



Public Defender Commission

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Introduction

Long before the United States Supreme Court's historic right to counsel case of Gideon v. Wainwright in 1963, Indiana recognized the right to counsel in the case of Webb v. Baird. In 1854, the Supreme Court of Indiana recognized the right to a publicly paid attorney for persons facing incarceration who could not otherwise afford an attorney. This made Indiana the first state in the Union to recognize such a right. The burden of providing representation in Indiana has

historically fallen upon each individual county. At the same time, the right to counsel is much more than just a technical requirement—it is the right to have a competent attorney who can protect the rights of each individual citizen to the fullest extent of the law. In order to assist counties with the financial burden of providing quality representation, the Indiana General Assembly created the Indiana Public Defender Commission to provide assistance to counties.

Commission Members

As the law was originally written, the Commission had seven members: three appointed by the Governor; three appointed by the Chief Justice of Indiana; and one appointed by the Board of Trustees of the Indiana Criminal Justice Institute. In P.L. 283-1993, the General

Assembly added four legislators to the Commission, ensuring adequate representation from all branches of the government. The following is a list of the Commission members, and their cities of residence, as of the close of the fiscal year (June, 2019):

Name	City	Appointed by
Mark W. Rutherford, Chairman	Indianapolis	Governor
Richard Bray	Martinsville	Governor
David J. Hensel	Indianapolis	Governor
Hon. Mary Ellen Diekhoff	Bloomington	Chief Justice
Hon. Kelsey B. Hanlon	Spencer	Chief Justice
Hon. Steven P. Meyer	Lafayette	Chief Justice
Larry Landis, Vice Chair	Indianapolis	Criminal Justice Institute
Rep. Ryan Dvorak	South Bend	Speaker of the House
Rep. John Young	Franklin	Speaker of the House
Sen. Eric Koch	Bedford	Senate President Pro Tempore
Sen. Gregory G. Taylor	Indianapolis	Senate President Pro Tempore

Statutory Duties

In response to serious concerns regarding the quality of publicly appointed defense attorneys in death penalty cases, the legislature created the Indiana Public Defender Commission in 1989 by P.L. 284-1989. In 1993, the legislature realized that the funding and quality of representation in non-death penalty cases was also a concern. Accordingly, it amended the Commission's statute in P.L. 283-1993. The Commission is now authorized to reimburse counties for 50% of their public defense services in death penalty cases and 40% in non-death penalty cases, excluding misdemeanors.

These changes resulted in the current version of I.C. 33-40-5-4, where the Commission is mandated to:

1. Make recommendations to the Indiana Supreme Court concerning standards for public defense services provided for defendants against whom the State has sought the death sentence under IC 35-50-2-9, including the following subjects:

- a. Determining indigency and eligibility for legal representation.
- b. Selection and qualifications of attorneys to represent public defendants at public expense.
- c. Determining conflicts of interest.
- d. Investigative, clerical, and other support services necessary to provide adequate legal representation.

3. Make recommendations concerning the delivery of public defense services in Indiana.

2. Adopt guidelines and standards for public defense services under which counties are eligible for reimbursement under IC 33-40-6, including the following:

- a. Determining indigency and the eligibility for legal representation.
- b. The issuance and enforcement of orders requiring defendants to pay for the costs of court appointed legal representation under IC 33-40-3.
- c. The use and expenditure of funds in the county supplemental public defender services fund established by IC 33-40-3-1.
- d. Qualifications of attorneys to represent public defendants at public expense.
- e. Minimum and maximum caseloads of public defender offices and contract attorneys.

4. Make an annual report to the Governor, the General Assembly, and the Supreme Court on the operation of the Public Defense Fund.

Commission Participation and Reimburse

County	Capital	Non-Capital	Total Reimbursement	Non-Capital Participation
ADAMS	\$ 24,094.00	\$ 1,535,042.08	\$ 1,559,136.08	2000-Present
ALLEN	\$ 334,959.64	\$ 18,799,453.87	\$ 19,134,413.51	2000-Present
BENTON		\$ 358,284.96	\$ 358,284.96	1998-Present
BLACKFORD		\$ 788,754.11	\$ 788,754.11	2000-Present
BOONE	\$ 421,742.38			
BROWN		\$ 252,956.11	\$ 252,956.11	2012-2017, 2019-Present
CARROLL	\$ 43,091.00	\$ 771,790.44	\$ 814,881.44	2001-Present
CASS		\$ 1,087,969.03	\$ 1,087,969.03	2013-Present
CLARK	\$ 459,989.00	\$ 4,566,973.09	\$ 5,026,962.09	1995-Present
CLINTON		\$ 118,561.42	\$ 118,561.42	2018-Present
DAVISS	\$ 6,150.00			
DECATUR		\$ 923,407.70	\$ 923,407.70	1999-Present
DEKALB		\$ 698,006.22	\$ 698,006.22	2016-Present
DELAWARE	\$ 307,403.00	\$ 4,020,694.19	\$ 4,328,097.19	2011-Present
ELKHART	\$ 99,831.80			
FAYETTE		\$ 1,968,964.97	\$ 1,968,964.97	1999-Present
FLOYD	\$ 404,055.00	\$ 4,310,945.30	\$ 4,715,000.30	1997-Present
FOUNTAIN	\$ 59,553.00	\$ 601,843.46	\$ 661,396.46	1999-Present
FULTON	\$ 167,002.00	\$ 1,206,644.22	\$ 1,373,646.22	1998-Present
GIBSON	\$ 40,865.05			
GRANT		\$ 4,790,559.36	\$ 4,790,559.36	2003-Present
GREENE	\$ 28,436.00	\$ 2,093,575.67	\$ 2,122,011.67	2000-Present
HAMILTON	\$ 230,965.24			
HANCOCK	\$ 2,064.00	\$ 2,631,914.23	\$ 2,633,978.23	1999-Present
HARRISON	\$ 823,472.72			
HENDRICKS		\$ 905,056.22	\$ 905,056.22	2017-Present
HENRY	\$ 76,312.00	\$ 773,998.32	\$ 850,310.32	1999-2008
HOWARD		\$ 6,145,860.65	\$ 6,145,860.65	2004-Present
JACKSON		\$ 952,598.68	\$ 952,598.68	2015-Present
JASPER	\$ 47,241.00	\$ 1,246,930.71	\$ 1,294,171.71	1999-Present
JAY		\$ 1,543,383.11	\$ 1,543,383.11	2000-Present
JEFFERSON	\$ 87,054.00	\$ 553,698.33	\$ 640,752.33	2017-Present
JENNINGS		\$ 1,193,841.37	\$ 1,193,841.37	1999-Present
JOHNSON	\$ 217,557.21			
KNOX	\$ 54,276.00	\$ 3,347,090.45	\$ 3,401,366.45	1999-Present
KOSCIUSKO		\$ 2,765,378.74	\$ 2,765,378.74	2000-Present
LaGRANGE		\$ 565,481.47	\$ 565,481.47	2010-Present
LAKE	\$ 2,142,553.00	\$ 24,382,610.72	\$ 26,525,163.72	1999-Present
LaPORTE	\$ 59,311.00	\$ 4,083,313.88	\$ 4,142,624.88	1995-Present

No Commission Reimbursement: Bartholomew, Clay, Crawford, Dearborn, Dubois, Franklin, Huntington, Marshall, Newton, Starke, Tipton, Wayne, Wells

Reimbursement History by County

County	Capital	Non-Capital	Total Reimbursement	Non-Capital Participation
LAWRENCE		\$ 2,158,040.94	\$ 2,158,040.94	2011-Present
MADISON	\$ 559,893.00	\$ 11,397,888.30	\$ 11,957,781.30	1998-Present
MARION	\$ 4,152,402.00	\$ 94,343,514.40	\$ 98,495,916.40	1995-Present
MARTIN		\$ 704,110.57	\$ 704,110.57	1999-Present
MIAMI	\$ 17,919.00	\$ 913,060.44	\$ 930,979.44	1995-2007,2018-Present
MONROE		\$ 8,758,373.24	\$ 8,758,373.24	2000-Present
MONTGOMERY		\$ 1,080,445.33	\$ 1,080,445.33	1995-2013
MORGAN	\$ 511,283.37			
NOBLE		\$ 2,593,180.35	\$ 2,593,180.35	2001-Present
OHIO		\$ 379,023.02	\$ 379,023.02	1999-Present 1995-Present
ORANGE		\$ 1,509,548.51	\$ 1,509,548.51	1995-Present
OWEN		\$ 388,145.63	\$ 388,145.63	2015-Present
PARKE	\$ 405,588.00	\$ 772,296.11	\$ 1,177,884.11	1996-Present
PERRY		\$ 1,132,360.45	\$ 1,132,360.45	2004-Present
PIKE	\$ 16,891.00	\$ 1,154,743.21	\$ 1,171,634.21	2001-Present
PORTER	\$ 83,653.84			
POSEY	\$ 75,447.10			
PULASKI		\$ 1,090,703.39	\$ 1,090,703.39	1999-Present
PUTNAM	\$ 128,306.40			
RIPLEY		\$ 400,782.37	\$ 400,782.37	2014-Present
RANDOLPH	\$ 25,308.56			
RUSH		\$ 1,249,600.70	\$ 1,249,600.70	2001-Present
ST. JOSEPH	\$ 85,692.00	\$ 8,920,508.31	\$ 9,006,200.31	2007-Present
SCOTT		\$ 677,456.89	\$ 677,456.89	2000-2009, 2018-Present
SHELBY	\$ 40,348.00	\$ 2,396,858.90	\$ 2,437,206.90	1999-Present
SPENCER	\$ 348,321.00	\$ 883,007.68	\$ 1,231,328.68	1999-Present
STEUBEN	\$ 117,936.00	\$ 1,621,425.20	\$ 1,739,361.20	2001-Present
SULLIVAN	\$ 70,576.00	\$ 697,048.52	\$ 767,624.52	1999-Present
SWITZERLAND		\$ 929,521.60	\$ 929,521.60	1999-Present
TIPPECANOE	\$ 85,663.00	\$ 9,382,491.19	\$ 9,468,154.19	2004-Present
UNION		\$ 346,887.53	\$ 346,887.53	1999-Present
VANDEBURGH	\$ 852,202.00	\$ 13,154,011.34	\$ 14,006,213.34	2000-Present
VERMILLION		\$ 849,451.44	\$ 849,451.44	1997-Present
VIGO	\$ 153,768.00	\$ 9,671,188.68	\$ 9,824,956.68	1999-Present
WABASH		\$ 1,071,061.89	\$ 1,071,061.89	2007-Present
WARREN		\$ 249,705.77	\$ 249,705.77	1996-Present
WARRICK	\$ 481,596.53			
WASHINGTON	\$ 3,878.00	\$ 2,202,073.95	\$ 2,205,951.95	2000-Present
WHITE		\$ 32,777.70	\$ 32,777.70	2001-2002
WHITLEY		\$ 213,243.89	\$ 213,243.89	1999-2008

Task Force on Public Defense

A critical evaluation of indigent defense services in Indiana by the 6th Amendment Center led to the creation of the Indiana Task Force on Public Defense in August 2017. The Task Force had members from all three branches of Indiana State Government and members from key interest groups. The Task Force studied Indiana's system for over one year and made recommendations for improvements in August 2018. In January 2019, the Commission then adopted many of the recommendations and is in the process of pursuing reforms.

Findings regarding Indiana's Public Defense Services:

- ◇ Uneven access to counsel
- ◇ Excessive misdemeanor caseloads
- ◇ No uniform system for measuring quality of service
- ◇ Inadequate training requirements
- ◇ Inadequate compensation
- ◇ The presence of conflicts of interest
- ◇ Inadequate numbers of investigators & social workers
- ◇ A need for greater service in child welfare
- ◇ Inadequate representation at initial hearings
- ◇ Inadequate Commission staffing levels
- ◇ An uneven application of standards

The Task Force made the following recommendations for reforms:

- ▶ Immediate System-Wide Priorities:
 - Misdemeanor Reimbursement
 - Centralized State Appellate Office
 - Statutory Authorization for Multi-County PD Offices (SEA 488-2019)
- ▶ State-Level Priorities:
 - Greater state funding, and technical support should be provided in parental representation in CHINS/TPR cases and juvenile delinquency cases (HEA 1001 - 2019)
- ▶ County-Level Priorities:
 - County public defender boards should have no more than one judicial appointment (SEA 488-2019)
 - Defense plan should include appointment from the private bar
- ▶ Commission Structure Priorities:
 - Authority to administer discretionary grants
 - Regularly update its attorney workload standards (ongoing staff work)
 - Tracking data on indigence appointments (ongoing staff work)
 - The Commission needs additional staff to develop new standards, coordinate with counties and/or regions, and implement data collection and quality controls (new position established)
 - The Commission should explore remedies to help counties with funding shortages

Funding and Reimbursement History

Fiscal Year	# of Counties Eligible for Reimbursement	Annual Appropriation to PDCOM Fund	Reimbursement Paid in Capital Cases	Reimbursement Paid in Non-Capital Cases	Total Reimbursement Paid	Loss due to prorated reimbursement	% of reimbursement received
1989-90		\$ 650,000			\$ -		
1990-91		\$ 650,000	\$ 58,550		\$ 58,550		
1991-92		\$ 650,000	\$ 286,805		\$ 286,805		
1992-93		\$ 650,000	\$ 484,501		\$ 484,501		
1993-94		\$ 650,000	\$ 337,139		\$ 337,139		
1994-95		\$ 650,000	\$ 288,465		\$ 288,465		
1995-96	5	\$ 650,000	\$ 528,641	\$ 668,747	\$ 1,197,388		
1996-97	7	\$ 650,000	\$ 371,046	\$ 628,841	\$ 999,887		
1997-98	9	\$ 3,000,000	\$ 799,450	\$ 1,022,104	\$ 1,821,554		
1998-99	17	\$ 3,000,000	\$ 526,515	\$ 2,188,701	\$ 2,715,216		
1999-00	30	\$ 2,400,000	\$ 378,209	\$ 2,990,954	\$ 3,369,163		
2000-01	38	\$ 2,400,000	\$ 712,054	\$ 3,669,319	\$ 4,381,373		
2001-02	50	\$ 6,000,000	\$ 473,317	\$ 4,869,313	\$ 5,342,630	\$ 2,036,380	28%
2002-03	50	\$ 7,000,000	\$ 413,805	\$ 5,371,364	\$ 5,785,169	\$ 1,619,285	31%
2003-04	52	\$ 7,000,000	\$ 478,222	\$ 4,553,537	\$ 5,031,759	\$ 1,403,053	25%
2004-05	53	\$ 8,000,000	\$ 672,381	\$ 11,026,803	\$ 11,699,184	\$ 771,538	37%
2005-06	53	\$ 9,000,000	\$ 386,288	\$ 5,824,921	\$ 6,211,209	\$ 895,476	36%
2006-07	54	\$ 10,000,000	\$ 844,769	\$ 12,147,454	\$ 12,992,223	\$ 2,674,834	31%
2007-08	53	\$ 14,500,000	\$ 753,772	\$ 14,162,897	\$ 14,916,669	\$ 825,367	38%
2008-09	48	\$ 15,250,000	\$ 742,251	\$ 14,325,105	\$ 15,067,356	\$ 1,262,700	37%
2009-10	50	\$ 18,250,000	\$ 618,252	\$ 15,373,384	\$ 15,991,636		40%
2010-11	52	\$ 18,250,000	\$ 370,709	\$ 15,996,714	\$ 16,367,423		40%
2011-12	53	\$ 20,250,000	\$ 532,706	\$ 16,685,482	\$ 17,218,188		40%
2012-13	53	\$ 20,250,000	\$ 381,459	\$ 17,546,818	\$ 17,928,277		40%
2013-14	54	\$ 22,250,000	\$ 421,935	\$ 18,693,834	\$ 19,115,769		40%
2014-15	55	\$ 22,250,000	\$ 268,182	\$ 19,923,237	\$ 20,191,418		40%
2015-16	57	\$ 22,257,668	\$ 590,939	\$ 20,695,801	\$ 21,286,740		40%
2016-17	58	\$ 22,250,000	\$ 896,287	\$ 22,435,660	\$ 23,331,946		40%
2017-18	62	\$ 25,750,000	\$ 256,896	\$ 25,006,493	\$ 25,263,389		40%
2018-19	62	\$ 25,750,000	\$ 481,104	\$ 27,502,636	\$ 27,983,740		40%
TOTALS		\$ 310,257,668	\$ 14,354,649	\$ 283,310,120	\$ 297,664,767	\$ 11,488,633	

2019 Capital Reimbursements

Defendant	September 2018 Q2	December 2018 Q3	March 2019 Q4	June 2019 Q1	Total
Dansby	\$ 14,728.44	\$ 20,163.15	\$ 24,223.58	\$ 66,435.29	\$ 125,550.46
Baumgardt	\$ 2,791.36	\$ 21,558.37	\$ 58,958.33	\$ 13,916.42	\$ 97,224.48
Wright	\$ -	\$ -	\$ -	\$ 47,567.39	\$ 47,567.39
Oberhansley	\$ -	\$ 15,338.71	\$ 27,987.72	\$ 26,646.99	\$ 69,973.42
Kubsch	\$ 17,726.10	\$ 18,363.95	\$ 8,383.48	\$ -	\$ 44,473.53
Stephenson	\$ 78,271.35	\$ 14,700.00	\$ 3,343.00	\$ -	\$ 96,314.35
Total					\$ 481,103.63

