

STATE OF INDIANA



PUBLIC DEFENDER COMMISSION

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Rensselaer

30 South Meridian Street, Suite 500
Indianapolis, Indiana 46204-3568
(317) 232-2542
Fax (317) 233-6586

<http://www.courts.in.gov/pdc>
E-mail: deborah.neal@courts.IN.gov

MEMORANDUM

TO: Governor Mitch Daniels
Chief Justice Brent E. Dickson
Hon. David C. Long, Senate President Pro Tempore
Hon. Vi Simpson, Senate Minority Leader
Hon. Luke Kenley, Chair, Appropriations Committee
Hon. John Broden, Ranking Minority Member, Appropriations Committee
Hon. Brandt Hershman, Chair, Tax and Fiscal Policy Committee
Hon. Timothy D. Skinner, Ranking Minority Member, Tax and Fiscal Policy
Hon. Brian C. Bosma, Speaker of the House
Hon. Linda Lawson, House Minority Leader
Hon. Jeffrey K. Espich, Chair, House Ways and Means Committee
Hon. Bill Crawford, Ranking Minority Member, House Ways and Means
All Members of the Indiana General Assembly
All Associate Justices of the Indiana Supreme Court

FROM: Mark Rutherford, Chairman

DATE: November 2012

SUBJECT: 2011-2012 Annual Report of the Indiana Public Defender Commission

The Indiana Public Defender Commission's Annual Report for FY 2011-2012 provides an overview of the Public Defense Fund. The Commission's efforts during the past twenty-two years, in cooperation with the General Assembly and the Indiana Supreme Court, have contributed to important improvements in Indiana's system of indigent defense. The report explains the manner in which defense services are provided in Indiana for those who have a constitutional right to counsel at government expense and contains a brief history of the Commission's activities since its establishment in 1990.

The Commission is authorized by statute to reimburse all 92 counties 50% of their defense expenditures in capital cases (death penalty). The Public Defense Fund's participating counties may receive reimbursement up to 40% of their defense expenditures in non-capital indigent felony and juvenile delinquency cases if the counties comply with the Commission's Standards for defense services. The Commission's Standards are available at our website:

www.courts.in.gov/pdc.

Of the state's 92 counties, 61 have presented a Comprehensive Plan to the Commission to participate in the Public Defense Fund reimbursement program. To date, 53 of the participating counties request and receive reimbursement for their non-capital indigent defense expenses quarterly. These 53 counties represent over 68% of Indiana's population. The state, through the Public Defense Fund, returned in excess of \$21 million to the counties this fiscal year, easing somewhat their tax burden. This reimbursement from the Fund is the only state assistance given to the counties for their indigent defense expenditures. In contrast, the state contributes approximately \$69.7 million for trial judges' salaries and pensions, special judges and court operations, and \$26.9 million for prosecutors' salaries and benefits. Indiana's 92 counties provide the majority of the more than \$68 million in tax dollars spent on indigent defense.

The money used by the Commission to reimburse Indiana counties is from the Public Defense Fund (a non-reverting state fund). When the monies available through the Fund are inadequate to reimburse counties in the program for 40% of their eligible non-capital indigent defense expenditures, the Commission's statute requires that reimbursements be prorated. From 2002 to 2009, county reimbursements averaged 33% due to prorating. In FY2011-2012, the qualifying counties received the full 40% reimbursement on non-capital public defense expenses.

While the Commission appreciates that these are difficult financial times for the State of Indiana, we believe that the state's improved adversarial system of indigent defense merits the full backing of the legislature. Unlike other state-funded programs, the provision of adequate counsel to the poor in criminal and juvenile cases is guaranteed to all persons as a matter of constitutional right.

The Commission thanks the judicial and legislative branches of government for their past support of the public defense reimbursement program. With the Public Defense Fund appropriation of \$20.2 million in FY11-12 and FY 12-13, the Commission will be able to continue returning the full 40% of a county's request for reimbursement of indigent defense costs.

The Commission looks forward to working with you in continuing the progress that has been made to improve the quality of indigent defense services in Indiana. The goals of the Indiana Public Defender Commission include continuing to find a way to provide to Indiana's counties the reimbursements for defense costs upon which they have come to rely, and insuring that indigent defense services are provided responsibly throughout the state.