The Marquette County Board of Commissioners met as a Special Committee of the Whole on Tuesday, June 6, 1995 at 5:30 p.m. in Room 231 of the Henry A. Skewis Annex, Marquette, Michigan.


Vice Chairman Arsenault opened the meeting for public comment. None was forthcoming.

It was moved by Comm. Sepponen, seconded by Comm. Joseph and unanimously carried by voice vote that the agenda be approved as presented.

The Committee of the Whole took under consideration the possible revision of the County’s Counsel for Indigent Defendants Program.

Chief Circuit Court Judge Edward Quinnell made the presentation on the proposal for indigent defendants summarized as follows:

Indigent counsel is a Constitutional obligation of Counties for felonies and misdemeanors if the defendant may go to jail. County Boards of Commissioners and the Courts have the mutual responsibility to provide indigent counsel, the County Board’s responsibility is to pay. The Marquette County Board has not been happy with the total amount of dollars that must be paid out for indigent counsel, and also it has been difficult to budget because of annual fluctuations. Judge Quinnell referred Commissioners to a chart showing Marquette County’s legal expense fees and legal fee reimbursements from 1982 through 1994. In the last 13 years a total of $4,761,000 was paid out in legal fee expenses with reimbursements totaling $963,000. This is a net cost to all courts of approximately $3.8 million over 13 years. It is a major budget consideration.

On the other hand, the $40/hour reimbursement rate for attorneys has been in effect for at least the last 14 years. It costs a local attorney an average of $30 to $35 per hour to run an office which means they are not on the indigent counsel list to make a lot of money. Many attorneys believe it to be an obligation to society.

Indigent Counsel has been looked at several times before. In 1984 a proposal was put together by the Casselman group but the County Board did not implement the plan. Recently, as a result of the 21st Century Project of which Marquette County was a pilot court, six committees were formed to look at various aspects of Court operations. One of these committees formed was the Indigent Counsel Committee. The Committee members are William B. Farns, Chairperson, representative of the Bar Association, Judge Quinnell, Judge Collins, Civil Counsel David Payant, County Clerk Dave Roberts, Chief Deputy Clerk Connie Brand in, Patricia Frazier, Probate Register, Cindy Cope, District Court Magistrate and Joe Levandoski, the 21st Century Project Coordinator.

Judge Quinnell reported that the Committee reviewed a number of options. The American Bar Association has guidelines for indigent counsel contained in four volumes, each about three inches thick. The Michigan Supreme Court ruled that a fixed fee for a certain type of case will not work. The Committee decided their approach to be that the County must not spend unnecessary funds for indigent counsel and make an effort to control fluctuations. The proposal may not necessarily save the County a great deal, but would make it easier to plan a budget. Fluctuations are difficult to plan for because the Court cannot control the number of murders, rapes, etc. Also, Prosecutor Gary Walker helps by trying to keep borderline cases pled as misdemeanors, however this in turn increases the indigent counsel fees for District Court, but it is cheaper to try a defendant in District Court.

Commissioner Sepponen pointed out that he has reviewed the expense list provided for the last 13 years for indigent counsel and discovered that in spite of fluctuations the trend is an increase amounting to an average of only 1.6% per year. In his mind this is good, especially when compared to increases in other departments and the economy in general.
Judge Quinnell continued by concurring with a letter from Probate Judge Michael Anderegg explaining why a Contract for Indigent Counsel would not work in Probate Court. In many cases three attorneys are required, one for the mother, one for the father and one for the child. If there is a contract with one lawfirm, obviously a conflict of interest occurs.

There must be a cooperative effort, between the County Board, the Courts, the Prosecutor, and Defense Counsel. There are approximately 100 attorneys practicing law in Marquette County with only 20 to 25 on the Indigent Counsel List. The Indigent Counsel Committee sent a survey to other Counties in Michigan but received a poor response. Judge Quinnell sent letters to individual judges and did get some good response. Those responses are summarized as various options and attached to the Indigent Counsel Committee report.

Civil Counsel Payant’s letter suggests that Marquette County should establish a Public Defender Office with three full-time attorneys. Judge Quinnell believes three attorneys to be too optimistic of a number. Presently the Prosecutor’s Office budget is about $600,000 for seven attorneys and staff. This costs an average of $85,000 per year per attorney, or about $42 an hour, and that is without the Prosecutor paying any rent. So $40/hour is not a good deal for private attorneys who must also pay their own rent and perhaps some other expenses.

Other points considered by the Committee were a Bid Option. Bids would require specifications. Unusual circumstances and conflicts must be worked out. Bids are usually are not true bids but are rather negotiations, because there are many practical considerations.

What the Indigent Counsel Committee suggests is a contract system, whereas the County Board and the Court establishes a fixed total dollar amount for indigent counsel based upon past experience. This dollar amount is then divided on a prorated basis with the number of participants who take part in the Indigent Counsel System.

Judge Quinnell ended by proposing that another Special Meeting be held with the Committee of the Whole and local attorneys to exchange information and ideas.

Chairperson Arsenault then opened the meeting for questions and comments. Commissioners raised a question regarding repetitive cases and the collection of costs.

District Court Judge Collins explained that most of the repetitive cases occur in District Court. There may be an effort made after our Courts are completely automated to track individuals who repeatedly appear in Court on criminal charges. Judge Collins further pointed out that out that the legal reimbursements from 1987 to 1989 increased dramatically and have been holding at about $50,000 a year. This is not the result of computerization alone but a sustained effort by District Court to collect legal fee reimbursements.

Civil Counsel David Payant pointed out that he believes the proposal by Indigent Counsel to be better than the present system. His concern about a bid process with a fixed amount of reimbursement would obviously mean that defense counsel would plea bargain cases down much more often.

Vice Chairperson Arsenault concurred that the Committee of the Whole will have to continue its meetings on the Indigent Counsel Proposal. Also, County Administrator Dennis Aloia has some questions and comments to bring forward but could not attend this particular meeting.

Vice Chairperson Arsenault opened the meeting for public comment. None was forthcoming.

There being no further business, the meeting was adjourned at 6:30 p.m.

Respectfully submitted,

David J. Roberts, Marquette County Clerk
MARQUETTE COUNTY BOARD OF COMMISSIONERS
SPECIAL COMMITTEE OF THE WHOLE
Tuesday, June 6, 1995 - 5:30 p.m.
Room 231, Henry A. Skewis Annex, Marquette, MI 49855

1. ROLL CALL.
2. APPROVAL OF THE MINUTES. (None).
3. PUBLIC COMMENT.
4. APPROVAL OF THE AGENDA.
5. Consideration of possible revision of our Counsel for Indigent Defendants Program.
6. PUBLIC COMMENT.
7. ANNOUNCEMENTS.
8. ADJOURNMENT.