**Summary of Gary Listening Session, 3/31/18**

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|  **Taskforce Member Attendees:** Judge John Tinder Dr. Jeff Papa Larry LandisJoe Heerens (by telephone) |

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| Marce Gonzalez\* Kelly Lavin Michaela Spangenburg\* William Schaefer Bernice Corley Gojko Kasich\* Norman Bailey Kim McGee\*Mayor Freeman-Wilson\* Rev. Homer Cobb Tammi Davis, USCCR Barbara Boling-Williams\*  |

**\***Addressed the Task Force through statements at the session.

***Marce Gonzalez*--Lake County Chief Public Defender**

Mr. Gonzalez reviewed “some basic principles that all of us who look at public defense services recognize.”

* “Number one is there has to be a distinction – you have to be separate from the judiciary. There’s no question about that. You cannot have an effective public defender staff or even part-time lawyers who are hired and work for their judges. That’s my first comment that I’m going to make, and I mean the reasons for that is clear. It’s very difficult to argue with all the zeal you have in your heart against a judge when that judge is the person who controls your paycheck. Okay? That’s number one.” (TR. P. 2).
* “Number two, of course, is the need for experts. When the purse strings are also controlled by the judge and you tell the judge, you know, Judge, I need an investigator in this case. How much is it going to cost? Well, I don’t know. Probably a few grand to start with. I need a ballistics expert in this case. I need a shaken baby expert in this case. It just real – where is this money coming from, you know. And, you have to ask again. You’re asking the judge to basically fund or help you fund the – the case. So, the first principle that I think that we have to – everybody has to agree with in Indiana is that judges cannot be in control of public defenders.” (TR. P. 3).

Mr. Gonzalez reviewed two aspects of the Lake County situation which are distinctive: *First*, the juvenile court would not come under the purview of the public defender office. So, the Lake County Public Defender doesn’t do termination of parental rights cases and doesn’t do any of the juvenile court cases. (TR. P. 3). *Second,* the misdemeanor courts, meaning four county courts that have jurisdiction up to level six felonies and below – all the misdemeanors – did not agree to become part of the public defender system. (TR. P. 3).

Mr. Gonzalez supports the idea that misdemeanors be included as part of the forty percent reimbursement because when misdemeanors are part of a global resolution of multiple cases his office is charged for each misdemeanor. (TR. P. 4). Mr. Gonzalez described the 5-member county public defender board in Lake County and explained that he supports this composition because it prevents county judges from establishing a majority of board members and thereby undercut independence from the judiciary. (TR. Pp. 6-7).

Mr. Gonzalez supports County reimbursement at 50%. (TR. P. 7). His office is fully staffed at present, but he is anticipating the need for a social worker position. (TR. Pp. 9-10). He believes that subject-oriented CLEs should be mandatory (TR. Pp. 11-12). His office has a cadre of appellate lawyers with whom he is satisfied, (TR. Pp. 13-14), but believes that many county public defenders would benefit from a state-wide appellate office. (TR. P. 15). He also explained that the former Lake County practice of denying a public defender to a defendant who had posted bond has been discontinued. (TR. Pp. 15-16).

**Gary, Indiana Mayor Karen Freeman-Wilson.**

Mayor Freeman-Wilson stated that “there is no case” to be made to support the practice of certain Lake County courts from not participating in the Public Defender Commission’s reimbursement program. (TR. P. 19). She is very familiar with the Lake County courts, however, and acknowledged that there is some benefit to a court having autonomy over its processes. (TR. P. 19). With respect to a possible regional office for appellate work, she favors that in general but not for Lake County. (TR. P. 20).

Mayor Freeman-Wilson favors a court rule to make Public Defender Commission standards mandatory. (TR. P. 21). She believes that appellate outcomes and civil liability for Sixth Amendment violations would be motivating factors in inducing counties to adequately fund indigent defense services. (TR. P. 22). She also believes that a state-wide system for providing representation in CHINS/TPR cases would be beneficial because it is a narrow area of practice in which caseloads are rising. (TR. P. 23).

**Barbara Boling-Williams, President of NAACP of Indiana.**

Barbara Boling-Williams believes that it is essential to discuss the public defender system from a financial and pragmatic perspective. (TR. P. 25). Procedures, policies, and fees for public defenders, as well as the cost of private representation, should be publicized. (TR. P. 26). People have to be made comfortable with the public defender system. (TR. PP. 26-27). Since the juvenile system opts out of reimbursement, defendants are not apprised of their Sixth Amendment rights as consistently. (TR. P. 27). In one instance, a 15-year-old juvenile was held in jail for 19 days while he was only suspended 5 days from school. (TR. PP. 27-28). If judges handle reappointments, public defenders have a hard time challenging them; removing judges from this process would alleviate any perceptions of impropriety regarding appointments. (TR. P. 28). CHINS/TPR attorneys can be much more effective when brought into the process early because of their specialized knowledge and expertise. (TR. P. 29).

She further stated that the juvenile system works better in Lake County than other counties. (TR. P. 30). However, setting up minimum standards and remedial measures for those counties that fail to meet these minimum standards would be a good place to start improving the system. (TR. P. 30). Furthermore, she affirmed that the 15-year old juvenile was kept for a long time as the judge was not willing to see evidence in the matter early in the case and the juvenile did not have attorney representation. (TR. P. 31).

**Michaela Spangenburg**

Michaela Spangenburg is a graduate student and mental health provider. She sees clients who are very low income with a history of extensive trauma and often serious mental illnesses and interactions with the legal system. (TR. P. 32). She has seen clients who have no idea what is going on with their legal cases and mental health providers who have no idea of how the legal system works. (TR. P. 33). There is a definite need for social workers who can make meaningful referrals to people who would otherwise be unaware of resources available to them. (TR. P. 35). She characterized the legal system and the mental health system as being without “linkage.” (TR. P. 37).

**Kimberly McGee – Black Lives Matter Organizer for Gary, Indiana**

 Ms. McGee is a volunteer organizer for Black Lives Matter in Gary, Indiana. She believes that people do not know their rights going into the system and that there are not enough resources and information for people charged with a crime. (TR. Pp. 37-38).

**Gojko Kasich - Felony Public Defender, Porter County Public Defender Board Member**

 He believes mental health issues are not handled properly from a financial perspective and programs like Recovery Works are mysterious to him. (TR. P. 42). Mr. Kasich described a defendant with potential health problems that he believes was not spotted by the system. (TR. Pp. 42-43). He believes the doctor at the mental health division within the jail and the judge do not see eye to eye, and that this is a problem regarding how mental health issues are treated in his county. (TR. P. 43).

State-wide oversight for the public defender system, along with statewide or regional appellate oversight, would be a good solution to these and other problems. (TR. P. 43). Public Defenders who do not get reimbursed typically don’t want intervention from the Public Defender Commission, and don’t want that kind of oversight. (TR. P. 43). However, it has to be done. (TR. P. 43).

It is difficult to seek change as a public defender, like in juvenile and misdemeanor courts, when the judge is still your direct employer. (TR. P. 44). Some ways to convince reluctant counties would be: getting federal court rulings against non-compliant counties by joining existing lawsuits against them, increasing reimbursement from 40-50%. (TR. P. 45). There’s no rational reason that juvenile and misdemeanor courts should not be part of the reimbursement system. (TR. P. 46). Another solution is to allow the counties that are working to keep home rule, and then give the counties where home rule isn’t working time to join regionally and bring them into the statewide system if they fail to do so. (TR. P. 46). To pay for this increase in costs, we should raise court fees and property taxes. (TR. Pp. 46-47).

With regard to who should appoint public defenders, publicly electing them is a possible answer. (TR. P. 47). The county public defender board should be composed of: a layperson; four people with experience; and at least one of those four should be elected by public defenders. (TR. P. 48). Supreme Court appointed monitors could be an alternate solution to federal court monitors, though federal court monitors would be more appropriate regarding the Sixth Amendment. (TR. Pp. 48-49).