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The Indiana Task Force on Public Defense (Task Force) presented its Final Report to the Indiana Public Defender Commission (Commission) on August 22, 2018. The report identified numerous systemic deficiencies and made recommendations for both immediate and long-term system reforms. The Commission has tentatively approved the following legislative/policy reform agenda for 2019 and seeks public comment for the September 19, 2018, Commission meeting, when the agenda will be finalized.

Written comments may be emailed to information@pdcom.in.gov. Commission staff may also be reached at the address and phone number listed above for questions or comment.

TENTATIVE 2019 Public Defender Commission Legislative/Policy Reform Agenda

Reimbursement of All Case Types: The Commission will seek statutory authority and funding to reimburse all Commission-participating counties for 40% of all case types where a right to counsel exists, including misdemeanors.

Findings of the Task Force: The statutory prohibition of misdemeanor reimbursement has led to an unequal application of standards across the counties, and even within the Commission's participating counties. Misdemeanors are by far the largest volume of cases in the criminal courts in Indiana. The Indiana Supreme Court online data system for 2016 reports a total of 144,136 new misdemeanor cases filed, more than double the number of felony cases. Counsel was appointed in only 36% of misdemeanor cases. The high volume of misdemeanor cases in many courts can result in pressure for speedy dispositions and "assembly line justice." The consequences of a misdemeanor conviction can be significant, including loss of liberty, driving privileges, denial of educational loans, housing, and employment opportunities or professional licenses. Defendants may bear the cost of heavy fees and fines as a result of misdemeanor proceedings, without regard to whether or not the individual is able to afford to pay.

Statewide Appellate Office: The Commission will seek statutory authority and funding to create a centralized state appellate office to provide direct services, oversight, and support for appeals, including juvenile and CHINS. This office would also contract with attorneys or local offices that provide services. Upon authorization of this office, a juvenile defense team (currently housed at the Indiana Public Defender Council with grant funding) would become a permanent part of this office.

Findings of the Task Force: The current system of providing appellate representation in Indiana does not ensure sufficient independence from the judiciary in all counties. In roughly one-third of counties, appellate counsel are selected and appointed by judges without any required training, experience or oversight. Appellate representation is a specialized area requiring specific skills, training, experience and standards. While the state has many excellent appellate lawyers, the experience and requirements for handling appeals in Commission counties are minimal, and there are no performance standards in place. Many counties do not have sufficient resources to ensure high quality appellate representation and oversight measures. Creation of a statewide appellate office to centralize appellate representation, including criminal, juvenile, CHINS/TPR cases, and other

cases eligible for public defenders can and should remedy the disparities in current access to qualified counsel and should include the ability to contract services to qualified appellate advocates as needed and provide regional support as appropriate.

Allow Regionalization of Public Defense Services: The Commission will seek statutory authority to allow counties, at their discretion, to develop multi-county public defense systems. If a multi-county system is developed, counties and the Commission would enter into a memorandum of understanding (MOU) specifying the cost-sharing by the counties. The multi-county system should be managed by a regional chief public defender.

Reform to County Public Defense Boards: The Commission will seek statutory authority to reform county public defender boards to ensure independence from the judiciary and to strengthen requirements for composition, training, and standards for membership. This includes replacing one of two judicial appointments with a local appointment from the Commission and allowing expansion of membership beyond three with only one judicial appointment.

Findings of the Task Force: The role of public defender boards should be limited to deciding how public defenders are hired, deciding who will manage the public defenders (county-based or regional), and ensuring fiscal responsibility. The Task Force recommends at least one appointment to the board be a Commission appointment, with the opportunity for the county to expand the board further. Community advocates should be an important voice on the board to greater reflect the community it serves. Diversity of thought and backgrounds is an important factor to consider when selecting members.

The following additional items have yet to be approved by the Commission but may be considered at the September 19, 2018, meeting:

Discretionary Distributions to Counties: The Commission may seek statutory authority and funding to make discretionary distributions to counties to support local innovative public defense programs or to facilitate counties in their efforts to comply with Commission standards. These funds would also be used to encourage non-participating counties to join the Commission's reimbursement program.

Public Defense Improvement Pilot Projects: The Commission may seek authority and funding to establish pilot projects to seek to improve systemic deficiencies identified by the Task Force in the following subject areas:

- 1. Children in Need of Service (CHINS) & Termination of Parental Rights Representation:** Efforts may be undertaken to provide highly-trained attorneys and social workers in these specialized cases to seek more effective and efficient outcomes for family strengthening. The Commission would seek to partner with the Department of Child Services on its reform efforts.
- 2. Public Defense Support Staff:** Efforts may be undertaken to provide regional investigative and social work support to adult criminal defense lawyers.

[The Final Report of the Task Force on Public Defense may be found by clicking here.](#)