



Public Defender Commission News

December 2009

Volume 2, Number 4

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Locate Reimbursement Forms [here](#)

Locate Guidelines For Capital Case Reimbursements [here](#)

Locate Guidelines and Standards for Non-capital Case Reimbursements [here](#) and [here](#)

Quarterly Meeting Highlights

At the September 23, 2009 meeting of the Indiana Public Defender Commission, the members approved reimbursement claims for death penalty defense costs of \$218,780.31 and reimbursement claims for non-capital indigent defense costs of \$3,811,925.15. The Public Defense Fund, after payment of capital claims, was able to return a full 40% reimbursement to the counties for the 2nd quarter 2009. This is the first time in seven years that the Public Defense Fund was not required to prorate second quarter non-capital requests for reimbursement. The Commission is very grateful to the General Assembly for the increased appropriation to the Public Defense Fund.

One of the goals of the Commission is to improve the quality of representation provided indigent defendants by public defense attorneys. To accomplish this, the Commission created a qualification standard, STANDARD E, for attorneys taking assigned cases. Adherence to this standard is required for a county to be eligible to receive reimbursements from the Public Defense Fund.

An Overview of Standard E

Is your attorney qualified to handle the case?

Except for capital cases, any attorney licensed to practice law in Indiana may be appointed as counsel for the accused in any criminal case. This occasionally results in attorneys being appointed to serious felony cases who have never tried a case or who have no criminal defense experience. See, *Commentary to Standard E in Standards for Indigent Defense Services in Non-Capital Cases*. Determining competency to handle a case rests on an individual's interpretation of ethic rules. Indiana's rules of professional conduct dictate that an attorney "shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation." Rule 1.1, Rules of Professional Conduct. However, under this rule the standards for legal knowledge and skill state, ... "[2] A lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar, ... [4] A lawyer may accept representation

Commission Members:

Mark W. Rutherford,
Chairman, Indianapolis,
serving since May 2007

Susan Carpenter,
Indianapolis, serving
since October 1989

Betty Lou Jerrel,
Evansville, serving since
November 1993

Sen. Timothy Lanane,
Anderson, serving since
October 1998

David J. Hensel,
Indianapolis, serving
since May 2007

Peter D. Nugent,
Indianapolis, serving
since May 2007

Hon. Judge Diane Ross
Boswell, Crown Point,
serving since April 2008

Rep. Vernon Smith,
Gary, serving since
November 2008

Rep. Greg Steuerwald,
Danville, serving since
November 2008

Sen. Brent Steele,
Bedford, serving since
March 2009

where the requisite level of competence can be achieved by reasonable preparation. This applies as well to a lawyer who is appointed as counsel for an unrepresented person.”

The Commission wanted a more definitive standard for determining if an attorney was qualified to handle assigned cases. So in 1993 when the legislature expanded eligible reimbursements from the Public Defense Fund to include non-capital cases, they also amended the Public Defender Commission statute to include the duty of requiring the Commission to adopt guidelines and standards for the delivery of indigent defense services. Most importantly the standards would include qualifications for attorneys who represent indigent defendants at public expense.

Standard E sets minimum thresholds of experience that a public defender must have before accepting appointment to a non-capital, felony case. Adherence to Standard E is necessary for a county to be eligible to receive reimbursements from the Public Defense Fund.

How Is Standard E Organized?

Standard E is split into four sections. These sections correspond to the class of criminal behavior charged to a defendant. The first three sections deal with adult defendants and the fourth with juvenile cases. Each section includes a required number of years of criminal litigation experience, with a specific number of cases tried to completion (jury verdict), in order to qualify for assignment to a case involving the class of felony charged. You may view Standard E by clicking [here](#).

What public cases can a “new” attorney be assigned?

Under Standard E, an attorney fresh from passing the bar is allowed to accept adult cases where the charge is a class D felony, a misdemeanor, a class D or less probation violation, children-in-need of services cases, parental termination cases and mental health cases.

How can a public defender “move up” to more difficult cases?

The county is allowed to have co-counsel on any non-capital case. The Commission will provide up to 40% reimbursement for both attorneys. The county should only include a case with co-counsel in the caseload of the lead attorney. Do not include the case in the second chair’s caseload.

Is Your Standard E Experience Level Up-To-Date?

Each public defender’s Standard E qualification level is included in a county’s quarterly reimbursement request. The Commission checks each report to ensure that public defenders are not assigned cases they are not qualified to handle. Email Jeff Wiese to check your level of experience reported to the Commission by your county

2009 and 2010 Commission Meeting Dates.

Contact Us:

Public Defender
Commission

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December 16, 2009 2:00 p.m. 8 th Floor, Room 804 30 South Meridian St. Indianapolis, Indiana	March 24, 2010 2:00 p.m. 8 th Floor, Room 804 30 South Meridian St. Indianapolis, Indiana
June 23, 2010 2:00 p.m. 8 th Floor, Room 804 30 South Meridian St. Indianapolis, Indiana	September 22, 2010 2:00 p.m. 8 th Floor, Room 804 30 South Meridian St. Indianapolis, Indiana
December 15, 2010 2:00 p.m. 8 th Floor, Room 804 30 South Meridian St. Indianapolis, Indiana	

Important Deadlines.

To be timely filed, non-capital requests for reimbursement are due in the office of staff counsel on the following dates:

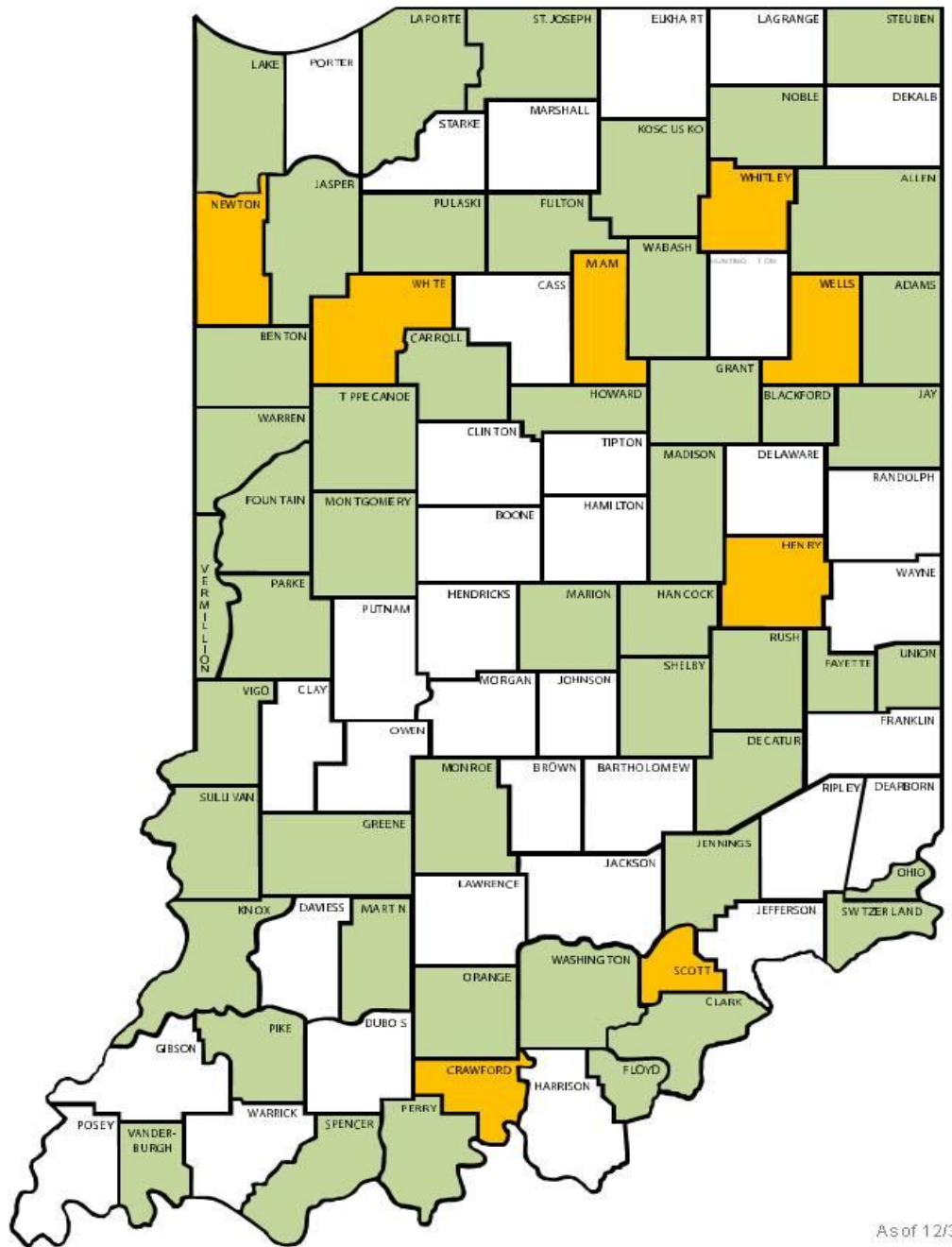
4 th Quarter 2009 Due February 15, 2010	1 st Quarter 2010 Due May 17, 2010
2 nd Quarter 2010 Due August 16, 2010	3 rd Quarter 2010 Due November 15, 2010

The filing deadline for reimbursement requests in capital cases is 120 days from the date the county auditor pays the underlying expense.

COUNTIES RECEIVING REIMBURSEMENTS

- Adams
- Allen
- Benton
- Blackford
- Carroll
- Clark
- Decatur
- Fayette
- Floyd
- Fountain
- Fulton
- Grant
- Greene
- Hancock
- Howard
- Jasper
- Jay
- Jennings
- Knox
- Kosciusko
- Lake
- LaPorte
- Madison
- Marion
- Martin
- Monroe
- Montgomery
- Noble
- Ohio
- Orange
- Parke
- Perry
- Pike
- Pulaski
- Rush
- Saint Joseph
- Shelby
- Spencer
- Steuben
- Sullivan
- Switzerland
- Tippecanoe
- Union
- Vanderburgh
- Vermillion
- Vigo
- Wabash
- Warren
- Washington

Is Your County in the Public Defender Commission Program?



As of 12/3/2009

- Counties in Public Defender Program
- Counties in Public Defender Program not currently receiving reimbursements
- Counties not in Public Defender Program

A MESSAGE FROM THE STAFF:

We hope that you find the fourth edition of our newsletter informative. If you do not wish to receive the newsletter, please send an email to staff counsel Jeff Wiese at jwiese@courts.state.in.us