



OFFICE OF THE STATE PUBLIC DEFENDER
Thomas G. Becker, State Public Defender

Chester J. Culver, Governor
Patty Judge, Lieutenant Governor

INDIGENT DEFENSE ADVISORY COMMISSION

**STATE OF IOWA
INDIGENT DEFENSE ADVISORY COMMISSION**

**Fourth Report
November 30, 2007**

The Indigent Defense Advisory Commission had its annual meeting on July 18, 2007. Voting members present were Representative Richard Anderson (appearing by telephone), Joseph Cahill, Senator Gene Fraise, and Isaiah McGee. Tom Becker, State Public Defender and non-voting Chair of the Commission, presided over the meeting. A quorum was present. Maria Ruhtenberg could not attend the meeting, but has reviewed the minutes of the meeting and considered this report as a voting member. Non-members attending were First Assistant State Public Defender Mark Smith, Senior Assistant State Public Defender Julie Miller, Assistant State Public Defender Becky Hanson, and Jenny Tyler representing the Iowa State Bar Association.

The Indigent Defense Advisory Commission is established “to advise and make recommendations to the legislature and the state public defender regarding the hourly rates paid to court-appointed counsel and per case fee limitations.” IOWA CODE section 13B.2A. The Commission must file a report at least every three years. *Id.* The Commission has filed reports in 2002, 2003, and 2006.

At its July 18th meeting, Commission addressed business matters. Members approved the minutes from the 2006 annual meeting and were informed that Governor Culver had reappointed Maria Ruhtenberg to another three-year term as a Commission member. The Commission also received an update from the Chair on developments in Iowa’s indigent defense programs, and discussed matters of interest concerning Iowa’s criminal and juvenile justice systems. The Commission then devoted the remainder of its meeting to discussion of 2007 legislation by the General Assembly approving a \$5.00 per hour increase in court-appointed attorney fees in certain cases.

In 2006, the General Assembly had approved a \$10.00 per hour increase for most criminal defense cases, and a \$5.00 per hour increase in other cases. The 2007 legislation approved another \$5.00 per hour increase in those cases that had received only a \$5.00 increase in 2006. The court-appointed attorney hourly fee rates are now \$70 for Class A felonies, \$65 for Class B felonies, and \$60 for all other cases including juvenile court cases and post-conviction relief cases. Both the 2006 and 2007 fee rate raises were consistent with recommendations made by the Commission in prior reports.

The Chair informed the Commission that the per-case fee limits would be reviewed by the State Public Defender's Office in light of the 2007 rate increase, and the State Public Defender would publish notice of proposed rules concerning the fee limits in late December 2007 or January 2008. In determining the fee limits, the State Public Defender will consider the criteria set out in Iowa Code section 13B.4(4)(a): public input, the ordinary and customary charges for services, number of cases anticipated, seriousness of charges, allocation of resources among types of cases, experience with existing fee rates and limits, and other relevant factors.

Jenny Tyler, on behalf of the Iowa State Bar Association, asked the Commission to consider an automatic annual or bi-annual increase to court-appointed attorney fee rates. The Commission believes this suggestion is worthy of consideration by the General Assembly. If adopted, this proposal it would provide for periodic increases that respond to inflation without special action by the General Assembly. However, the Commission recognizes the General Assembly has fiscal constraints on its appropriations and political priorities to consider. While such a proposal may not meet with approval immediately, the General Assembly should begin thinking about it. Accordingly, it is the Commission's recommendation that the General Assembly give appropriate consideration to enacting a periodic, automatic increase in court-appointed fee rates.

Electronic facsimiles of signatures are below. Original signatures are on file in the State Public Defender's Office.

Respectfully Submitted,

Thomas G. Becker

Thomas G. Becker
Non-voting Chair

Richard T. Anderson

Richard T. Anderson
Member

Joseph R. Cahill

Joseph R. Cahill
Member

Gene Fraise

Gene Fraise
Member

Isaiah McGee

Isaiah McGee
Member

Maria Ruhtenberg

Maria Ruhtenberg
Member