

BUDGET NARRATIVE

2011-2013 biennium

Name: The Indiana Supreme Court
Unit or Program Name: Division of State Court Administration
Fund: 33510

Public Defender Commission

A. Purpose of Program

To reimburse counties for the costs associated with indigent defense legal representation in capital and noncapital cases and to improve delivery of such services by requiring compliance with Public Defender Commission Standards. State law authorizes counties to receive reimbursements of 50% of expenditures for indigent defense services in capital cases and up to 40% in noncapital felony cases. The United States and Indiana Constitutions mandate these services.

B. Numbers and Profile of Population Served

All of Indiana’s 92 counties are eligible for reimbursements of indigent defense costs in capital cases when in compliance with Indiana Supreme Court Criminal Rule 24.

To be eligible to receive reimbursement of noncapital felony defense expenses, a county must adopt a comprehensive plan for the delivery of indigent defense services approved by the Commission and comply with standards adopted by the Commission as authorized by state statute. See IC 33-40-6-5. Currently, fifty-eight counties have created comprehensive plans for delivering public defense services. However, not all of those fifty-eight counties have been able to maintain eligibility for Public Defense Fund money. Economic conditions in 2009 forced several counties to cut their defense budgets for 2010, making them unable to meet the Standards set by the Commission and ineligible to participate in the noncapital reimbursement program. As of June 30, 2010, fifty counties are eligible for reimbursement of up to 40% of their noncapital felony public defense costs. More than 65% of the state's population resides in counties eligible for noncapital reimbursement.

C. Commission Activities during 2009-2010

The Commission is required by IC 33-40-6-6 to give priority to reimbursement claims in capital cases. After paying such claims, the remaining balance in the Public Defense Fund will reimburse noncapital claims at the full 40% rate provided there is a

sufficient balance. If the Fund cannot cover a 40% reimbursement to eligible counties, noncapital claims must be paid on a pro rata basis.

The Fund's appropriations for fiscal year 2008-2009 increased from \$14.5 million to \$15.25 million. With the increase in funding, requests for reimbursements during the first and third quarters of 2008 in excess of \$7.6 million were paid in full. However, the second and fourth quarters of 2008 (approved 9/24/08 and 3/25/09, respectively) had to be prorated due to insufficient funds. The non-capital reimbursement for the second quarter of 2008 was prorated at 34%, returning \$3,252,551.35 of the \$3,917,691.94 requested by the eligible counties. The non-capital reimbursement for the fourth quarter of 2008 was prorated at 33.9%, returning \$3,537,429.18 of the \$4,134,988.43 requested by the eligible counties. The total loss to the counties requesting reimbursement due to prorating two quarters was \$1,262,700.

In 2008, the counties of Henry and Scott cut their public defense budgets for 2009. These two counties, in addition to Whitley, were unable to hire a sufficient number of attorneys to handle the public defense case assignments and be in compliance with their Comprehensive Plans and the Indiana Public Defense Commission's Standards. These counties became ineligible to participate in reimbursements from the Public Defense Fund.

In fiscal year 2009-2010, the appropriations to the Fund increased to \$18.25 million. For the first time in eight years, the Public Defense Fund was able to return the full 40% of non-capital public defense expenses requested by eligible counties. The combination of capital and non-capital expense reimbursements paid to the counties for fiscal year 2009-2010 totaled \$15,995,098. LaGrange County began the process of joining the Public Defense Fund program, and became eligible for reimbursements in non-capital cases at the beginning of 2010. Five additional counties have expressed interest in joining the noncapital reimbursement program in fiscal year 2010-2011 – Hamilton, Delaware, Lawrence, Marshall and Huntington.

D. Goals for the 2011-2013 Biennium

The state statute that determines distribution of court fees, IC 33-37-7-9, calls for an annual transfer of \$5.4 million to the Public Defense Fund (\$2.7 million on June 30 and December 31). The Indiana Legislature also appropriates money from the General Fund for public defense reimbursements to eligible counties. The state budget bill for the 2009-2011 biennium provided \$12.85 million each for fiscal years 2009-2010 and 2010-2011 from the General Fund. The total of \$18.25 million went into the Public Defense Fund for distribution to the eligible counties in fiscal year 2009-2010.

As of June 30, 2010, the Fund had a balance of \$2 million and approved unpaid claims totaling \$3,905,366. On July 1, 2010, the Fund received its appropriation of

\$9.125 million, one-half of the \$18.25 million earmarked for fiscal year 2010-2011, and claims were paid. The Fund presently has \$2,079,727 in a “closing account,” and a remaining balance of \$5,213,595.02 after paying capital and noncapital requests approved June 23, 2010.

Five counties have made serious inquiry into qualifying for reimbursement from the Public Defense Fund – Hamilton, Delaware, Huntington, Lawrence and Marshall. Based on the 2009 public defense expense figures supplied to State Court Administration, these five counties’ estimated cost to the Fund for 40% reimbursement would be an additional \$722,000 in 2011.

The appropriation requirement of the Public Defense Fund for 2011-2012 (including five new eligible counties) that returns 50% of capital defense costs and the full 40% of felony defense expenses to eligible counties is \$16 million from the General fund: Add the statutory allocation of \$5.4 million for a total of \$21.4 million.

The Public Defense Fund provides property tax relief to counties that participate in the reimbursement program; and a 40% return on noncapital defense costs is figured in each eligible county’s budget. Without this increase, a devastating pattern of proration is likely to return, diminishing the value of the program to participating counties and likely reducing the number of counties eligible to participate. The requested increase, moreover, will help ensure that all counties that become eligible for 40% reimbursements receive the funds for which the General Assembly in 1993 created this important state initiative.

E. ADDITIONAL DATA

Year	*Defense Expenses	% Increase from prior year	5-Year Projection	
2007	\$ 44,830,397		Non-Capital @ 4.67% Increase	
2008	\$ 47,331,821	5.58%	2010	\$49,644,032
2009	\$ 47,893,032	1.19%	2011	\$2,318,376
2010 **	\$ 51,360,646	7.24%	2012	\$2,426,644
*Counties' defense expenses for 4 qtrs of year			2013	\$2,539,969
**anticipating 6 additional counties			2014	\$2,658,585
Average increase			2015	\$2,782,741
				\$62,370,347

AVERAGE OF CAPITAL REIMBURSEMENTS FOR THREE FISCAL YEARS				
YEAR	AMOUNT			AVERAGE
2009	\$ 658,965			
2008	\$ 606,705			
2007	\$ 755,127			
	\$ 2,020,797			\$ 673,599

YEAR	Defense Exps	40%	Plus Capital Avg.
2011	\$ 51,962,408	\$ 20,784,963	\$ 21,458,562
2012	\$ 54,389,052	\$ 21,755,621	\$ 22,429,220
2013	\$ 56,929,021	\$ 22,771,608	\$ 23,445,207
2014	\$ 59,587,606	\$ 23,835,042	\$ 24,508,641
2015	\$ 62,370,347	\$ 24,948,139	\$ 25,621,738

Projected Allocation Requirements			
	Statutory Allocation	General Fund Appropriation	Total
2011	\$5,400,000	\$16,058,562.00	\$21,458,562.00
2012	\$5,400,000	\$17,029,220.00	\$22,429,220.00
2013	\$5,400,000	\$18,045,207.00	\$23,445,207.00
2014	\$5,400,000	\$19,108,641.00	\$24,508,641.00
2015	\$5,400,000	\$20,221,738.00	\$25,621,738.00

INDIANA PUBLIC DEFENDER COMMISSION							
Funding and Reimbursement History							
FISCAL YEAR	# OF COUNTIES ELIGIBLE FOR REIMB.	ANNUAL APPROP. TO PD FUND	REIMB PAID IN CAPITAL CASES	REIMB. PAID IN NON-CAPITAL CASES	TOTAL REIMB. PAID	TOTAL NON-CAPITAL REIMB. NOT PAID	% OF REIMB. RECD
89-90		\$650,000					
90-91		\$650,000	\$40,795		\$27,277		
91-92		\$650,000	\$320,697		\$320,697		
92-93		\$650,000	\$480,716		\$480,716		
93-94		\$650,000	\$333,020		\$333,020		
94-95		\$650,000	\$288,450		\$288,450		
95-96	5	\$650,000	\$529,472	\$668,747	\$1,198,219		
96-97	7	\$650,000	\$370,959	\$628,841	\$999,800		
97-98	9	\$3,000,000	\$799,449	\$1,031,467	\$1,830,916		
98-99	17	\$3,000,000	\$526,525	\$2,188,699	\$2,715,224		
99-00	30	\$2,400,000	\$378,209	\$3,302,471	\$3,680,680		
00-01	38	\$2,400,000	\$712,054	\$3,669,318	\$4,381,372		
01-02	50	\$6,000,000	\$473,317	\$4,869,314	\$5,342,631	\$2,036,380	28.2%
02-03	50	\$7,000,000	\$413,805	\$5,371,364	\$5,785,169	\$1,619,285	30.7%
03-04	52	\$7,000,000	\$478,222	\$6,030,992	\$6,509,214	\$1,403,053	25.1%
04-05	53	\$8,000,000	\$672,381	\$8,524,652	\$9,197,033	\$771,538	36.9%
05-06	53	\$9,000,000	\$386,288	\$7,305,318	\$7,691,606	\$895,476	35.6%
06-07	54	\$10,000,000	\$844,769	\$10,175,448	\$11,020,217	\$2,674,834	30.9%
07-08	53	\$14,500,000	\$753,772	\$13,586,669	\$14,340,441	\$825,367	38.4%
08-09	50	\$15,250,000	\$742,251	\$14,411,615	\$15,153,866	\$1,262,700	37.0%
09-10	50	\$18,250,000	\$618,253	\$15,376,845	\$15,995,098	\$0	40.0%
Total		\$111,000,000	\$10,163,404	\$97,141,760	\$107,291,646	\$11,488,633	