



THOMAS J. VILSACK  
GOVERNOR

SALLY J. PEDERSON  
LT. GOVERNOR

OFFICE OF THE STATE PUBLIC DEFENDER  
THOMAS G. BECKER, STATE PUBLIC DEFENDER

**STATE OF IOWA  
INDIGENT DEFENSE ADVISORY COMMISSION**

**Second Report  
December 15, 2003**

The Indigent Defense Advisory Commission had its third meeting on July 29, 2003. The Commission recognized a new member, Representative Kraig Paulsen of Hiawatha. Mr. Paulsen replaces Representative Lance Horbach of Tama as the Commission member appointed from the House of Representatives. The Commission also noted the Governor's reappointment of Joseph R. Cahill of Nevada.

Voting members in attendance at the July 29<sup>th</sup> meeting were Senator Gene Fraise of Fort Madison, Representative Paulsen, Ms. Maria R Ruhtenberg of Des Moines, and Ms. Sherryl L. Williams of Villisca. Mr. Cahill was unable to attend. State Public Defender Thomas G. Becker attended as non-voting chair.

The Commission's first report was issued December 9, 2002. In that report, the Commission unanimously recommended "serious consideration be given to increasing the fee rates for court-appointed counsel by five dollars per hour to \$65 for alleged Class A felonies, \$60 for alleged Class B felonies, and \$55 for all other matters." The Commission acknowledged the State's budget crisis but stated, "when the State's budget situation improves to the point that new money is available, serious consideration should be given to implementing this recommendation."

Although the Commission's next report isn't required by statute until January 1, 2006 (IOWA CODE § 13B.2A (2003)), the Commission believes the recommendation in its first report should be reemphasized now. The Commission directed the State Public Defender to attach this report to the State Public Defender's Efficiency Report that is due to the General Assembly on December 15, 2003.

When the Commission first met in July 2000, Iowa's fees for assigned counsel were in the top tier among those states with state-controlled indigent defense programs. According to a 1999 survey by the Spangenberg Group (a non-profit organization providing information and consultation on indigent defense issues), only 2 states had

their lowest hourly rates higher than Iowa's \$50 per hours, and only four states had their highest hourly rates higher than Iowa's \$60 per hour.

The Spangenberg Group updated this survey in 2002. The new survey revealed ten states now have their lowest rates higher than \$50 per hour, and ten states now have their highest rates higher than \$60 per hour. This trend demonstrates other states are recognizing the need to increase assigned counsel fees, at least to keep pace with law office overhead.

As noted in the Commission's December 9, 2002 report, keeping assigned counsel fee rates consistent with overhead is important to ensuring sufficient numbers of experienced counsel remain available to take court appointments. Iowa's indigent defense programs rely on a partnership between public defenders and assigned counsel from the private bar. Without sufficient numbers of experienced private attorneys willing to join that partnership, there is a great risk of crisis in the State's criminal justice system. As the right to counsel is mandated by the United States and Iowa Constitutions, the State cannot wait until a crisis happens before taking preventative action.

Accordingly, the Commission strongly reiterates the recommendations in its December 9, 2002 report. All voting members concur. Electronic facsimile signatures are below. Original signatures are on file.

Respectfully Submitted,

*Thomas G. Becker*

Thomas G. Becker  
Non-voting Chair

*Joseph R. Cahill*

Joseph R. Cahill  
Member

*Gene Fraise*

Gene Fraise  
Member

*Kraig Paulsen*

Kraig Paulsen  
Member

*Maria L. Ruhtenberg*

Maria L. Ruhtenberg  
Member

*Sherryl L. Williams*

Sherryl L. Williams  
Member