We need to take care of the people that dedicate because they have the heart of a Public Defender, dedicate their time and effort to defending the accused, to defending people who are otherwise defenseless against the system.

And our lawyers do an excellent job. We need to encourage people that have the right attitude through pay and through security and through having a -- a respectful work environment where -- where they are perceived to be important and appreciated for what they do.

And I think these things are all -- and what I'm talking about now probably overarches the whole -- the rest of it. If you don't treat people right, you're not gonna get good results. And I think it starts with money showing we're sincere about this. Payroll is very important.

Holding people to standards is very important. Requiring that they meet the mission statement of the agency, very important. That comes from Chief, that comes from organization, that comes from better funding and pay.

Okay. So that's all I wanted to say. I appreciate your time, I appreciate your effort, and that's it.

Felesa N. Averitte, LLC    (317) 293-7382
MR. J. TINDER: All right. Many -- many points we're going to come back to, but it must be horrible for Public Defenders to have to sit on their hands and have someone else make their argument for them. I appreciate it. There will -- there will be overtime.

And one little known fact. This goes in Monica's presence. The reason federal Public Defenders are paid more, and well more is because they have to put up with horrible federal Judges.

MR. B. HILL: I -- I -- I practiced -- I've practiced there; I've practice in front of you, and I'm not going to comment.

MR. J. TINDER: Okay. Now, alphabetically, we're with Ruth. So if you could just, you know, --

RESPONDENT: Oh, we're going alphabetically?

MR. J. TINDER: Or -- or -- yeah. Let's -- let's just get -- Ruth -- and Ruth is talking about, I assume, the appellate aspect of public defending.

MS. R. JOHNSON: Right.

MR. J. TINDER: All right. So can you fire it at us --

MS. R. JOHNSON: Yes.
MR. J. TINDER: -- in a -- in a quick fashion?

MS. R. JOHNSON: In a quick fashion. Oh, I don't know about that. Okay. So there is nothing I like to do better than talk about money, Appellate Division. Our Appellate Division --

MR. C. SHEMA: Could -- could you stand in either one side of the room so we can hear you too?

MS. R. JOHNSON: Sure. So just to tell you -- those of you who don't know me, my name is Ruth Johnson. I've been the Appellate Division Chief in Marion County since 2008. And I'm gonna start with some stats about our Appellate Division, and then I'm gonna talk about it -- I will talk about it briefly and --

MR. J. TINDER: Are there -- are they stats you could give us in writing or -- or, you know, submit later so I can --

MS. R. JOHNSON: Yes.

MR. J. TINDER: -- get to your point?

MS. R. JOHNSON: Sure.

MR. J. TINDER: Okay.

MS. R. JOHNSON: So the reason -- of the
things I want to talk about today -- well, first, let me just say that our Appellate Division -- we've been a partner statewide -- well, with the Office of Judicial Administration, we've been involved in pilot projects, we're involved in the e-filing pilot project right now, so we have been a partner statewide as well as what we do for our clients day in and day out.

But my focus today, I'm gonna drill down and focus into the Sixth Amendment. I want -- so what I -- when I read your reports that are public and online, I've been reading that you want an Appellate Division to be a tool to maybe assist what you see as the errors in the -- in the trial court, the Sixth Amendment right, things that aren't happening that are in the report. So I want to talk to you about that tool and what I think that tool might look like. Because I do have some concerns --

MR. J. TINDER: Your report you're talking about, is that the Sixth Amendment --

MS. R. JOHNSON: The Sixth Amendment report, right.

MR. J. TINDER: Okay. Fine. Because we haven't issued no reports.
MS. R. JOHNSON: Right. But, I'm talking about the report that brought this --

MR. J. TINDER: Okay.

MS. R. JOHNSON: -- group --

MR. J. TINDER: All right.

MS. R. JOHNSON: -- together.

MR. J. TINDER: Okay.

MS. R. JOHNSON: And then when I read what comes out of this, I -- I have been reading about a statewide appellate office may be something that you're considering.

MR. J. TINDER: That was a recommendation of the Sixth Amendment Center --

MS. R. JOHNSON: Right.

MR. J. TINDER: -- (indiscernible).

MS. R. JOHNSON: Correct.

MR. J. TINDER: Something we want to get to.

MS. R. JOHNSON: Correct. So that's what I want to address today; is I want to -- I just want to talk to you about what our office, I think, does right so that as you go forward you can think about how could you implement this if -- if truly they are things that we do right -- which I think they are -- how -- how are you gonna implement this on a state basis?
And so because of time constraints, I'm gonna narrow it down --

MR. J. TINDER: Right.

MS. R. JOHNSON: -- and I'm going to talk about two things that I think we do really well that if there's gonna be a statewide appellate, this would be a good thing.

And that is that in our office in each division has an appellate attorney that's a liaison to each division in the office. So there's an appellate attorney that's a liaison to TPR, CHINS, Juve, DV, misdemeanor, major felony.

The major felonies have separate courts -- separate major felony courts; there's an appellate attorney who's specifically assigned as a liaison. So when those divisions meet, and like when the -- when a specific criminal court team meets -- an appellate attorney is there. And when they brainstorm their cases, an appellate attorney is there.

They are there from the very beginning where they're talking about what's this trial gonna look like? What's the theme and theory of the case? What are the evidentiary problems gonna be? They help with motions practice.
The appellate attorney isn't something that happens later after everything's been done. We're embedded with the trial attorneys. And we do this because it improves the practice, and improves what happens in the trial courts.

A separate -- a -- another thing that we're able to do that I'm really proud of is we -- we are really embedded with the misdemeanor division with the brand new attorneys that come in. And we have this program where it's called -- and you can follow your case on appeal.

So if an attorney -- a misdemeanor attorney has a case he feels strongly about and may lose, they let me know, and then when that case comes up on appeal, they're assigned to the appellate attorney who's working it on appeal, and there's nothing -- as some of you may know -- there's nothing more -- well, it brings a different perspective to read a transcript of what you said in court versus what you think you said in court.

For instance, --

MS. M. FOSTER: It's horrifying.

MS. R. JOHNSON: If I have to later read that Felesa is typing and we would be like, 'Oh, I said that?' So anyway -- we always tell them
even if you don't want to be a trial attorney, or an appellate attorney, this is gonna make you a better trial attorney because you're gonna read it, and you're gonna see -- and we also sit down with them and we brainstorm. And we were like, you know, you could have said this, or maybe you should have objected -- objected here.

But the other thing is we meet 'em when they're -- when they first come in, and we build relationships with them. And so as they move up in their career, we're mentors. For me, that's the best part of my job. But we can be professional mentors. We can help them develop their bases.

There's attorneys here who have -- have done that; Ashley, Pete. And I can tell you when Dave Schircliff worked in our office he would come up -- all of the doors would shut --

(Verbal sound of shutting doors made.)

**MS. R. JOHNSON:** -- because Dave had an issue that he wanted to discuss. I'm actually joking. We would help Dave. But -- but that's what a good Appellate Division could do.

And so when I read that you guys are thinking of using a statewide Appellate Division
as a tool, it concerns me to have something that would be seen more as a arm-chair Monday, you know, Monday morning quarterback.

Because the only way the trial attorneys come up and talk to us about their cases is because they know and they trust us. And they know us and they trust because we have a day-in, day-out rapport with them that we've built.

So because of time, those are the two main things that we'd go over. One thing I will so, though, just separately is if we do -- if -- if the statewide goes -- starts to -- we start to go down that path, please talk to me about the infrastructure of that would look like in Marion County.

It's different from the Attorney General because they -- they're on the other side. They're not having to get the transcripts and make sure everything is right. In Marion County we have 62 court reporters, and that's -- that can be a challenge to make sure that all of the appellate deadlines are on time.

Like I said, the Attorney General is responsive so they don't have that. So if that would go forward, please talk to me about
infrastructure because I think that's a separate issue, but I don't want to talk about that today.

MR. J. TINDER: And -- and we'd be delighted if you wanted to revise and supplement your remarks --

MS. R. JOHNSON: Okay.

MR. J. TINDER: -- in writing following -- like everybody today as well.

MS. R. JOHNSON: Okay.

MR. J. TINDER: Thank you -- thank you, Ruth. Neil.

MR. N. WEISMAN: You know, 'W' is (indiscernible) --

MR. J. TINDER: And -- and we --

MR. N. WEISMAN: -- all of my life.

MR. J. TINDER: Right. It -- that it does. I was a 'T.' And we do have the I -- IPDC recommendations.

MR. N. WEISMAN: Correct. Judge, again, thanks for -- for allowing us all to present here. For those of you who don't know me, I'm Neil Weisman. I'm currently the Chair of the Indiana Public Defender Council.

MR. J. TINDER: Neil, could you keep your voice up. I don't know about you, Felesa, I'm
having a little bit of trouble --

COURT REPORTER: Yes, sir.

MR. J. TINDER: -- hearing you.

MR. C. SHEMA: Yeah. Neil, could you stand over there and sort of face --

MR. N. WEISMAN: All right.

MR. C. SHEMA: -- the middle of the room so that we can hear you.

MR. J. TINDER: Or maybe even better if you stood near Felesa.

MR. N. WEISMAN: All right. Okay. Again, I'm Neil Weisman and I'm currently the Chair of the Indiana Public Defender Council. I'm also the Deputy Chief for St. Joseph County Public Defender.

The purpose here today is to present the Council's position in coordination with the Chiefs of -- as to what we think this task force outta be looking at.

Now, not to totally rehash an issue that's already been brought up, but we did send a letter to Chairman Rutherford regarding our desire to have --

MR. J. TINDER: Okay. I've -- I've seen -- I've seen that letter and I've seen his response.
MR. N. WEISMAN: And -- and -- yeah, --

MR. J. TINDER: And the reason -- again, we are not self-selected and we appreciate it.

MR. N. WEISMAN: Yeah.

MR. J. TINDER: That is -- that has been delivered to the Public Defender Commission.

MR. N. WEISMAN: Okay.

MR. J. TINDER: It's been heard and we understand.

MR. N. WEISMAN: Right.

MR. J. TINDER: But we didn't make those decisions.

MR. N. WEISMAN: Yeah. I understand. And -- and even if we don't have that type of -- of relationship with -- with the task force, as -- as a counsel, we think that, if nothing else, there should be some selective members of different delivery services, different sized counties around the state, to form an active advisory council to the task force.

MR. J. TINDER: We are open to that. We -- we -- I'm sure you've met Kim. I'm sure you -- I'm sure you know Katie. We want to hear from you about those things.

MR. N. WEISMAN: Okay.
MR. J. TINDER:  We do.

MR. N. WEISMAN:  One of things that's important is -- is the Indiana Public Defender Council -- different than the Chiefs' Association -- is that the Council's made up of 11 members. One is a State Public Defender which is mandated by -- by statute. The others are all elected at large from the entire membership of the Public Defenders.

So even though we hail from different counties, and have our own self-interests in those counties, our purpose is to represent the Public Defenders as a whole. And we have currently on the board, I think, a pretty good cross-section from around the state from people who are, you know, contractual and she's in rural communities, and she's traveling to three or four different counties to do Public Defender work because they don't have Public Defenders within their own counties, or a Public Defender Chief, or any kind of a system.

So we understand the -- the purpose and the nature of the task force. And like, I think, Jim and -- and Bob said, is we don't believe as a council that we need to recreate the Public
Defender System.

We think we have a good start. We have over 30 plus counties in the state in the -- in the program, and we need to build and -- and beef up those areas where we are deficient.

And -- and, again, we have some folks out there that are doing great jobs, and some counties that are doing real -- real good jobs with the resources they have. And -- and that, again, is -- is going by what -- some of the positions that -- that we've taken.

We'll go over the -- the -- the points just briefly that the Council has taken just to maybe give a little background, Judge Tinder.

Back in -- when was that? -- 1991, I was in Criminal Court Two as a contract attorney with Judge Gifford. I was there about four or five years 'til I moved up to South Bend. So I've got experience in -- in both contractual work and under-paid, over-worked Public Defender in St. Joseph County.

We didn't get the in the system of St. Joseph County until 2007. Because the one thing I learned from moving from Indianapolis out to the counties and doing some work in the
counties around St. Jo is there's a big aversion to taking and have Indianapolis take control in local counties.

And it wasn't until funding before a Public Defender program became stabilized at the 40 percent that you could count on it, budget year, budget year, budget year that our folks up in St. Jo even acquiesced to look into getting in the program.

We didn't get into it 'til 2007. And we had to build a program that essentially wouldn't cost them anymore than they're already paying as long as we built it so that we could into compliance.

So we built a good system, and it's bare bones; no support staff, no investigators, no paralegals, no secretaries and a part-time employee system. So that's the difference we have, every where from Marion County who has resources but still needs assistance to people working in rural counties who have nothing.

The systems and the delivery, and -- and the way we provide services are totally inconsistent around the state. And maybe that's not a bad thing in some ways.

Our main overarching goal, I think that we
suggest to this task force is the number one issue that's been brought up is that standards -- workload standards, education standards, experience standards, how you do your job standards, be mandated throughout the state.

That's -- that's number one. That's -- that's where it's gotta start. And -- and I -- I think to everyone on the -- on the board, including -- we worked -- I've worked with the Chiefs' Task Force -- agree that that's where it has to start.

Next, is the county Public Defender boards. We had long discusses. In fact, I don't know if you recall, several years ago and we talked about changing the system before the money dried up, and we had many discussions. And a lot of discussions were raised around home rule, local control, getting buy-in from the counties.

Okay. And for that reason we believe that some form of a -- a county Public Defender board should stay in tact so that it gives them some ownership into the -- into the system. And they should have -- are to appoint the Chief Public Defender and -- and work with the Commission on that.
The enforcement mechanism has been touched upon. And -- and these are -- what we prepared was a -- sort of a -- an outline that would hope the task force might look at and work from. The Public Defender Commission is at the heart of -- of the money, at the heart of the standards. They've got to be able to, and have the resources to -- to enforce the -- the standards.

If necessary, -- I think Bob alluded to it -- even a -- a ma  -- if -- if after many, many attempts to -- to rectify problems within a certain county have failed, then the state -- or the Commission needs to have the authority to essentially take in.

How that's gonna work, we don't know. But there -- there has to be that. They've got to be -- we've talked about the money -- and there's got to be the carrot -- because that's what get the counties into the program. Most of the counties are facing major budget deficits.

St. Jo has got that circuit breaker. Every time we go to the county council they say, where can you cut, not where can we add. So the money's gotta be there; the carrot's gotta be there, but the stick has also gotta be there so
that there's some compliance standards and -- and authority to -- to enforce those standards.

Even to the point I think as Bob had mentioned that the Council voted on and agreed, even to the point if necessary to remove the Chief if the Chief is not doing the right job.

And along with that we decided that there needs to be vary specific standards as to what the Chief's duties and responsibilities are.

Going down to state-provided services, we are pretty much all in agreement that the CHINS issue, the TPR issue um, essentially, is a civil issue and we're criminal lawyers. There's one other conflict that Bob mentioned, there's a super conflict between Juvenile Public Defenders and the CHINS Public Defenders.

But many of these CHINS cases are driven because one, or both of the parents have been arrested and charged with a crime. So then we have the criminal side of our agency who, basically, is keeping that person involved in a CHINS case from even starting their CHINS programming because of the fact that they make admissions in CHINS that -- that affects their criminal case. So that's -- it's an area that --
that needs to be addressed. It probably only be handled if there's a separate agency that -- that does the CHINS work.

And we've talked about the possibility that there's a state agency that does CHINS TPR iss -- TPRs -- they could, if a county is willing to contract with that county to provide those services. I don't know how that system would look, and I don't think anybody has the mechanisms or the logistics of how that would actually work, but there -- the -- that whole system is so fraught with conflict and problems, and out of the realm of what most of us do as criminal defense lawyers 'cause it gets into family law; it gets in all kinds of other things.

The next point under the state-provided services would be some form of a -- a state-wide Appellate Division with the ability also again to contract. Marion County has the luxury of -- of having an actual Appellate Division.

I think only one other county within the state -- I think it's Lake County -- has an Appellate Division. Every other county contracts out, or assigns appeals to working -- to working Public Defenders.
And there is no oversight, there is no mechanism, and there is no group of -- of appellate attorneys that you can go to and say read my brief and how does it work out? Everybody's functioning on their own.

So that is an issue. And -- and in some areas of the state there are no people to do appeals. They contact the Public Defender Council and -- and ask who they could recommend to handle an appeal from their county.

So depending upon where you are within the state, issues are different. And, again, that goes to the reason why this -- this back and forth between the people that are doing the work is very, very important. Because you can go down to southern Indiana, central Indiana up to north and -- and everybody's got similar problems, different issues.

We talked about -- especially in some of the rural areas -- it may not warrant a full staff in one county to -- or the Commission to be able to have the authority to create multi-district counties.

Again, there are some counties where they don't -- they -- number one, because of pay, two,
because they don't have lawyer -- enough lawyers
around to do the work -- they're contracting with
counties that live two, three counties away to
come to their county to do Public Defender work.

State reimbursement. Again, this whole
system is driven by money, okay. Again, in
St. Jo once we could promise the -- the county
council and Commissioners that we can set up a
system that will comply with standards and get 40
percent reimbursement, and that 40 percent would
pay for our expansion, they would buy into as
long as they didn't have to kick in anymore
money.

That was the deal we had to do. I put that
program together. It had to be bare bones or it
wasn't gonna get passed. So money is a big
issue.

If we were talking to the Council, if an
agency like -- like St. Jo County didn't have to
fund CHINS, didn't have to fund appeals, then we
could go to the Council and say, hey, that
money's freed up now, and we can hire some folks,
and we can get into compliance with misdemeanors.
We can provide, maybe, a couple of paralegals,
and some investigators on staff.

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So it's -- it's -- it's about the money.
It's about the money to do it. We've got some
great work we're doing. You know, I've looked at
-- Larry sent out some of these pilot programs
from other -- other states. I think we're
light-years ahead of most of them.

We have -- at least in some of the counties
that are working -- we have a Public Defender
Council that provides excellent training for our
folks. There are resource for research, you
know; they're a go-to, and we have it, and most
other states don't have that. So we've got stuff
that -- that needs to be built on.

The position of the -- the board is that
we're currently getting 40 percent at the
reimbursement. It needs to be raised to a -- a
minimum of 50 percent. That extra 10 percent we
think we can do some things. We believe Chief
Public Defenders should be a hundred percent
funded.

Going on to just some other points, we
addressed the Public Defender Commission itself.
I'm not gonna go through that, but there's some
recommendations on -- on an enhanced make-up of
-- of the Public Defender Commission.

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Community, Commission Point No. 8, Chief Public Defenders. This is a big issue, and this is (indiscernible). Adopt new standards and guidelines regarding the -- the responsibilities of the Chief Public Defender.

Adopt a standard requiring full-time Chief Public Defenders in each county region be paid the same as Prosecutors and subject to oversight. And then look at the caseloads.

Some of these counties hire a Chief Public Defender and the Chief Public Defender has -- carries the full caseload because they're payin' 'em so much. But that Chief Public Defender then doesn't haven't to do -- have -- have the time to do the administrative duties, and the oversight duties that that chief should be doing. So those issues have to be taken on.

Like the -- like the foreman standards for -- for Juvenile, IPDC. The Council has put out performance standards. They're published. We have them. We believe that they should be required statewide as one of the standards. So the PD Council can provide the -- the copies of -- of those things.

And then the other -- the other issue -- and
this goes back, again, to the Public Defender Commission -- they're a big help, but they don't have the funds, the staffing, or the availability to audit. They can't come out to the counties and say this is what you need to be doing, or say, hey, you're doing great here, but we need some help here, and this is what we can do. Here's where your deficiencies are. We'll be back in whatever and see how you've improved your deficiencies.

It's almost like the State Board of Accounts goes to a county and -- and does an audit on -- on their financial statements. The Commission needs that ability, and they need the teeth and -- and the enforcement ability to -- to make order.

So I guess that's pretty much it from a board standpoint. I think that's...

MR. J. TINDER: Well, all right. Thank you, Neil. And I -- I want to give the task force members a chance to ask questions on the presentation so far before I open it up to a more general discussion. And perhaps in answering these questions it will also open up the more general discussion.
Monica, I cut you off. I'll let you go first. Did you have particular questions you wanted to...

**MS. M. FOSTER:** Well, yeah. First of all, I'd like to say that I think that where we have come in public defense in Indiana, we've made huge strides. And so I don't think that you all should look at the um, that this trashing your systems.

I think there's no question -- but that you've done amazing -- you've made amazing improvements with very little money. I think there's question about that.

But I think the fact remains that you're still hamstrung. Bob, I would like to ask you --

**MR. B. HILL:** Sure.

**MS. M. FOSTER:** -- you were talking about both home rule and sort of a continued -- continuing with the reimbursement system. I'm wondering a -- if either IPDC or the Chiefs Association gave any thought or consideration to a statewide system that was fully funded by the state, but that could incorporate home rule either by having counties appoint Public Defenders from those counties, or a regional
system?

And one of the things I didn't hear you
talking about was a statewide system. I'm
wondering if you gave that consideration --

MR. B. HILL: Um-huh.

MS. M. FOSTER: -- and rejected it, and, if
so, why?

MR. B. HILL: Well, I think we do have a
statewide system, I think, when it comes to the
Commission. And the system we've chosen is one
that pays heed to home rule.

It's my understanding from talking to other
people from around the state that if we don't --
we're not gonna have buy-in if -- if we say this
is going to be an Indianapolis-directed, driven
program.

And so I think that -- home rule and the
current system -- the current system is
statewide.

MR. J. TINDER: But -- but -- if --

MR. B. HILL: But --

MR. J. TINDER: -- if they don't participate
in reimbursement they're not subject to meeting
the standard, --

MR. B. HILL: Right.
MR. J. TINDER: -- right?

MR. B. HILL: And, that's absolutely correct. And there are some counties that -- for the life of me -- I don't understand why you wouldn't want 40 percent of your money back. I don't get it.

MR. J. TINDER: That's --

MR. B. HILL: And uh, Larry's a persuasive guy, and I don't know why he's not been able to talk 'em into it. But, I don't understand that.

MR. J. TINDER: Does -- does that change -- well, and maybe this is not so much to you, but to a nonparticipating county -- does that change if -- if it gets up to 50 percent?

MR. B. HILL: I think --

MR. J. TINDER: Can -- can you -- you -- maybe you can refuse 40, but 50...

MR. B. HILL: I think 50 sweetens the pot. I think 100 percent for chiefs would certainly encourage. Why wouldn't you hire a chief if it's not gonna cost you anything?

Because as a Judge you've got enough to do. Do you want to also administer Public Defenders? I don't think you do for the most part. I mean most Judges in Marion County were happy when the
agency came around, but a little grumbling at
first, but I think they said, you know, I'm glad
I'm outta this business.

MR. J. TINDER: Or --

MR. B. HILL: So I think those issues are
very important.

MR. J. TINDER: Okay.

MR. B. HILL: But I think you should sweeten
the pot, and why wouldn't you want to do it?

MR. J. TINDER: Let's hear for Lawrence
County.

MR. D. SCHIRCLIFF: Yeah. My name is David
Schircliff and I'm the Chief Public Defender in
Lawrence County. And I would just suggest that
there is a lot of pushback on control from
Indianapolis even with reimbursement. I mean I
-- I wrestle with that all of the time.

And, Ashley and I over here kinda had the
same reaction; why wouldn't they do it? And we
can tell you why they wouldn't do it. 'Cause
they don't want Indianapolis tellin' either by
reimbursement or any other persuasive way how
they're gonna run their county.

I came from Marion County. I moved to
Lawrence County to be the chief there, and I have
seen all kinds of pushback on the system regardless of how much money they would give back. So that's --

MR. J. TINDER: I -- I --

MR. D. SCHIRCLIFF: -- that was my response.

MR. J. TINDER: -- I grew up working in the federal executive side, and I know that's saying, hey, I'm here from the federal government, and here -- here -- and this is where I very well (indiscernible).

MS. A. LYON: Sometimes I can't hear you.


MR. N. WEISMAN: We can get that whole issue on -- of the statewide system has been discussed, and discussed, and discussed, and -- and at one point in time, we thought maybe we should go to regional PD Administrators and -- and whatever. And then the consensus of -- of the board was that, hey, we have a good framework out there.

And if we create a whole regional system of administrators we're gonna create a costly administrative bureaucratic layer that maybe take money away from actually delivering the services in the county.

MS. M. FOSTER: But yet you are recommending
a statewide appellate system. So I'm wondering what the --

MR. N. WEISMAN: Those are special --

MS. M. FOSTER: -- where are the thoughts --

what are your thoughts?

MR. N. WEISMAN: -- those are specialized services that -- other than the daily getting to court and do the job kinda stuff. So that's why we kinda separated those out.

MR. J. ABBS: Monica, when we look at statewide -- I practiced since seven -- and grew up in Owen County and practiced seven years and then (indiscernible) the area and they adopted during the early 2000s a statewide system. Well, that -- they practiced; they had a lot of friends there and -- and had an opportunity to talk to them.

The problem -- they ran -- they said when the state system started it was really good; things ran really well. Then, all of a sudden, there were shortcomings financially.

And the attorneys told me their caseloads just skyrocketed because money has to come from some place. Quite frankly, my decision is -- is I've got leverage on the state and the county
both being invested in this system.

And so if there's financial hardships in either direction they've got to be part of this. And that's why 'em both involved in that statement. I -- I just think it gives us some leverage from there.

And just like David would say, my county was in compliance for four years before they would agree to go into the reimbursement system because they knew we're gonna get in it, and they're gonna get that funding there, and we had to show 'em period of time it was gonna last. But I really believe --

MS. M. FOSTER: Well, we know this is doing -- heard that constantly.

MR. J. ABBS: Yeah. But I think the real strength actually is in the fact that we have both the state and the county -- both have money in this pool. And neither one -- if either one pulls, we've got compliance standards, and it's gonna obligate the other to become involved.

As soon as we are fully funded by one group, if somethin' goes wrong we're at their mercy. And -- and I think we all can see and hear in all the Public Defenders what potentially can happen.
And that's my real concern about a statewide system.

**MS. M. FOSTER:** I just have one other question. What do you start your full-time Public Defenders salary-wise?

**MR. J. ABBS:** What do -- what do my --

**MS. M. FOSTER:** Yes.

**MR. J. ABBS:** -- in Noble County?

**MS. M. FOSTER:** Yes.

**MR. J. ABBS:** My full-time Public Defenders -- partly based on um, experience -- 'cause we have a matrix -- my two full-time people make over 70,000 and my part-time people make 49,000 a year. Plus, my -- my part-time people are making enough hours that they're considered full-time and they get full benefits.

**MS. M. FOSTER:** And, Mr. Schircliff, can --

**MR. J. TINDER:** I thought you said one more question. Oh, I...

**MS. M. FOSTER:** No. I -- I want to ask Schircliff the same question.

**MR. J. TINDER:** Oh, okay.

**MR. D. SCHIRCLIFF:** Uh, and the question is what do they start at?

**MS. M. FOSTER:** Yeah.
MR. D. SCHIRCLIFF: About thirty-nine. I -- I have three attorneys on staff who don't make $49,000 and they have a full caseload.

MR. B. HILL: We start at forty-seven.

MR. J. TINDER: All right. We're gonna start at my left with Justice Goff. Would you have particular questions?

MR. C. GOFF: You know -- thank you, Judge Tinter. I'm -- I'm here primarily to listen to -- to the concerns that -- that you have. And, the thing that I would say about not having a voice at the table is I -- I'm really sorry about that. I -- I -- I really am sorry about that because I recognize that there is a problem in getting buy-in from more constituents.

The other thing that I -- I really regret about you not having a voice at the table is that had you been -- been at some of these meetings, I think that you would feel better about the discussions that have been had to date.

The -- the concept that we -- we -- we kept talking about at our prior meetings was building on Indiana's good bones. That -- that -- that was a recurring theme. And what I think that the goal of the task force has been is to primarily
listen to the stakeholders to collaborate and come up with a workable means to improve upon those bare bones.

I -- I don't have a crystal ball, obviously, and I -- I can't speak for the entire court, but that -- that is what we're concerned with is we're -- we're concerned about practical solutions.

Lots of -- lots of discussions about the very same things that you all have voiced concerns about. And so I -- I would, rather than pose a question, just let you know that I -- I greatly appreciate what you do. I speak for the Chief Justice in that regard as well.

And we're committed to making your job easier and improving upon those things that you've already seen. (Indiscernible) earlier so I just want to say thank you.

MS. M. FOSTER: Judge Tinder asked me to keep things moving. So I wanted to ask if you have any questions?

MR. S. LUCE: Yeah. Steve Luce with the Indiana Sheriffs' Association. First of all, I feel your pain when talking about the local struggles you have. Being a two-term sheriff and
not being able to keep qualified people because the pays are so low.

And -- and then being a elected sheriff and having to deal with the inmates, it was kinda like being in the military; if you get your lunch and meals on time, and your mail, you're great. But in the jail, if you can get those two things and your Public Defender to work and show up, that's a huge control thing for the sheriff's job (indiscernible) and how people are inside when they're away from their families.

I -- I have look at the -- the recommendations and I like a lot of 'em. Um, I've definitely, since I've come on this, I have always wondered why everybody Commissioned to count them yet today.

Indiana has gone into a justice reinvestment (indiscernible), and to me, I thought this is actually part of Channel 6 too; it's a whole process I've been tryin' to figure out. And if you don't get it right, we're gonna pay them dearly down the road five, ten years from now.

And, along with that comes recruitment of people -- of good people paying them good benefits. So I totally will get what you're
saying.

Um, I kinda -- it's a new role me being here -- but I do have experience, and I can tell them what goes on at the local level. And there's a lot of pain there. And -- and what I see here is -- and, it's the same thing you have with the JRAC Committee that was committed -- that was created through legislation a few years ago -- we have state and local partnership.

And, the sheriff's offenders they have in jail, some of them are gonna be state offenders, so how can we partner together to make sure they have a successful incarceration? I see that as the same kind of concept you're talking about is needing each other.

So I appreciate the time and listening. At any time we will take questions or anything, or comments. Feel free to reach out to me, and I appreciate the opportunity to talk.

MR. J. SCHUMM: A couple of things. First of all, the public defense -- the county Public Defender boards -- does everyone love your county Public Defender board? Does everyone think that these are three people that are incredible knowledgeable and vested in public defense in
your counties?

MR. N. WEISMAN: I think it varies in the county you govern.

MR. J. SCHUMM: Okay.

RESPONDENT: Okay. 'Cause I see that as one of the recommendations, and I've had the impression that that's not necessarily a great thing everywhere, but that's something that's one of the recommendations is there...

MR. J. ABBS: I guess in general -- can you speak (indiscernible) --

(Several people speaking over each other.)

RESPONDENT: In -- in general, I think we can.

MR. J. ABBS: Again, I'm gonna tell 'ya, I've -- I've got a -- I've got a board that's invested, okay?

RESPONDENT: Okay.

MR. J. ABBS: We've -- we've -- we've done a lot of work, and it's not an easy -- part of the problem is is going out and getting individuals that truly care about Public Defender service. And we recognize that's a hard thing to do from there.

The one thing I hear from the chiefs -- and
I -- and we've got other here they can speak to -- is a concern that two of these board members are appointed by the Judges, and one by the Commission.

There are Judges out there (indiscernible) that want to still control things. And that's a major problem for us when the appointment process of who these members are. I'm -- I'm fortunate --

MR. J. TINDER: And -- and wouldn't -- wouldn't there be some separation if -- if it were done on more of a regional basis so that an individual Judge would not have so much influence?

MR. J. ABBS: It -- it -- it really -- it really comes down to the actual point, if we could have an appointment process that did not involve the Judges which is gonna be a hard process -- I don't have a complete answer for that -- that's where the problem -- because those people feel -- and sometimes it did to the Judges.

I'm in the process -- my Judge would say go find these people, and then I've gotta bring 'em back for their approval, and -- and, I think that
intervenes in that process 'cause they're not trying to dictate who these individuals are, and they're not trying to control what's being done.

It's somehow maintaining the independence of the board. It's -- it's a hard process to do. We -- it's -- it's -- I think there's individuals in all of the counties that we could do it. It's a matter of the selection process, truthfully.

**MR. B. HILL:** Well, I would like to say -- I -- I think the Commission may hold the key to this because the Commission approves county plans for -- for the board.

My board is made up of a -- the equal number of appointments by republican and democrat Judges, equal number of appointments by republican and democrat City County Councilors, and then one appointment by the mayor.

And, I think I have a very supportive board. There have been some people in there occasionally that weren't, but, for the most part, it's been very supportive. But I think the Commission could -- they have to approve every county's plan as they come in.

If we're gonna have a three -- a -- a three-person board, the Commission can change the
rules of appointment if they don't want to
approve that. They could say that the Judges
shouldn't appoint the majority of the members,
but it should be dispersed amongst other
entities.

MR. J. TINDER: That's not -- is that
statutory?

MR. L. LANDIS: It's statutory. The
Commission doesn't have the power to change the
composition without statute.

MR. B. HILL: I thought you had to approve
the plans.

MR. L. LANDIS: They do, but the -- the
composition of the board itself --

MR. B. HILL: Well, then that -- I think
that should be addressed then. Because I do
think the Commission needs to have the ability to
address that issue.

I think a lot of the boards though are gonna
provide a valuable function, if done properly, of
a buffer between Judges and the Public Defender.

MR. N. WEISMAN: Yeah. I would -- would say
in terms of --

MR. J. TINDER: Weisman.

MR. N. WEISMAN: -- the boards, um, like in
our board we have -- at least of one of our members is appointed by the uh, -- uh, county council. That member's very vested in our program, and acts as our conduit back to the county when we need something. So -- and those types of things are important.

The one thing I have noticed, and -- and I think that (indiscernible) 'cause I've -- I've -- I've worked with a other board out -- outside of this -- is that there's no -- and this maybe comes from -- each come from the Commission to be done without any change -- but there needs to be some training of these boards and how to be working there.

Because they're just put on a board, and, pretty much, they come to a meeting and listen to the Chief report what's going on for the -- uh, for the -- for the quarter, and that's pretty much it unless we need something. So maybe there needs to be some -- some kind of standards and -- and things that -- what the board's suppose to do, and how they're suppose to do it.

**MR. S. LUCE:** Could you write their -- or maybe 40 hours could be standard on the board for training and education?
RESPONDENT: Minimal. (Indiscernible.)

(Several unidentified speakers speaking among themselves.)

MR. J. TINDER: Chris -- Chris Shema, Vigo County?

MR. C. SHEMA: Yes.

MR. J. TINDER: Or is it Veego (phonetic)? I used to ask -- I used to ask juries over there.

MR. C. SHEMA: I was -- and I -- I was only about 6'6". I only -- when I first moved there -- when I pronounced it Vigo that the person that it was named after pronounced it Veego (phonetic) --

MR. J. TINDER: Sure.

MR. C. SHEMA: -- and I said the poor man didn't even know how to pronounce his own name. So Vigo is the preferred pronunciation for those who are from there.

Thank you, first of all, for being here. I tell you, just briefly, I've been doin' indigent defense for 28 years of my 30-year career.

Some of it I had the privilege of -- of appearing in front of Your Honor. I don't know Monica personally, but we've had a few arguments on the defendant. And I think she said she was
gonna rip my head off and use it as a -- a --

MR. J. TINDER: Uh, -- uh, --

MR. C. SHEMA: -- a device.

MR. J. TINDER: Well, that's actually kind of a compliment. Usually, she threatens to pull your heart out --

MR. C. SHEMA: Yeah.

MR. J. TINDER: -- and then she goes lower.

MR. C. SHEMA: But then, in fairness, when she was on the cover of Lawyer Mag -- Indiana Lawyer magazine, I called her up to ask for a recommendation for an investigator, but I told her it was really a ruse; that I had fallen in love with her and wanted her to run away with me.

But, I'm like everybody that's a Public in here; I'm at a loss. Um, I'm the rank and file Public Defender. I'm blessed that I have a wonderful boss who lets me do my job that's sitting right next to me.

But, I think Professor Schumm brings up a point and it -- it gets to a bigger point which is professional independence. And, I'm not gonna belabor the issue of none of us being at the -- at the adults' table. But I will tell you that if it -- if practicing law has taught me
anything, it's that everybody's perception's a run in reality.

And the perception of the rank and file Public Defenders out there is -- it is a travesty that this is a task force that's being put together to study something, or we don't have a voice at the table.

And I'm not gonna belabor the point --

MR. J. TINDER: You're -- you're -- you're --

MR. C. SHEMA: -- 'cause you made it well --

MR. J. TINDER: -- you're not going to, but you do and you continue here -- and I -- and I've --

MR. C. SHEMA: Right.

MR. J. TINDER: -- told you this that we have heard your complaints. We are not self-selected, and you do us a disservice to suggest that we don't have good faith and integrity. And we don't --

MR. C. SHEMA: Oh, I don't mean that.

MR. J. TINDER: -- I -- I did not walk out off the golf --

MR. C. SHEMA: Right.

MR. J. TINDER: -- course and the fun
travels I get to take --

MR. C. SHEMA: And -- and that -- that --

MR. J. TINDER: -- to do this --

MR. C. SHEMA: -- wasn't --

MR. J. TINDER: -- because I -- I did --

MR. C. SHEMA: Right.

MR. J. TINDER: -- not care about the defense --

MR. C. SHEMA: Right.

MR. J. TINDER: -- bar.

MR. C. SHEMA: And --

MR. J. TINDER: I did not care about uh, effective representation. Yes, point made.

Can't we move to substance? We --

MR. C. SHEMA: Yes, sir.

MR. J. TINDER: -- understand.

MR. C. SHEMA: Yes, sir. And, the point being that many of these men and woman who do this work feel embattled. They -- they practice in a state of fear.

I think one thing we didn't discuss that the board decided is we need to get rid of -- is the counties -- particularly the ones who seem to be noncompliance, but even some who are in compliance -- use flat-fee contracts where
they'll say, we'll pay you 'X' amount of dollars
-- $20,000 -- and you handle whatever cases we
throw your way.

The next thing, they're handling CHINS,
they're handling juvenile cases, and they -- they
are answerable to the Judge. And that is just
not a situation conducive to effective assistance
of counsel, certainly in the long-run, and
probably not in the short, but they feel embattled.

And, I certainly didn't mean to impugn, but
what I would invite you to do, Your Honor, is
take a very proactive approach to correct the
misperception; can I say it that way, okay?

Because, again, there is a perception that
has to be addressed. Because the men and women
who do this stuff -- I mean here's the things
that people say to me as a board member who's not
a boss -- it's like, "Why is it in my county
police officers have merit board protection that
insulates them, to some degree, from the vagaries
and the ebb and flow of politics?" "Why is it
that firefighters have merit board protection and
we don't?"

And, you know, managers have their concerns,
but they're still thinking from the perspective of management. And sometimes you're in a situation where they're not -- some of these people aren't blessed with as good a boss as I have.

Sometimes the pressure is this is how the Judge wants things done. Quit asking for experts. Quit doing so many depositions. We have a budget to work with. Get on with it.

And until that is addressed, I don't care what kind of over -- overarching system you have, you're going to have people who are just embattled. And they -- it's -- uh, when I'm just working in the field is dealing with battered women, I heard this term called 'learntellicense' (phonetic), and I have seen it in the eyes of all too many Public Defenders where they just feel like it's not worth fighting anymore 'cause it doesn't -- it doesn't matter, and they have no voice; there is no (indiscernible).

There is no independent person they can go to and say, "I feel like I've been punished for doing my job." Everybody expects to be reprimanded when they mess up. But when you feel like you've been punished for actually doing the
job that you've entrusted to do, that's a problem.

And I don't hear -- and we -- we really never address that. And I think that's somethin' that this task force is uniquely situated to do.

**MR. J. TINDER:** Yeah. Which certainly stays within the point addressed by Professor Schumm; in (indiscernible) is a critical aspect of defense motion. Did you have other areas --

**MR. J. SCHUMM:** We're -- right -- I'm not -- not gonna come back to it. I did request about appeals, but I'll pass for now.

**MR. J. TINDER:** All right. Monica?

**MS. M. FOSTER:** No; I have nothing else.

**MR. J. TINDER:** Jeff?

**MR. J. PAPA:** Yeah. Just really quickly; two things. Since I'm working with the CHINS and TPR Committee, I was really glad to hear all of the discussion about that, and I would love to hear more input from you or meet with anybody individually to get -- to find out what the ideas there are on that as (indiscernible).

And then, secondly, just in general, everybody or almost everybody that talked, there were suggestions that -- many of them revolved...
around either more funding, or maybe mandatory requirements which could indirectly lead to the need for more funding at the county level.

So other than just saying more funding, are there -- because we've -- we've talked about this issue too. So are there suggestions for where that comes from? I mean is -- is there a source out there of... I mean it's eas -- it's easy to say increase funding which -- which we say too, but -- but you -- at the end of the -- at the end of the day, those dollars have to come from somewhere so has -- has there been discussion about that?

**MR. N. WEISMAN:** I -- I think the thing that -- that stabilize the -- the reimbursement -- did they increase the court costs and -- and that funnels into the PD Reimbursement Fund?

**MR. J. PAPA:** Well, but -- so you're saying increase that further?

**MR. N. WEISMAN:** Well, there's -- there's gotta be some way to get the funds, and I understand that. Our position is we don't essentially know. But I think where funds can come -- a source like that where it's not really felt good -- good work. But, I -- I think the --
the thing from the conference standpoint is that standards are mandatory and enough funding to do the job. I mean that's what we hear.

    MR. J. PAPA: Well, no -- right. And -- and -- and I'm not -- I'm not arguing to you.

    MR. N. WEISMAN: Yeah.

    MR. J. PAPA: I'm just saying so at the end of the day if we have to go to the legislature and say here are the changes we want, I was -- I was -- probably nobody here know -- I was the Chief of Staff for the -- for the Senate for ten years. So I'm just saying from that perspective, to me, our first question would have been, okay, how are we gonna pay for this?

    And so just to say with this thing -- just put a line out in the budget is not probably going to be very popular and -- across the street.

    MR. N. WEISMAN: Right.

    MR. J. PAPA: So...

    MR. B. HILL: Well, I mean you're right. And that's -- that is the problem. It's -- and so I think the really valuable thing about this committee that you're on is you're -- I think you want to draw focus to these issues. And -- and
-- and, you know, system change is fine, but if you don't have change in attitude, a system change isn't gonna mean anything. And the attitude has to change that this is an important governmental function to fund.

And that -- and -- and -- and, I think -- I don't know how you get people who don't want to fund defense to the point where they would fund defense. I don't know. We just have to keep making the case, I suppose.

And, hopefully, the luminaries on this board would be able to make that case for us, or help us make that case and -- and underscore the need that -- that we have to -- to increase reimbursement -- to mandate that all counties get involved in the system.

**MR. J. TINDER:** You know this -- this touches back a little bit on something I want to raise. You mentioned earlier the lonely feeling the PD has when it goes to county council --

**MR. B. HILL:** Right.

**MR. J. TINDER:** -- for an increase. Within the federal system the champions for defense lawyers are the Judges. And there's a little bit of friction going on right now with respect to
whether the -- the PD system want -- will become independent from the Judges, but, --

  MR. B. HILL: Um-huh.

  MR. J. TINDER: -- historically, it's the Judges that really made a difference. Why isn't that happening with the PD budgets?

  MR. B. HILL: I can't address --

  RESPONDENT: Our -- our Judges aren't life-time (indiscernible).

  RESPONDENT: There you go. There you go.

  MR. B. HILL: And -- and I can't address other counties. I can talk about Marion County, but you'll get Judges say a standard response, yeah, but that's gotta be a case you make. And I'm trying to make the case.

    Well, that ultimately, yeah, I'm here, and I'm funded, and I've gotta ensure that we have adequate defense, but, ultimately and legally, it's on you, Judge. It's on you if -- if this case isn't adequately defended, or adequately funded.

    And -- but there's been just a political reluctance to have Judges champion that cause for us.

  MR. J. TINDER: Okay.
MR. B. HILL: It's been a 'we' versus 'they' competing for the limited county money.

MR. J. TINDER: And -- and I will confess, there -- there are some of my brothers and sisters out there in federal judiciary who do try to reduce the deficit on the backs of -- of -- of criminal defense.

Be -- be that as it may, the -- the -- the majority of Judges are great champions in the federal system. Right. Probably finish.

And, by the way, we're gonna have to take a break here shortly for our able court reporter, Miss Averitte. But, so within about five minutes we're going to be taking a break.

I'm willing to stay as long as anybody wants to stay, but we were committed to two hours, and I -- so we're definitely going to give her a break.

MR. N. WEISMAN: Can I just --

MR. J. TINDER: Sure.

MR. J. PAPA: -- I want to touch...

MR. J. TINDER: Yeah.

MR. J. PAPA: Just -- again, I'm not being critical, but nobody answered my question, and I don't have an answer for it either. I'm on board
with advocating, but, at the end of the day when you meet with the legislators you're still going to have to say here's -- or, you know, or -- or, you know, put it on them, but, I -- I don't think it's likely to say we're going to get a giant new general fund appropriation just out -- out --

MR. B. HILL: I agree --

MR. J. PAPA: -- of general fund.

MR. B. HILL: -- with you one hundred percent.

MR. J. PAPA: Okay. So --

MR. B. HILL: I think this is like erosion; it's drop by drop. I think that's what's going to happen here. Larry's been asking for increase -- for Public Defender Commission monies, I think, every year when there's a -- a -- a -- that I can remember being on your board for 20 years now.

And, you know, it -- it just comes in drips and drabs. And -- and that's my point about attitude. The attitude is this is not number one. It needs to go up, maybe, from zero to 50. I'm -- that's my opinion.

MR. J. ABBS: And -- and -- and I think you're absolutely -- I -- I -- and one of the
concerns I see is they're projecting state revenue's gonna be down for the next ten years. And now we're going in and asking for money -- for more money, and I think it's gonna be a much more difficult process from them unless we can find a funding source.

And that's part of the reason. I think we have to look -- really big picture -- we're not gonna go in next year and make major, major changes from there. It's gotta be a step-by-step process. And I think, we as a group, understand that this is not going to be happening overnight.

And that's why we -- like what we say, we -- we want to get, at least, we need in that direction. And I don't have the answer where the funding source is from there.

I know this much -- and it's -- it's one concern is CHINS has really been a big issue. And, from my standpoint, I always get concerned all focus is gonna go that direction; all the funding's going that way.

And we have all of these other issues that we as defense attorneys have to deal with -- that we're gonna get lost. That's know about -- that's dealing with children. That is a solid
issue for everyone to deal with from a political standpoint, regretfully.

That I -- and I'm gonna say that. And they're not gonna pull it back, and I think we all understand that, but our concern is is that ultimate focus goes all in that direction.

**MR. J. PAPA:** Just -- my last -- my last -- no, and just real quick for context; it's not just declining or -- or flat with the news -- but they agreed last year to move the remaining portions of the sales tax on gas over to funding transportation from the general funds.

Said an existing pie is get -- gonna get smaller over the next four years.

**MR. J. TINDER:** Let's give Miss Averitte ten minutes?

**COURT REPORTER:** Sure. I'm okay, Judge.

**MR. J. TINDER:** Let's just take -- we'll take a -- we'll take a ten-minute break, and if you can stay, great; if you can't, I'll understand. But, do keep the cards, letters, and phone calls coming.

We -- we talked about having maybe a (indiscernible) support. Kim and Kay are definitely available to talk anytime. I am as
well, you know. Our -- our ears are open. So ten minutes.

(A short break was taken.)

COURT REPORTER: Yes, sir. We're on.

MR. J. TINDER: Okay. All right. That was ten minutes by my watch. So real quickly. On the front in here. I want to make sure you're all aware of our listening tour that I referred to earlier. And, Katie, if you could kind of give us what the dates are and where they're going to be.

MS. K. CASEY: Sure. We have listening tours scheduled. The format's going to be very similar to this; kind of an open format.

MR. J. TINDER: And, by the way, this is Kathleen Casey for the...

MS. K. CASEY: Thank you. Just -- I'll just go ahead and give you the dates. They're all available at in.gov/publicdefender -- in case you aren't -- you'll want to write these down.

February 9th will be our Indianapolis listening tour from 2:30 to 4:30 here at the Government Center.

February 15th, we'll be in Ft. Wayne.

That's gonna be an evening event from 5:30 to
7:00.

RESPONDENT: Can I just say that we register for that? The registration says 5:00 to 7:30. So there's some confusion --

MS. K. CASEY: Thank you. I'll have that fixed.

RESPONDENT: -- yeah -- about the start time there.

MS. K. CASEY: Thank you very much. And that's actually a great point. We're -- you're able to register through Eventbrite. It's just is the next way to give you a reminder email, and then we know how many folks are -- will be there.

March 20th is Evansville. March 22nd we'll be down in Clark County at the Purdue extension office. And then at the end of the month, March 27th, we'll be up at Valparaiso Law School. So I --

MR. J. TINDER: And the format will be very similar to this; an -- an open forum for any other comments anyone would like to make. And, all --

RESPONDENT: Can I just ask? They're gonna -- and we've all received an email that says that -- is that gonna be published locally like would
-- will my newspaper get it?


RESPONDENT: Should I forward that to -- for the newspaper or?

MR. J. TINDER: We -- we'd have a fresh --

MS. K. CASEY: All of you just spread the word.

RESPONDENT: Okay.

MR. J. TINDER: Yeah. We've put out a press release.

MS. K. CASEY: Yeah.

MR. J. TINDER: I've already seen it in the Indiana Lawyer and it's been --

RESPONDENT: Okay.

MR. J. TINDER: -- handled. We have a media list.

MS. K. CASEY: Yes.

RESPONDENT: What newspaper has picked it up?

MS. K. CASEY: Oh, --

MR. J. TINDER: We've -- we've toyed with the idea of placing an add, but money is tight on our end as well so...

RESPONDENT: I mean feel free to send it up with (indiscernible).
MS. K. CASEY: Okay.

MR. N. WEISMAN: Yeah, yeah. And what's the Valpo date?

MR. J. TINDER: Let -- let --

MS. K. CASEY: Valparaiso?

MR. J. TINDER: Valpo is --

MS. K. CASEY: It's March 27th --

MR. N. WEISMAN: Okay.


MR. J. TINDER: Plus, the upcoming task force meetings are going to be on April -- or I'm sorry -- February 9th, 10:00 to noon, April 20th, I've got 1:00 to 3:00 o'clock. May 11th, 10:00 to noon. July 20th, 10:00 to noon, and August 10th, 10:00 to noon. And they're all at the Public Defender Commission Office, the Fifth Floor of -- I can't remember the name of the building, but it's at 309 West Washington Street?

(Several speakers speaking at the same time.)

MR. J. TINDER: Old Trails. Okay.

RESPONDENT: Is the 9th -- is the 9th February 9th?

MR. J. TINDER: You're all welcome; everyone's welcome to serve at those meetings.
And, so we're returning. Jeff, did you have additional questions?

MR. J. PAPA: No. But we have our next CHINS/TPR committee meeting, it's February 27th, --

RESPONDENT: Yes.

MR. J. PAPA: -- at 1:00 p.m. So if anyone's interested in that as well, that's at -- at Barnes & Thornburg (indiscernible).

MR. J. TINDER: And we have two other subcommittees on -- on appellate and postconviction matters; Professor Schumm chairs. And the other subcommittee is --

RESPONDENT: Juvenile defense. And that's Judge Carmichael chairs.

MR. J. TINDER: -- Carmichael chairs.

(Indiscernible.) Did you have particular questions?

MR. L. LANDIS: No.

MR. J. TINDER: Okay. So let me return to a couple of follow-ups I had. Okay. So Bob Hill you -- you talked about the two-fold increase in CHINS affecting your office. Over what time period has that doubling -- doubling occurred?

MR. B. HILL: When did we go -- four years.
MR. J. TINDER: Okay.

MR. B. HILL: Four years. We were required to take it on and then started getting reimbursement. It was four years ago; is that right?

MR. L. LANDIS: No; I mean the doubling was four years ago.

MR. B. HILL: Yeah.

MR. L. LANDIS: Andrea, do you remember when CHINS became --

MR. B. HILL: When were we first reimbursed?

MS. A. LYON: Do you mean when they -- oh, when --

MR. J. TINDER: Right to counsel.

MS. A. LYON: -- the Commission started reimbursing?

MR. L. LANDIS: No. When -- when the right to counsel --

MR. B. HILL: It's always come -- it -- it -- it was a -- it was existent prior to my taking over as Chief; there was the past ten years.

MR. L. LANDIS: It was your case, wasn't it, that created the right to counsel in CHINS?

MS. A. LYON: No. I mean that was already --
MR. B. HILL: Yeah.

MS. A. LYON: -- and Marion County was already appointing me for that case.

MR. L. LANDIS: But statewide -- statewide; when did -- when did --

MS. A. LYON: Um, --

MR. L. LANDIS: -- CHINS start?

MS. A. LYON: -- 2014 was my case of...

MR. L. LANDIS: Pardon?

MR. B. HILL: And then there -- the reimbursement has been what has kept us consistent with caseloads.

MR. J. TINDER: So -- so that's -- it's over about a five-year period.

MR. B. HILL: That reimbursement.

MR. J. TINDER: Yeah.

MR. N. WEISMAN: Our -- our cases, four to five years ago we went from two people handling CHINS to four people. And, currently, they are right at the cusp for being out of compliance.

MR. J. TINDER: All right. And the notion of guidelines for what chiefs should do; have -- have those been reduced into a written form, into the --

MR. B. HILL: We'd --
MR. J. TINDER: -- talking stage; where are we on it?

MR. B. HILL: -- we have an out -- I've met with Don Murphy and Public Defender Council and -- and started talking about that. I think it was about a year ago, if I remember correctly.

And then a subcommittee of the chiefs started talking about things that -- in outline form -- what a chief should be doing to run the office, and what they have to do as part of day-to-day activities. I could submit -- send that to you what that outline looks like.

MR. J. TINDER: We'd love to see that.

MR. B. HILL: Yeah.

MR. J. TINDER: Love to see that.

MR. B. HILL: But it's human resources, personnel, training, recruitment, politics, with a small 'P' (indiscernible) and that kinda stuff.

MR. J. TINDER: So the idea of say, multi-county offices, is there -- is there an ideal or unit size? Looking at Indiana you've -- you've got a couple of counties that have very large violations; Marion and Lake, you've got mid-sized; --

MR. B. HILL: Right.
MR. J. TINDER: -- perhaps a smaller sized count.

MR. B. HILL: Right.

MR. J. TINDER: What -- what's the ideal unit?

MR. B. HILL: Well, so assuming you would have a localized office; some -- somewhere and one -- a grouping of four county -- one of the problems the lawyers that I referenced earlier that I named specifically like Carolyn Brown and Mosier, when they were in their jobs, they had to drive to multiple jurisdictions.

And they talked about how time-consuming that was, and if you're behind the wheel of the car, you're not doing depositions, you're not working with your client, you're not going over your file. And they talk about how time-consuming that is.

The think the counties need to be adjacent and -- and in smaller, not larger, groupings to make -- to eliminate that as a -- a -- a detriment to, you know, time-consumption detriment.

MS. M. FOSTER: But have you thought about what that size would be?
MR. B. HILL: Four, three.

MS. M. FOSTER: No; the size of the county that would cause the regional offices at first?

MR. B. HILL: Oh, I think that's -- should -- I -- I asked Kathleen Casey for data on Public Defender assignments by county. I'm concerned that just sitting here and pulling out of the thin blue sky would be not productive. I think it should be based on the amount of Public Defender assignments in those counties. And I think it should be based on counties that have similar interests in terms of the number of Public Defender assignments.

MR. J. TINDER: Are you familiar with the re -- the regional -- that was 26 regions of the Supreme Court and judicial conference devised for -- that began with, what, pro bono requirements or what's...

MR. C. GOFF: That's -- that's slightly different than about 2010 when the white paper or new wave forward came out in the administrative districts where you divide it up into 26 counties, and that -- I was just intrigued about your -- your regionalization discussion because that's something that we've -- we've talked about...
before. And I -- I just -- I really feel as though it has a lot of merit.

The -- the practical challenge is that, you know, in those regions on -- or districts are setup, and they're setup for one purpose. I -- I just came from a promise home and court meeting before I came here, and we were talking about very similar concepts, but community mental health providers are oftentimes outside of those regions.

And so if you have a drug court, for instance, you're monopolizing all of the community mental health providers counselors. The economy to scale might dictate if you have three our four counties that were trying to get those folks available for a drug court, or regional drug court, or something like that, then the community mental health provider might be more receptive.

And what I really liked about the regionalization concept, I came from Wabash County. I -- I was a Public Defender in Huntington County. We weren't participating in state reimbursement in Huntington and so what the court immediately did when it came to Wabash, but
it is a challenge when you're a small county trying to piece together resources to make a system come into compliance.

If you had -- in -- in Wabash we drew from attorneys from surrounding counties in order to meet the -- the compliance requirements. I would love to be able to do that and offer more educational opportunities, a deeper pool of qualified applicants to serve on, you know, your -- your Commissions so that you would have that insulation that you guys have been talking about.

So I'd -- I really -- I really like that idea and it has a great deal of merit and would be very valuable to the smaller counties.

MR. J. ABBS: And -- and -- and it -- and we have never truly defined what we mean by a small county. And -- and I get back to the home rule thing on that the -- the counties, I -- I just -- it was either -- there could be some kickback from just saying, we're gonna form all of these regions.

I think we have to have the counties invest in it from there, and try to find a number that dictates the necessity of it, you know.

'Cause as soon as you have -- let's just say
you put a chief in -- and I'll just use my Judge 'cause I've -- I've gone and had discussions with them -- and -- and when I say, well, they're talkin' about regions, the first thing is we want to hear, is there a problem, we want to call you and we want you to be able to respond right away. When we start settin' up these regions, whoever the chief's gonna be has got travel time from (indiscernible).

Now, let me say, I -- I think there's some counties that are just so small it's gonna dictate that's going to happen from there.

**MR. N. WEISMAN:** 'Cause we already -- we already have some counties that are pulling Public Defenders from two, three counties away.

**MR. C. GOFF:** Well, you know, as -- as I sit here, one of the things that I thought about a lot was I -- I was more hands-on than I wanted to be just because I had to be to make sure we were in compliance. And I -- I -- I took down these are the appointments and my court reporter knew we were coming out.

But one of the things that dictated for us -- and I think would be important to this discussion is -- you're gonna have a known number
of attorneys who are willing to participate and you're gonna pretty quickly know whether or not you're gonna have to get outside of your county. And it -- it should be adjacent, as you've talked about, or time constraints, being courteous to the sheriff, and figuring out when we're gonna serve the meals. But that -- that would -- I -- I think you're not gonna know until you look at what the need is.

What -- and -- and we do have those numbers. I mean we know what the -- what the case -- whether it's ours, and -- and whatever attorney that's being reimbursed -- what to get -- get it rolling, you know, 12 -- 12 months on.

So I -- I -- I think that it would -- the -- the answer to that is gonna be very -- it -- it's gonna be data-driven. I -- I mean I really think that it would have to be data-driven.

MR. B. HILL: All right. Great.

MR. L. LANDIS: Um, just --

MR. J. TINDER: Go ahead. Go ahead.

MR. L. LANDIS: -- do you -- do you have a list, and I'll give it to the -- to the members of the task force, but it's about 20 -- 30 counties that have a total indigent caseload of
under 400. And that -- half of those are at
least misdemeanors --

MR. J. TINDER: Those are -- those are
law-abiding counties.

MR. L. LANDIS: -- so... You've -- you've
got -- you've got counties that -- that barely
enough of a caseload for one full-time attorney.
So I mean that's why, you know, having a chief in
every county doesn't make a lot of sense.

But, -- but these counties would be ideal
for the -- for the region because they also don't
have any support services. So a regional office
can provide you social workers, and -- and
investigators to be assigned on a case-by-case
basis where the counties of, you know, that 30
county populations they're never gonna have
support staff in that Public Defender system.

But, a regional system would enable those
support services to be provided --

MR. B. HILL: I think that's --

MR. L. LANDIS: -- and that's critical, I
think, quality.

MR. B. HILL: Another number as Ruth points
out that needs to be added to that is the
TPR/CHINS numbers in those counties where -- that
the Public Defender has to likewise defend those.

   (A cell phone rings into the record.)

   MR. J. TINDER: Oh, I -- I wish I had the
contempt power back. So -- so, you know, and I'm
-- I'm very intrigued by this -- this whole idea
of criminal defense lawyers being thrown into
CHINS/TPR proceedings simply because they're the
Judge's Public Defender and defense is needed.

   I don't know that the person who is drawn to
criminal defense necessarily has the kinds of
traits and characteristics that you want to see
in a -- a TPR/CHINS lawyer. I don't know. What
do you think about that?

   MR. C. SHEMA: It's just a different animal,
Judge.

   MR. D. SCHIRCLIFF: Right. And you have
good sense --

   MR. J. TINDER: And good lawyers are -- you
can -- can adapt to -- to anything.

   MR. C. SHEMA: Right.

   MR. J. TINDER: But, I mean when you're
drawn in certain directions, it's too -- it's
really tough to make that change.

   MR. N. WEISMAN: But, when -- when -- when
they -- we started to get that big increase in --
in cases in St. Jo, I switched off for a very short of time about a year -- a little over a year and did nothing but CHINS, and it was a totally different animal. It -- it borders on the family law issues, which most of us as criminal lawyers often don't get involved in.

MR. J. TINDER: And the goal --

MR. N. WEISMAN: And it's out of our field.

MR. J. TINDER: -- the goal of a CHINS proceeding may be quite different --

MR. N. WEISMAN: Right.

MR. J. TINDER: -- than a criminal proceeding may be -- a proceeding and what have you. And you think about your training, keeping current; you know, if you have -- if you have to read in four areas; if you have to go to four different types of CLE programs; it -- it really is a pretty big demand.

MR. C. SHEMA: And -- and so are the appellate attorneys because the appellate attorneys, they're -- most of the best appellate attorneys in the state don't want to do CHINS appeals anymore because they're so complex. Is Ruth -- am I speaking out of turn, or am I correct?
They're so complex you have, you know, all of these findings of fact that the appellate attorney has to go and review the record, and all of these findings -- well, you know, it's just much more complex to do a CHINS/TPR appeal than it is a criminal appeal.

**MS. R. JOHNSON:** Well, for -- and for one thing, you cannot get an extension in a TPR, and so whatever else you have going on, you have to make that, you know, a drop-dead deadline. And, just for numbers sake, in 2011 we had 24 TPR/CHINS appeals. Last year we did 47, and this month alone, I assigned 12 TPR cases to attorneys to be briefed; 12 in -- in January so you multiply that by the rest of the year, we're gonna be having a lot of TPR/CHINS appeals this year. So our numbers of TPR/CHINS appeals are skyrocketing as well.

The thing about those cases is the clerk's portions are often very large and dense. There is always service provider reports and single-spaced reports that you have to read through. So, yes, that can be extremely time-consuming with a very short deadline, and you kinda have to move everything off -- else off
your calendar to make sure you file your brief on time.

MR. J. TINDER: And, I hear a lot of pushback against the idea of a -- say a statewide trial level Public Defender system. Are there parts of -- of the areas that -- that might be suited to that like CHINS/TPR, or like the appellate function, or are there -- are there -- are there pieces that -- that could function that are -- as a statewide system than they do as a home rule bottom up system?

MR. J. ABBS: I -- I think no doubt and -- and recognizing that we do have two counties in Lake and Marion County that have excellent -- excellent Appellate Division so I wouldn't want to do away with those.

But, for most level we -- everything goes out of our office appeals-wide, conflict reasons and otherwise; we just don't handle any of them. So I think most of the other counties would have no objection to that from there.

I -- I still think, though, that those counties that have, and that are operating offices -- and that was one other point I made is -- they've got an office out there they're
operating and doing the job they're doing because they're doing great things in Marion County. They're doing solid things up in Lake, and we should remain those -- allow them to remain in effect for just reimbursement money.

**MR. N. WEISMAN:** Well, I think --

**MR. J. ABBS:** So --

**MR. N. WEISMAN:** -- and keep in mind, I think the -- with the appellate being -- and Ruth brought up, is that if there is some sort of a statewide appellate operation, it should be designed so that there are certain people developed with certain counties or certain regions so they could develop a relationship with the trial attorneys 'cause that seems to -- to --

**MR. J. TINDER:** Yeah.

**MR. N. WEISMAN:** -- to work over just random people comin' in to do appeals.

**MR. J. TINDER:** And Ruth -- Ruth made that --

**MR. N. WEISMAN:** Right.

**MR. J. TINDER:** -- point that the -- it -- it doesn't start -- it -- it's not just -- they used to refer trial Judges -- as -- as a federal trial Judge, I always referred to appellate
Judges that hid up in the hills until the battle was over, then they went down and shot the wounded.

Appellate -- the appellate lawyers' utility is -- is great even at the start end of a case, and so I get that. But it -- what a great resource that would be for someone in say, Noble County to be able to reach out to an appellate lawyer just when that case comes into the office to kind of focus on issues at that point.

Is there a harm to existing appellate sections like in -- in Lake County and Marion County if -- if a statewide system is devised that does allow the -- it retains the ability to have interaction at -- at the trial level?

**MS. R. JOHNSON:** It's -- no; as long as it wouldn't dismantle what we have in place, and even better funding flowed to us.

**MR. J. TINDER:** Direct -- directly so you --

**MS. R. JOHNSON:** Well, what --

**MR. J. TINDER:** -- don't have to screened off by Bob Hill.

**MR. B. HILL:** Right.

**MR. N. WEISMAN:** And here's -- Marion could be used as a model for developing a statewide
system. You've got a good handle on your -- on
--

MS. M. FOSTER: What about Juvenile? Would
Juvenile be something that could be a statewide
system with regional offices in a...

MR. B. HILL: I think it's the same issue as
-- as the appellate. And we -- and -- and you're
more versed in this -- I'm not certain that
there's an a -- really a Juv -- well, there is in
Lake County, a Ju -- but there is one in Marion
County -- a Juvenile Division where that's all
our lawyers do in that division at least.

MS. M. FOSTER: What, and you guys keep a
report, but then out in the hinter rants they --

MR. B. HILL: I know.

MS. M. FOSTER: -- they take those cases --

MR. B. HILL: That's a problem.

MS. M. FOSTER: -- and they screw 'em up.

MR. B. HILL: That's a problem. And -- and
so it -- it's the same issue as the appellate
issue I -- as I see it. And so, is there a need?
I think there probably is. But is there a risk
to the clients in Marion County if it -- it's
diluted in Marion County, that is a risk, and
that's something I don't want to see. Um, very
--

**MS. M. FOSTER:** Well, but if you setup regional offices, right, well, it would make sense for there to be a regional office in Indianapolis.

**MR. B. HILL:** It would make sense.

**MS. M. FOSTER:** Because there's just not enough Juvenile cases out there, but when there are, they're frequently very serious and people just don't know how to handle them.

**MR. B. HILL:** Uh, well, as your case would underscore. The -- but -- but I do think there would be a -- a -- an advantage to having regionalized offices handling juvenile stuff.

But, see -- I mean it should be done um, not in a silo, but I think it should be done in a system of regional offices. I -- I agree with that. I don't disagree with that.

Funding's the key. Regional having some way to do -- I agree with that in -- in Juvenile and appeals, CHINS would be areas for those things would be very helpful.

**MR. J. SCHUMM:** Can I follow-up about that? I see Juvenile and appeals a little different; 'cause Juveniles you need layers of a board,
appeals you don't.

**MR. J. TINDER:** Right.

**MR. J. SCHUMM:** So would you guys be happy if there were a statewide appellate officer -- if everyone were in Indianapolis where you have someone you can communicate with, or would it be better if there were a regional appeal office in your part of the state where you had someone who sort of knew about the courts there and the issues that were coming up there?

**MR. J. ABBS:** I -- I would not have a problem either way because it's a communication thing. And -- and a lot of times we use -- a lot of the appointments we do are attorneys out of Indianapolis and -- and we refer to them when we have issues that even pretrial issues, trials from there, we interact with those individuals.

So and I don't think from that standpoint it would be a problem. No doubt if we have attorneys local, we like to use local attorneys from there. There's a preference in our counties to use local attorneys if -- if they're available, but a lot of times, that's just not an option. We're very limited with appellate attorneys and individuals willing to take --
MS. M. FOSTER: And is that why --

MR. J. ABBS: -- 'cause it --

MS. M. FOSTER: -- there would not be the home rule problem because there's nobody in the county to handle it so you're not gonna have these home rule politics going on?

MR. N. WEISMAN: No. I -- I don't know that you have -- at -- at least with us -- we contract out our -- our -- our appeals. I don't know that we would have a home rule issue with appeals.

Uh, I think we do with attorneys that are in court every day. Juvenile attorneys --

MS. M. FOSTER: What about Juvenile?

MR. N. WEISMAN: -- you know, Juvenile attorneys need to understand the county and where these kids are comin' from, and their school system, and stuff like that. So as close as they are to their -- to where these kids are from, the better off the understanding to represent those kids.

With appeals, I think it could be done from a statewide system, again, as long as you had some dedicated people that consistently work with people in your county. And then they could also provide feedback and say, hey, we're gettin'
these cases in, and look, we need to make more
trial court motions on this, or we need to make
trial court motions on that.

Right now we don't have that because
everybody's independent out doing their appeals.
So that part would be very helpful, and that --
that could be done from anyplace as long as the
-- the report or issues are (indiscernible).

**RESPONDENT:** I disagree with that. I -- I
-- I think the appellate -- a statewide appellate
is um, an important part of this, but, you know,
from somebody who used to be in Indianapolis and
now I'm not, there's always this pushback about
people in Indianapolis telling us what to do.

They don't always tell us what to do, but we
always feel like they're telling us what to do.
And, -- and, particularly, if you're gonna have
everybody housed in Indianapolis, or someplace
else, and they're gonna call you up as the trial
attorney and say, you know, why'd you ask this
question, or why'd you do that, you're just not
gonna build -- I just don't think you build a
relationship.

I think if you have a statewide office, and
then you have regional offices, so you have
people that you know, and that you're comfortable communicating with, and they -- they setup a program like Marion County where if I have, you know, a big suppression issue and I want to make sure that I'm not gonna screw this up for appellate purposes, that they can come and sit with me at my hearing, or -- or do whatever.

I think a regional office is more -- much more conducive to trial attorneys and appellate attorneys working together as --

MR. N. WEISMAN: Uh, what -- what makes --

MR. J. TINDER: What you're saying doesn't, to me, relate as much to where that appellate is -- is physically located, but that you have the ongoing contact -- the ongoing relationship which really can be done from anywhere.

RESPONDENT: You know, I -- I think so. But, again, you know, I've -- I've been on the Public Defender Council Board for a long time, and there is an us against them feeling. And -- and -- and even though it may not really be there, we perceive it as that.

So I think if everybody's located in Indianapolis, even if we have as much access to them as we were if they were 50 miles down the
1 road, I just don't think that that relationship
2 would develop the same way.
3
4 MR. J. TINDER: Right.
5
6 MR. J. ABBS: And -- and to go -- and to
7 build on her -- when you talk about this, just
8 like when you talked about the Juvenile -- we can
9 do it better over here -- I do Juvenile cases in
10 Noble County, and I do that, but I think they are
11 very, very important.
12
13 I do not carry a full caseload. I don't
14 think any Chief should -- I carry about 50
15 percent -- there would hitback, just what she's
16 talking about and that -- that it -- oh, we can
17 do it better over here than what we can do.
18
19 And it's very important Juvenile cases;
20 relationships we build, the Prosecutors,
21 Probation, and those things and getting matters
22 resolved; I truly think in the best interests of
23 the juveniles. I -- I consider those, as you
24 saying, very, very important cases and I really
25 think --

26 MS. M. FOSTER: The problem though --
27
28 MR. J. ABBS: -- that meets --
29
30 MS. M. FOSTER: -- the problem that I
31 perceive, though, is that many counties don't
have a lot of juvenile cases. And then -- and
then when they do; when it's a big important --
you know, a 12-year-old goes out and commits
murder -- there's nobody in that county that
knows what to do.

Now, I get what you're saying is you know
what to do. Um, --

**MR. J. ABBS:** And -- and -- and I think that
the big murder case you're talking about happened
in the county next to us from there, and -- and
-- and you may have -- I -- I don't know the
parti -- I don't know the particulars for what
occurred, but, in -- in dealing with that
situation there aren't -- there aren't --

**MS. M. FOSTER:** Well, it wasn't handled
properly, all right? And I don't think anybody
would think it was handled properly. And I'm not
here to blame the lawyer, all right?

**MR. J. ABBS:** Right.

**MS. M. FOSTER:** I don't think that -- they
don't get cases like that. So if you
regionalized it, and then you've got more
counties feeding into it --

**MR. J. ABBS:** But then -- it -- the problem
is if you -- the regionalize -- I don't know if
really increase the number of cases that these attorneys are doing, 'cause now you're gonna have to have -- if -- if you're gonna -- these attorneys are gonna have to be in court, after court, after court.

With most respect to our courts, they tend to like to control their calendars as they run it, and they may put 'em all on the same day and -- and now you got a problem 'cause now you have to dictate to the Courts this day's gotta be a juvenile day. And, in my county, Wednesday is Juvenile Day.

**RESPONDENT:** You can have offices.

**RESPONDENT:** Every -- in every county? Because these people have to meet --

**MS. M. FOSTER:** No; I'm saying -- it --

**RESPONDENT:** -- the --

**MS. M. FOSTER:** -- you could not have offices on -- on -- on juveniles.

**RESPONDENT:** How are you gonna have the families that meet with them? How are you gonna meet with the juveniles?

**MS. M. FOSTER:** Go to their home.

**RESPONDENT:** How are you gonna -- yeah -- have -- have -- go to the home?
MS. M. FOSTER: Yeah.

RESPONDENT: And then you have like your psychologist and all of those people go to their homes as well?

MS. M. FOSTER: Have the people go to the psychologist.

RESPONDENT: Well, if you're -- you're --

MS. M. FOSTER: And I'm just -- I'm asking, right?

MR. J. TINDER: Right.

MS. M. FOSTER: Not trying to get into caseloads --

MR. J. TINDER: Our caseloads ahead -- it --

MS. M. FOSTER: I think that there's a -- that there's a lot of serious juvenile cases that happen randomly that are not handled well, frankly, because people don't have a lot of those cases.

RESPONDENT: That's true.

MS. M. FOSTER: And so when they arise, people don't know how to do 'em. It's different in Marion County.

MR. J. ABBS: And, that's --

MS. M. FOSTER: You guys do a great job --

MR. N. WEISMAN: Well, but there -- it's --
it can't -- it can't be like a one size fits all for the entire state because every --

 **MS. M. FOSTER:** No. I think that's right.

 **MR. N. WEISMAN:** -- everybody's different.

 We've got, you know, in -- in Jim's county, don't you have some people -- is anybody else doin' juvenile other than you?

 **MR. J. ABBS:** Yeah, we -- we have one other individual (indiscernible).

 **MR. N. WEISMAN:** I mean we've got this juvenile court so you don't do anything else but juvenile. In some places uh, the Public Defenders do felonies, misdemeanors and juvenile; they do everything uh, because of resources.

 Uh, so yeah, where it makes -- might make sense in -- to have a regional operation in some of the counties that don't have the caseloads, they'll deal with uh, with certain types of serious offenses.

 In some of the larger counties when we were there, they do have people who have dealt with all of that and so it's gonna be a little bit different. And -- and that's why I -- I think part of the recommendations of -- of -- of it being a council was that uh, we look at different
counties, different circumstances and see what the delivery is, and see if it works, if it can be improved on, uh, what the resources are needed uh, and -- and that's what, I think we need to look at.

You know, it's just -- that the State's so diverse, and the delivery of services are so diversified that uh, it's -- it's hard to do a -- a system that fits everybody and every place.

MR. S. LUCE: You have to do a -- you have to find out where your resources are. The two primary reasons because some counties will have juvenile detention center, and the other for this. That's where the regionalization for the kids would help.

MS. A. SPOLARICH: Thank you. I'm standing behind Bob Hill so I think whatever I say --

MR. J. TINDER: Right. That's -- that's a big walk right there.

MS. A. SPOLARICH: No. I was just thinking -- and he raised his hand a lot here. I'm --

MR. J. TINDER: And your name for the...

MS. A. SPOLARICH: -- I am Ashley Spolarich. I -- I practice now --

MR. J. TINDER: You might want to give the
spelling of that last name.

**MS. A. SPOLARICH:** It's S-P, as in Paul, O-L-A-R-I-C-H. I worked in Marion County; that's where I started. I then went to -- I now work in Tippecanoe County with Amy, and I live in Montgomery County so -- and I'm married to a Prosecutor.

So I have a -- a -- a very different opinion -- or I've seen a lot of different systems. I think un -- unless you regionalize these -- these systems, and you special -- you have specialized people in those regions to handle those cases, I think that alleviates a lot of the problems.

I don't think if we have it in Indianapolis -- I don't think the smaller counties -- like Montgomery County -- I don't think they're gonna use it, honestly. I just don't think they will.

I think when you have something -- what Amy was talking about -- when you have someone who's in the area that you know, and that you have -- and I think he was saying -- like when you have someone that you know, and that you can go to for advice and help, that is where you make attorneys better.

Unfortunately, when you feel like it's far
away, it's -- it's a lot harder, especially for
other -- other attorneys that haven't been
brought up in a system like Marion County, a
collaborative system, I don't think they'll reach
out. I don't think they'll be used nearly on the
level. You'll have some, but not everyone.

I think small counties like Montgomery
County, it's struggling to create an office right
now, but it's facing very different problems in a
lot of counties that we've heard of today because
these very small counties are there in the system
of we don't want Indianapolis telling us what to
do.

And they have fought thinking the
reimbursement program they were in, and then
they're out. They have fought it, and fought it,
and fought it. It has to be mandatory. It has
to be imposed. And -- and it has to be done on a
local type of level, otherwise, you're just gonna
have them saying, well, this is Indianapolis
telling us what to do, and they're not gonna
listen and they're gonna fight --

MR. J. TINDER: It's -- it's a --

MS. A. SPOLARICH: -- and they're gonna
fight the entire way.
MR. J. TINDER: -- there's a little conflict in what you're saying. Now, mandatory requirements come -- come from a central --

MS. A. SPOLARICH: Sure.

MR. J. TINDER: -- source and -- and -- and local control --

MS. A. SPOLARICH: Sure. Of course, and -- and I -- and it's -- it's -- this is not an easy question, and you guys have a heck of a job ahead of you, honestly. But, in order to impose the over-arching standards and making those mandatory, you are forcing the county councils to actually do their jobs inappropriate one day because it's just not happening. And it's not happening nearly on the level that it has to especially in Montgomery County that is drowning in heroin right now. It's just not happening.

So, yes, I understand there is a conflict, and it's not going to be an easy one to solve. But having the standards be required forces them to take actions that are necessary in some of these smaller counties that aren't wanting to do it, honestly.

MR. N. WEISMAN: Well, you know, you can look at Criminal Rule 24 and how that changes the
face of death penalty representation with the State, and that was mandated.

MR. C. GOFF: And it's Tinder. Can I...

MR. J. TINDER: Yes, sir.

MR. C. GOFF: I -- I'm -- and I'm sorry. I knew -- I wanted to say something. I -- I hear that -- I just want to make sure I'm hearing that, but, well, I think that this idea -- the concept of regionalization is really talking about an infrastructure that would allow the locals to connect the people that needed the resources with the resources; is that fair to say? And --

MS. A. SPOLARICH: I think so, yes.

MR. C. GOFF: One of the things that -- when -- when Monica's asking about that question, I -- what I -- I envision is that if you'd have the need -- because you're gonna have juvenile delinquency on the daily basis, but if you really had that big case, I think sometimes the regionalization concept of providing more efficient means to connect that client with the -- with the resource -- with the really experienced specialist, and that -- that is what I envisioned you -- you all say would be
important and -- and necessary to make the
delivery system better.


MS. G. ETLING: If I could --

MR. J. TINDER: The back row.

MS. G. ETLING: -- give an introduction at
me from Vigo County. I just want to touch on a
little bit unusual --

MR. J. TINDER: And, if we could get the
name for the record?

MS. G. ETLING: Gretchen Etling,
E-T-L-I-N-G. It's a little easier spelling.

MR. J. TINDER: Vigo County.

MS. G. ETLING: Vigo County. I moved there
from Indianapolis and I said Vigo for years, now
I'm Veego (phonetic), and they're wrong with
that. And I think that one of the -- the things
that we're gonna supply to you is the job
description of a Chief Public Defender.

And one of the things that when we were on
the task force that we dealt with was that -- the
training. That there has to be part of the
description of the Chief Public Defender is that
they implement the training.

And I think in the Juvenile area, I think
that might address some of those that -- the
people that are handed the juvenile delinquency
cases are gonna have to go to mandated training
as part of our job description that we enforce as
administrators.

On the CHINS level, I feel that that's where
our crisis is in Vigo County. It is -- I've been
the Chief for 18 years, and it has dramatically
increased the number of CHINS. When I first met
with the staff attorney in 1999, he said make
your CHINS compliant, and we did.

So we have always been compliance on CHINS
that had to continually stack it as it's
dramatically increased, and I seen my Public
Defenders getting worn out. They're getting
beaten down.

They need -- we're having team meetings now
about cases where we feel like it's the State
against us. DCS is this power person here, and
then it's these -- these little counties. So I
think we can really benefit by a State system
that would employ still, you know, some of the
county attorneys that have their heart in it;
that they feel that they've fought the fought.

But they need -- we need more money. We're
thinkin' of tryin' to hire experts now to refute these 'cause these terminations are coming so quickly, and they're just doubling, tripling. And that's where I feel that if we're gonna do regional offices, I see CHINS being the main focus, and maybe increase training as -- that'll be implemented by a Chief job description that will -- will force that and mandate that.

From -- at least from our county, the juvenile delinquency -- we have great attorneys like Chris that help out --

MR. C. SHEMA: My fees are comin'.

MS. G. ETLING: -- that can help out and have great trial experience to be appointed delinquency, but, obviously, like you're saying, the number of delinquencies is nothing compared to the number of CHINS. But we do need so more training there that, I think, as -- we have all -- I think a hundred percent during the Chief meeting -- and we all agreed we wanted job descriptions.

So we want direction, and that would be one of the areas to have that training.

MR. J. TINDER: Thank you. Thank you. By the way, give -- please give Joe my regards and
MS. G. ETLING: I will.

MR. J. TINDER: -- I just want to give you all this little history of Vigo County. It's named after George Vigo. And the reason is if he agreed to donate a bell to the courthouse if they would name the County after him, and the County required the bell named and the County after him, but he never paid for the bell.

MR. C. SHEMA: And -- and -- Judge, Vi -- Vigo, I think your point highlights the inherent conflict with having the same attorneys asking to deal with the juvenile and the CHINS. 'Cause I mean at -- at -- at the most simplistic level, what -- what happens when they find drugs in the house, and there's a CHINS case, and the -- and the kid's like, "Well, that's not my drugs. That's mom's drugs" you know?

Where do you go with that? It is just an inherent conflict. CHINS are a totally different animal, and we're not particularly well-equipped to go against an agency that's funded by almost a billion dollar budget.

I mean it's im -- there's no budget crisis with DCS. They're hirin' people left and right,
but we haven't had any kind of comprehensible 
increase in budgets.

MS. G. ETLING: And the case managers change 
all of the time. So you're not dealing with 
someone who's locally-based at the juvenile case 
where you can go talk to the Prosecutor. And, 
you know, that -- that seems -- stays there. 
But, at a State level you're dealing with 
different -- Terre Haute especially -- we had 
rotated case managers, and it was really bad for 
a long time.

We never knew who was gonna show up. So 
you're dealing with people on a state level, 
different caseloads all of the time, um, not 
people that are locally-based.

MR. J. TINDER: Okay. Okay.

RESPONDENT: Can I just ask a follow-up 
question to that? What are some of the 
challenges that you have with that representation 
in terms of what resources you lack, 
specifically? Like, if -- if you had your ideal 
situation doing CHINS and TPR, what do you need 
to do that to effective balance the scales?

MS. G. ETLING: Well, I think that more 
attorneys, I think, to lessen the caseload maybe.
RESPONDENT: What are your caseloads?

MS. G. ETLING: Right now the -- all of the Juvenile -- there are -- all of our attorneys, except for one, are appointed, and all of the juvenile attorneys are added, you know, by a court-appointing operate -- 'cause the CHINS is weighed, you know, to get so many of 'em.

And, you know, experts. You know, they -- you know, having a resource of experts available to us 'cause we -- it's hard to battle DCS, you know, attorneys and doctors that are gonna come in and, you know, have a list of people that the State has used, resources that we could have come in that we could put somethin' out there trying to get them.

We were talking about this. We were team-meeting last week about a case that we've got that is absolutely an injustice of them about to take these peoples' children away. And we feel like we are trying to defend it, but there is the -- like when they come in and they get ordered drug screens, and they have all -- no -- negative drug screens; nothing comes back positive -- but they still wanting -- it's so subjective.
They're still saying no, you know, why --
that they -- we just don't think they're doin' a
good job. I mean how do you -- either we need
more -- I don't know how you respond to that.
They have an expert come in. And we're tryin' to
get a former caseworker to come into DCS. Maybe
a disgruntled DCS caseworker to come in and spot
'em because we don't know, you know, what you do
in those situations.

It's all -- it -- it used to be that the
Judge would, you know, it depends on your Judge
and your Magistrate, but now there's just such a
volume of cases that they -- it just kinda
gettin' pushed through.

The timeframe in which you've got to push
through these cases, there's not a lot of time to
-- to prove them wrong. And, that's just several
-- several things. I mean I would like get
together.

I know that there's -- was the meeting the
28th? I was gonna double-check for the next
meeting the 28th or the 27th on the CHINS; is
that right?

**RESPONDENT:** The 27th, right.

**MS. G. ETLING:** The 27th. I mean I'd like
to bring my, you know, Juvenile and -- and my
CHINS attorneys together to try to get a list of
what they would need. But, I don't know -- if
anybody else -- what you think you would need at
the -- the CHINS level?

MR. J. ABBS: The -- the -- the thing that
one of my attorneys is -- Katie Byram's on it --
and what she always says to me is, "You don't
realize how long these cases are. They are the
everlasting thing."

And she would argue the case numbers we have
are just astronomically too high for attorneys to
handle because of the work. And -- and they are
labor-intensive cases.

MR. N. WEISMAN: And court -- and court
time.

MR. J. ABBS: Yes. Yeah, you're in court
continuously, and -- and constant reports. And --
and we have run into the problem, and there --
there's great concern in my county is -- and --
and all due respect to DCS, and the attorneys
they are sending to us, in my -- and I'm giving
my opinion -- are not competent to be doing the
job.

We have attorneys come in; they don't have
authority to do anything. And I went to the Judge and said, why am I sending attorneys over there when they're sayin' they can't -- these are the rules and hard and fast -- we can't adjust to 'em, so there's no discussions taking place.

And there's concern that if we adopt a statewide system -- this is what I always hear from my Judge is what I'm talking -- we're -- are we gonna get the same type attorneys now on both sides? And it's just going to make it a greater mess than what it is.

Now, what we're saying is, hopefully, we can use the people we have in place 'cause we do have good people across the State to do that.

**MR. J. TINDER:** The -- the DCS Council are not county-based.

**MR. J. ABBS:** Excuse me?

**RESPONDENT:** No. Ours don't. No.

**RESPONDENT:** They're State.

**MR. J. TINDER:** They're State. They're State.

**RESPONDENT:** I think it depends on whether the jurisdiction --

*(Several parties talking over each other.)*

**MR. N. WEISMAN:** They have like five.
They're housed just in St. Jo County, but in some of the smaller counties they come from --

MR. J. TINDER: I see.

MR. N. WEISMAN: -- (indiscernible).

MR. J. ABBS: Ours all come from -- ours all come from Allen County from Ft. Wayne.

RESPONDENT: I don't do any CHINS so I have no idea.

(Several parties talking over each other.)

MR. C. SHEMA: (Indiscernible) a revolving door. They -- they --

RESPONDENT: Yes, and high turnover, and it's -- it's (indiscernible).

RESPONDENT: One of these subcommittees talked a lot about with -- with other states that we've -- models that we've looked at and the ABA standards is the importance of working with the clients outside of the courtroom, you know. That -- that you can do more off and outside of the court and that that's equally as important as what you do in court.

Do you know the luxury of being able to do any of that, or is this just sort of --

RESPONDENT: Define 'outside of court.'

What do you -- what sources?
RESPONDENT: Um, wait 'til the DCS treatment planning meetings, ultimate resources, digging up resources, working with social workers in -- that -- in your office that might...

MS. G. ETLING: Yeah, it's -- it's -- you're -- you're on a need-to-know basis, and you don't need to know anything until you get. And you try, and you try to email, but it's overwhelming; you don't get any replies to your emails.

MR. J. ABBS: My -- my attorneys has handled those -- those meetings because -- it -- Katie Byram from our office oversees that, and she believes that we can intervene at that time and address a lot of these issues, and they do that. It -- truthfully, it's a good thing to do. I -- I just -- you know, I look at it all of the time, and say, "Look at all of the time you're putting --

RESPONDENT: Right.

MR. J. ABBS: -- into this" but I can't argue against it when she is getting the results that she is; getting in and getting things taken even sometimes before they go to court.

RESPONDENT: And that's important for us to know those --
MR. J. TINDER: Right, right.

RESPONDENT: -- results because that's --
that's what the standard --

MR. J. TINDER: Bob, I haven't been ignoring you.

MR. B. HILL: I -- I don't feel... The --
the uh, -- one -- one point I wanted to make
that, I think, advantage we have in my office is
the same advantage we have with the Appellate Division.

When we have a -- a kid who's waived over to
adult jurisdiction, that JD lawyer can follow and
help litigate that case, or at least, follow and
help bring the attorney litigating the case up to
speed and talk about the history.

Where there's direct filing, sometimes we
would have had that client before, so we would
have had social workers working on the case, as
well as attorneys who can then communicate. And
that's a real advantage; it's resources again.

And I see that's the point I think you're
trying to make that if you have a regional
office, they can house social workers, they could
house resources, connections to various

communities for that psychologist that would help

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do the work, as well as provide legal expertise.

    I -- I see it as an advantage if we could do regional stuff.

    MR. J. TINDER: But can it --

    MR. B. HILL: And in areas where -- where there's a -- a -- a real deficit now.

    MR. J. TINDER: Yeah. There can be economies and scale. Okay.

    MR. J. MEREDITH: I'm -- my name is Jason Meredith. I'm from Monroe County. I'm a Deputy there. And, we're in charge of a medium-sized county; it'd probably have a hundred and fifty thousand people for nine months out the year, but we lose those students.

    MR. J. TINDER: But probably the most over-lawyered county in the State.

    MR. J. MEREDITH: Well, and our Public Defender's Office, we're at 13 -- we have 13 attorneys in our office, and we were one of the counties that we all knew of the cases; the DVs, the CHINS, the criminal.

    Over the last year our CHINS have pretty much doubled as far as things go. And, I'm -- I'm confident that all of the attorneys in our office could handle a juvenile -- a big juvenile
case because we're all -- they're all handling those felonies as well. So I -- I think that will translate well.

The CHINS cases and -- and just the amount of time that needs to be spent on those and the amount we're getting, I mean we'd have to need an increase in the number of attorneys (indiscernible) to get with our -- our, you know, from our county and from our local, you know, our local funding opportunities there.

But, I mean I think we need more money to be able to get more attorneys, and that's a very difficult thing. I don't think the county is aware yet of how bad the situation is with the CHINS cases. It's literally -- you're talking about making assistance for four or five years, but the last year those -- those cases have doubled, and, you know, those 13 attorneys are pretty strained at this point.

And in -- in a medium-sized county, that's kinda what we're looking at.

MR. J. TINDER: But, by the way, don't get me wrong. I think over-lawyered is a very good thing. I -- I'm somebody who went to law school in Bloomington and never wanted youth, but I had
to (indiscernible) reasons so...

**MR. J. MEREDITH:** Sure.

**MR. J. TINDER:** Yeah. The -- the explosion in CHINS/TPR is -- is um, just a pheno -- a phenomenal thing, but it doesn't seem to be -- it doesn't seem to be a blip; it seems to be a permanent condition.

**MR. J. MEREDITH:** Sure. Yeah.

**MR. C. SHEMA:** And, Judge, they're all cases kinda like the custody case from hell, you know, where they just -- that somebody said there's no end to it.

I mean the worst criminal cases you've ever had in your court had a beginning, and a middle, and an end, and then they went up to the Seventh Circuit. These things just -- they -- they just won't go away.

And, you have to have the resources to hang with DCS, and we're just out-matched. I mean we can't compete.

**MR. J. TINDER:** All right. So let's see. Joel, did you want to drill them further on the appellate?

**MR. J. SCHUMM:** (Indiscernible.)

**MR. J. TINDER:** I kinda think we're -- I
know my partner's about to run out again.

(Indiscernible.)

RESPONDENT:  3:00 -- 3:44 that you're --

MR. J. TINDER:  Okay. Okay.

RESPONDENT:  -- reaching.

MR. J. TINDER:  So I -- I will repeat. I want this to be a continuing dialogue, and I hope this will give you the perception that we are open to hearing what you've got to say. We have a -- a number of things that we want to follow-up on just from today.

We go forward, please stay with us. Please stay in touch. Our object -- or my objective will be to get the task force to get to a -- a draft of its -- of -- of findings and recommendations sometime in maybe the June timeframe or so so that we can make them available for your critique and evaluation before we get to -- to finally conclude this.

So off we go. Anyone want to say anything or ask anything else before we break for now? It's sort of like an extended recess 'til we meet again.

MR. C. SHEMA:  Judge, I've heard one idea up there the panel --
MR. J. TINDER: Yes.

MR. C. SHEMA: -- and we've talked about compliance, and the numbers, but nobody's talked about how those numbers are composed. I think the number of people who are in the rank and file believe that there's a mis-weighting; that misdemeanors are over-weighted, and serious felonies are under-weighted.

(Parties have conversation among themselves off record.)

RESPONDENT: There is a caseload study going on right now.

MR. C. SHEMA: So --

MR. J. TINDER: And -- and it's over-weighted because the misdemeanor can be resolved more quickly than it might be thought or um,...

MR. C. SHEMA: Yeah. I mean when you to -- you look at attorneys' caseload maximum, this came to light a few years ago when Gretchen was telling me, well, the attorney's down in Division 4 and 5 which are predominantly -- well, at least half, misdemeanor courts; DUIs and domestic batteries; they're all maxed out.

And the attorneys who were in the -- the
major felony courts were having to go down and cover cases. And we're like we're like, handling rape, robbery, murder, and we -- you know, most of those attorneys sometimes had that deer in the headlight look when they're being told, the guys downstairs who were doin' the -- the DUI work are maxed out, but you're not.

So -- and I think we were talkin' about this earlier that, you know, when you're handling those more serious cases, you know, like Monica was talkin' about, they are very, very time-intensive. Not that a misdemeanor can't be, the more serious misdemeanors, at the end of the day, it's not the same as rape, robbery, and murder, and they're just not.

So when I see people sayin', well, we're in compliance, or somebody's maxed out, or not maxed out, I sometimes wonder, you know, where do these weights come from? Because the -- most of the people I talk to share that observation for what it's worth.

MR. N. WEISMAN: On -- on the other hand, you have some of the newer felonies based on the revision of the code as it finally came out where you essentially have a misdemeanor battery that
isn't really a misdemeanor case because kids are present, it's a felony.

We're -- we're -- we're dealin' with those too. So even on a felony level, you have a mixed bag of time-intensive and not quite so time-intensive cases.

MR. J. ABBS: Judge, and I just want to say we truly do appreciate all of you putting in the time, and -- and we think it's a very positive thing that could come out of this because we've got a group of individuals who I know -- when they go over to the capitol will be respected in -- in what we're doing.

And we just want to be part it, and you clearly have shown you're making us part of that whole process, and I just want to thank everybody on the task force.

(The task force thanks the parties present at the hearing.)

MR. J. TINDER: Thank you all. We're wrapping up for today. Let's continue.

(The hearing concluded on January 26, 2018 at 3:21:00 p.m.)
CERTIFICATE OF REPORTER

STATE OF INDIANA )
COUNTY OF MARION )

I, Felesa N. Averitte, stenographer, in and for said county and state do hereby certify that the foregoing Listening Session with the Indiana Chief Public Defenders was taken on behalf of the Public Defense Commission, that said hearing was taken at the time and place heretofore mentioned;

That said hearing was taken down by stenographic means and was reduced to typewritten form by Felesa N. Averitte, stenographer; and that the transcript is a true and accurate record of the comments given by said parties;

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on this 12th day of February, 2018.

______________________________
Felesa N. Averitte, AAS
Residing in Marion County, Indiana

My Commission Expires:
Date: 12-31-18